

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 21 JANUARY 2009

<b>PUBLIC BUSINESS – resumption .....</b>	<b>4</b>
<b>1. Woolworths employees: redundancy payments (P.2/2009) – amendment (P.2/2009 Amd.) - continued.....</b>	<b>4</b>
1.1 Deputy M.R. Higgins of St. Helier:.....	4
1.2 Deputy S. Power of St. Brelade: .....	4
1.3 Deputy S. Pitman of St. Helier:.....	6
1.4 Deputy A.T. Dupre of St. Clement:.....	6
1.5 Deputy J.A.N. Le Fondré of St. Lawrence: .....	7
1.6 Senator B.I. Le Marquand:.....	9
1.7 Senator S.C. Ferguson: .....	10
1.8 Senator S. Syvret: .....	10
1.9 Connétable L. Norman of St. Clement: .....	11
1.10 Senator P.F. Routier: .....	12
1.11 Connétable D.J. Murphy of Grouville: .....	14
1.12 Senator P.F.C. Ozouf:.....	14
Deputy G.P. Southern of St. Helier: .....	16
Senator P.F.C. Ozouf: .....	17
The Connétable of St. Clement: .....	17
Senator T.A. Le Sueur: .....	18
<b>2. Ratification of the Agreement for the Exchange of Information Relating to Tax Matters between the Federal Republic of Germany and the States of Jersey (P.171/2008).....</b>	<b>19</b>
2.1 Senator T.A. Le Sueur (The Chief Minister): .....	20
<b>3. Draft Taxation (Exchange of Information with Third Countries) (Amendment) (Jersey) Regulations (P.172/2008).....</b>	<b>20</b>
3.1 Senator T.A. Le Sueur (The Chief Minister): .....	21
Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel): .....	22
3.2 Senator T.A. Le Sueur: .....	22
<b>4. Draft Protection of Children (Restriction on Supply of Goods) (Jersey) Law (P.175/2008).....</b>	<b>22</b>
4.1 Senator A.J.H. Maclean (The Minister for Economic Development):.....	22
4.1.1 Deputy G.P. Southern:.....	23
4.1.2 Deputy J.B. Fox of St. Helier:.....	23
4.1.3 The Deputy of St. Martin:.....	23
4.1.4 Deputy A.E. Jeune of St. Brelade:.....	23
4.1.5 Deputy K.C. Lewis of St. Saviour:.....	23
4.1.6 Senator P.F.C. Ozouf:.....	24

4.1.7 Senator A.J.H. Maclean:	24
The Deputy of St. Mary (Economic Affairs Scrutiny Panel):	24
4.2 Senator A.J.H. Maclean:	24
4.3 Senator A.J.H. Maclean:	25
4.3.1 The Deputy of St. John:	25
4.3.2 Senator A.J.H. Maclean:	25
<b>5. Draft Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 10) (Jersey) Regulations (P.176/2008)</b>	<b>25</b>
5.1 Senator T.A. Le Sueur (The Chief Minister):	26
5.1.1 Connétable D.W. Mezbourian of St. Lawrence:	26
5.1.2 Senator A. Breckon:	26
5.1.3 Connétable J.M. Refault of St. Peter:	27
5.1.4 Deputy J.B. Fox:	27
5.1.5 Deputy R.G. Le Hérisier of St. Saviour:	28
5.1.6 Senator S.C. Ferguson:	28
5.1.7 The Deputy of St. Martin:	29
5.1.8 Senator T.A. Le Sueur:	29
Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):	31
<b>6. Draft Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 10) (Jersey) Regulations 200- (P.177/2008)</b>	<b>31</b>
6.1 Senator T.A. Le Sueur (The Chief Minister):	31
Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):	31
Senator P.F. Routier:	32
Deputy K.C. Lewis:	32
The Deputy Bailiff:	32
<b>7. Planning Applications Panel: appointment of members (P.183/2008)</b>	<b>32</b>
7.1 Deputy A.E. Pryke of Trinity:	33
7.1.1 Deputy R.G. Le Hérisier:	33
7.1.2 Senator P.F.C. Ozouf:	33
7.1.3 Deputy C.F. Labey of Grouville:	33
7.1.4 The Deputy of St. John:	33
7.1.5 The Deputy of Trinity:	33
<b>8. Jersey Overseas Aid Commission: appointment of non-States Commissioner (P.3/2009)</b>	<b>34</b>
8.1 Deputy I.J. Gorst (Chairman, Overseas Aid Commission):	34
8.1.1 Deputy R.G. Le Hérisier:	34
8.1.2 Senator P.F. Routier:	34
8.1.3 Deputy I.J. Gorst:	35
<b>9. Jersey Financial Services Commission: appointment of Commissioners (P.4/2009)</b>	<b>35</b>
<b>[Debate proceeded in camera]</b>	<b>35</b>
<b>10. Chief Officer of the States of Jersey Police: review of procedure regarding suspension (P.182/2008)</b>	<b>36</b>
<b>[Debate proceeded in camera]</b>	<b>36</b>
<b>LUNCHEON ADJOURNMENT</b>	<b>36</b>
<b>PUBLIC BUSINESS - continued</b>	<b>36</b>

<b>[Debate continued in camera]</b> .....	<b>36</b>
<b>ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS</b> .....	<b>37</b>
11. The Connétable of St. Mary (Chairman, Privileges and Procedure Committee):.....	37
11.1 Deputy G.P. Southern:.....	37
11.2 Senator T.A. Le Sueur:.....	38
11.3 Deputy J.A. Martin:.....	38
11.4 The Deputy of St. Mary:.....	38
11.5 Deputy I.J. Gorst: .....	39
11.6 Senator P.F.C. Ozouf:.....	39
The Deputy Bailiff:.....	39
<b>ADJOURNMENT</b> .....	<b>39</b>

## **The Roll was called and the Deputy Greffier led the Assembly in Prayer.**

### **PUBLIC BUSINESS – resumption**

#### **1. Woolworths employees: redundancy payments (P.2/2009) – amendment (P.2/2009 Amd.) - continued**

##### **The Deputy Bailiff:**

We return then to the debate on the amendment of Senator Breckon for projet 2 and I have seen ...

##### **Deputy P.J. Rondel of St. John:**

May I be excused, I have declared an interest.

##### **The Deputy Bailiff:**

I see next Deputy Higgins.

#### **1.1 Deputy M.R. Higgins of St. Helier:**

I will be supporting this proposition for a number of reasons. First of all, I believe that the Ministers have been negligent in the past for not having brought this vital piece of important legislation into existence before now. I also believe that it is one of a number of pieces of legislation that protects ordinary men and women in this Island that the States have failed to bring in over the years. Secondly, I am supporting it because I also agree with Deputy Green in that the Chief Minister is being inconsistent with regard to his argument regarding the open-ended nature of this fund. His political guarantee for depositors is open-ended and could result, if called upon, on the use of the entire Stabilisation Fund and Strategic Reserve and the States borrowing money to cover the unlimited deposits that are covered by his political guarantee. Why is it that we are prepared to safeguard a millionaire's millions and not the relatively small sums of money that are likely to be paid out [**Approbation**] if this proposition is passed for the Woolworths' employees who have been badly let down, not only by their former employer - the administrator - but also the States. As regard to the question of the precedent, I do not mind if we are setting a precedent for other workers in the same position if the event arises before the scheme the Chief Minister says that he wants to introduce is brought in because this will ensure that the States, or I should say Ministers, are not tardy and bring it in in the fastest possible way. We should also bear in mind that if the Chief Minister does bring in his proposition it is going to be at least the middle of this year by the time it goes to the Privy Council and gets through all its stages and is registered in the Royal Court. Also, following the Attorney General's advice yesterday, it confirms the view that the States can stand in the position of the Woolworths' workers, so it is not as if they are getting double the money. If the States are paying this money out they will sign away their rights under the principle of subrogation and the States will stand in their place and be able to recover, if there is money to be recovered, from the administrator. I also feel that we are being inconsistent in the sense that the States itself will pay out possibly sums of £200,000-odd to senior officers in the States when they are being eased out of the States but they are not going to consider giving an equal sum to 95 workers in the Island.

#### **1.2 Deputy S. Power of St. Brelade:**

The Chief Minister said yesterday that we would be setting a dangerous precedent if the Island paid out now to Woolworths' employees and that it would set a trend for what might happen in the future. He also said or inferred that other administrators might jump on the bandwagon and take advantage of the States. My view is slightly different. My view is that the States Assembly has to learn a lesson from this debacle with Deloitte. I take a dim view when former staff are used to wrap-up a business, they are misled, they are lied to and almost used as pawns, and I take a very dim view of Deloitte's tactics in the way they have behaved. [**Approbation**] While the States does not have a redundancy law at the moment - and it is on the books as Deputy Gorst has said - the real villains are Deloitte. If we have learnt anything from this sorry saga it is this; the States must now have an interdepartmental rapid response team from all those departments of the States that

have to pick up the pieces caused by incidents like this. I put it like this, the mass might and power, which we acknowledge and which we pay for as States Members and as taxpayers, the mass power of Law Officers, Treasury, Economic Development, Home Affairs and Social Security must get together after this, prepare a contingency plan so that the next time this happens - and believe you me there will be a next time - the combined departments are ready to swing into action, stop this mad administration of a winding-up and get involved as a co-ordinated force. Deputy Southern said yesterday that he struggled with the word “administrator”, well let us make this simple then. Let us just talk about Deloittes because they are the firm that has caused this. Deloittes have disrespected their employees both in the way they did not serve adequate notice ...

**The Deputy Bailiff:**

I think, Deputy, it is right to refer to them as the administrators. They are individuals who are the administrators.

**Deputy S. Power:**

The administrators are Deloittes.

**The Deputy Bailiff:**

The administrators are 3 named individuals.

**Deputy S. Power:**

Okay, Sir, I will have to correct this. The administrators - we know who they are - disrespected their employees both in the way they did not serve adequate notice; they did not pay the minimum statutory entitled holiday pay; and essentially they misled their employees right up to the day the firm closed in Jersey and Guernsey. To my knowledge this administrator has not carried out due process in the way this administration was carried out. It may very well be that the administrators who are Neville Kahn, Nick Dargan and are Dan Butters have sent staff down from London to ...

**The Deputy Bailiff:**

I said to refer to them as the administrators, please do that.

**Deputy S. Power:**

Have sent down their staff to the Islands to carry out this administration and it remains to be seen if our Law Officers regard this as an acceptable method of winding-up the company without due regard to Jersey’s legal process. I would go so far as to say that the administrators have brought the Island into disrepute in the national media and I, for one, deeply resent that. I sent a note to my colleague Deputy Le Claire on 6th January last, and I will read a very short extract from that. It is from *Accountancy Age*, which is a magazine I do not normally leaf through when I have time to be in the library, indeed when I see *Accountancy Age* alongside magazines such as *Simply Knitting* or *Car Management* I pass them by. **[Laughter]** However, *Accountancy Age* did have an article on the administrator where they estimated that the fee income throughout the British Isles for the administrator would be about £22,000 an hour. The administrator is one of the big 4 in the British Isles with partners charging £600 per hour for senior managers, £400 for line managers and about £130 an hour for staff. There are 170 staff involved in this administration. So the administrator are using their former staff in Jersey as pawns and this is odious in the extreme. The staff have endured stress, tension, anxiety because of the job losses, and some of them who are in flats above the former store have to worry about relocation, and in that respect the Housing Department has prepared a contingency plan. Some of the tenants called me twice that the power had been cut off by the administrator and I had to contact the Fire Service and Social Security to rectify that problem. They did so and they pointed out some other problems in the building that the agents have now had to fix. So I would suggest to States Members that when the administrators come knocking on the door of E.D.D. (Economic Development Department) in the future for Regulation of Undertakings, or indeed come knocking on the door of Housing for an other (j) or whatever, I hope that this company and this firm is red-flagged. I remind Members that we live in a very small

community, and I hope that the mass might of the States take this administrator on head first. I am assured by Deputy Gorst, and I am assured by the Attorney General and the Chief Minister, that there will be a result for former Woolworths' staff. So this Assembly has 2 options this morning. Pick up the tab now, as Deputy Southern and Senator Breckon would want, and pay the amounts due to Woolworths' staff and claim it back at some future date through the courts from the administrator or, tackle the administrator now and force them to pay what is due to former Woolworths' staff using the Jersey judicial process. I have to say that whatever happens with this vote today Woolworths' staff will get some protection from this Assembly and from the judicial process in Jersey and they will not be left wanting the way they have been left by the administrator. So I will say to the Assembly this morning that I will put my trust in Deputy Gorst, our Social Security Minister, the Law Officers and the Chief Minister and I will support the latter option. I ask Woolworths' staff to bear with us and allow the mass might of the States to tackle the administrator and see that justice is done. **[Approbation]**

### **1.3 Deputy S. Pitman of St. Helier:**

I would like to just begin this speech with a few facts. Firstly, there are around 45 full-time staff who have been put out of work and as currently I have been told by the workers only 6 staff have found work since they were informally told that they would be made redundant at the end of December and 3 of these staff are assistant managers. I do know one member of staff who has applied for 8 jobs and has been unsuccessful, and if we consider that some of these people have been working for Woolworths for over 30 years, their skills and their knowledge come from that and they will have difficulty in finding work in other sectors because they do not have the experience. Also I would like to correct the words of Senator Maclean, when he said on *Talkback* that 8 ex-Woolworths' staff were going to be employed with the Sandpiper Group, that is incorrect. None of them have been employed as yet. The Chief Minister said yesterday that if we go ahead and give the ex-Woolworths' workers compensation that this would be paid by the public by taxpayers. Let us not forget that these ex-Woolworths' staff have until now been paying tax themselves and I ask this House would the Jersey public support these funds being asked by the proposers to compensate ex-Woolworths' workers when this Government has time and time again failed to protect its workers who are made redundant through the law. Further, when the public see the continued wasted millions spent by the States on, for example, the Communications Unit, sales of States property and land and an unnecessarily huge incinerator ... I would also like to comment on what the Minister for Social Security said yesterday, that if we had passed the redundancy laws relevant last September it is probable that not all would be in place now. Well, this is no excuse for the States to take no responsibility. We are, in part, responsible for the situation these ex-Woolworths' staff now find themselves. Yesterday I watched the swearing-in of President Barack Obama. The message in facing great economic challenge he said: "Yes, we can." What a stark contrast to the other message from our Chief Minister: "Yes, we could but we cannot be bothered."

### **1.4 Deputy A.T. Dupre of St. Clement:**

First of all I would like to say how saddened I am at the way that Woolworths have treated their loyal staff - it is a shop we have all used and loved and grown up with - also the callous manner that the administrators so disastrously handled the whole redundancy procedure. However, we must stop and look at King Street and Queen Street where 99 per cent of the shops are owned by U.K. (United Kingdom) companies. There are of course a few exceptions, mainly Voisins and, of course, our Jersey institution, Hamons, which will sadly be closing too. Many people have already been made redundant; for example, 10 members of a building firm last week, and we cannot set a precedent, which this most certainly will become, as I am sure that many more shops and businesses will close. I would also like to pay tribute to the Minister for Social Security who has achieved more in the last month he has been in office than has been accomplished in the last 9 years.

### **1.5 Deputy J.A.N. Le Fondré of St. Lawrence:**

I think it is fair to say that we have listened to some very impassioned speeches both today and yesterday, and just before I really start, I would just like to comment to any new Members and also many of the people observing us today who may not have seen how the debates operate in this Assembly, but irrespective of where our personal sympathies lie what we decide today does have a consequence and that is why it is going on so long. To an extent - and it is a bit of a cliché - but you could say that good government requires us to consider the outcome of those actions of, for example, supporting the proposition today and the fact it will set precedents. It does not matter what people say, it will set a precedent. I have to say I totally agree with the earlier comments of Senator Breckon yesterday as to the place Woolworths has occupied in our lives and in this community. There is a but: I do also have to endorse the comments of the Minister for Social Security and I will not be supporting the proposition. Now, I do have some additional information to share with Members that may inform their decision on the proposition, I would also like to clarify my position on this matter first. Do not misunderstand me, I am very deeply angry at the plight of the employers of Woolworths. I consider them to have been treated extremely shabbily, particularly by a professional firm which up until now had a good reputation locally, and I also appreciate that sympathy and regret is not what is wanted when you have just been made redundant. To me this is the nub of the whole matter. The different parties in this debate are trying to achieve the same end, basically fair treatment to the former employers of Woolworths to get them the money that is due to them. This debate is about the way we do that. I also have to qualify my speech slightly that what I am about to say is based upon my understanding of the legal position, and that obviously my understanding of the legal position may be at variance between my understanding and the actuality of that position, but to date I am not aware of any differences. So I emphasise the caveat that whatever the case I find the treatment of Woolworths' staff to be unacceptable. I find it unacceptable that a professional firm could apparently wilfully break our Employment Law. While criticism has been made of a lack of redundancy provision in Jersey there has not really been recognition that there is meant to be a financial cushion built into the system by way of statutory periods of notice. That was meant to offer some protection under Jersey law to employees. Now, I am unclear as to the process under which supposedly one of the most profitable stores in the entire business can be carefully run down over a period of weeks, its loyal employees used to liquidate and realise every asset in that store, including the very shelves upon which their goods were stored, and then to leave the local employees with nothing as well as some quite large local debts. We are a separate jurisdiction, we have our laws and they have apparently been ignored. So why can I not support the proposition? Well, I think, and to an extent it has been made a number of times already, but I have to endorse the comments of the Citizens Advice Bureau that was made, I think, last week and those publicly made by other individuals. We cannot give a preference to anybody. We cannot as a Government give a preference to any one group of employees over any other group of employees given the same laws being in place at the time of our decision. It is unfair - it may not seem like that - but it is unfair and it sets an unaffordable precedent. What is the difference between these employees and those who were made redundant just before Christmas or earlier in the year, or those who may yet be to come? Until the redundancy fund is in place we will be committing ourselves to unknown levels of expenditure which may not be recoverable. No one at this stage can state with any certainty what is going to be the outcome of that side of the process and whether any monies could be recoverable or not. That is the problem with this proposition in terms of where we are in timing on the process. It is very well-intentioned. I am going to say it is not entirely thought through, it is a bit a knee-jerk reaction understandably to what is a very serious matter, I think we all agree on that. Not only that - and this is what does get to me - if we adopt this proposition today we will be bailing out the seemingly illegal acts of professional administrators. **[Approbation]** We will be using taxpayers' money to endorse non-compliance of our laws and I endorse the comments made by the Chief Minister and the reference to bullying tactics being employed. Now, if that is the legal position I regret it. In my view, it is unacceptable and that needs to be dealt with. It should be demonstrated that there can be

consequences for this type of action and that irrespective of the pure legal position we do not deal with matters in a shabby manner. Now according to the Olympic website the goal of the Olympic movement is to contribute to building a peaceful and better world and it refers to the Olympic spirit which requires: "Mutual understanding of a spirit of friendship, solidarity and fair play, seeking to create a way of life based on the joy found in effort, the educational value of good example and respect for universal, fundamental, ethical principles." The relevance of this last comment, and I understand a number of people look at me slightly quizzically, is that included in Senator Breckon's amendment are the letters from the professional firm of administrators which note that they are the professional services provider to the Olympic and Paralympic Games underneath the logo of London 2012. How do those values that are espoused by this organisation, and which evidently this firm seek to emulate, equate to the list read out by the Minister for Social Security yesterday, and I make no apologies for repeating some of it. How does respect for the individual equate to providing little information to employees locally, to leaving them to initially believe that they would receive everything due to them, to giving them information relevant to U.K. practice, not Jersey practice? How does fair play equate to not providing redundancy notices until the last day of employment? How is mutual understanding and, I reiterate, respect for the individual reached when the employees are informed of their redundancy through impersonal letters which are neither addressed nor even distributed to those individuals but apparently been left in a box to be picked up by staff, and let us not forget the failure to meet their obligations under local employment law. There are all sorts of descriptions that spring to mind but the juxtaposition of that logo on this letter just smacks of hypocrisy of the worst order and that to me is putting it mildly. The Deputy of St. Mary made a comment about whether we support each other when times are hard but to use this case, it is not whether we support each other as a community, it is how we give that support and it is not as simple as people would like us to believe. Deputy Martin stated that we are the ones with the legal muscle compared to a group of individuals and I would go further and say that there may be other mechanisms open to us as a Government. Now, the information I would like to confirm with Members is as follows, just in case people missed it yesterday. Firstly, the Minister for Social Security has offered to fund legal advice to the employees on this matter. He did not want to go into the detail of this because of the genuine fear that can happen when matters get politicised, that political capital is made from the situation to the detriment of the individuals and no one wins out of that apart from possibly some of the politicians. Equally, if one is in negotiations on a matter one does not reveal all the cards that can be played and to clarify, discussions have commenced with the local representatives of the administrators, that is my understanding and that is what the Minister was referring to. Promises cannot be made nor details given because as with life nothing is certain at this stage, but I wholeheartedly support the actions of the Minister on this and it is unfortunate that the debate is occurring now when we do not have clarity over the position. Discussions have begun and if this proposition is approved today I think it could damage the chances of achieving a local solution. I think we need to send a very strong message to the people who have put us in this position as to our anger at their lack of respect for our laws and there is a demand that this be rectified without delay, that we will not tolerate abuse of our laws in this way. If not, the consequences need to be spelt out to those involved and to people who might have similar ideas in future. If we approve this today, in my view we basically send a message to the administrators and to future such cases that Jersey is a soft touch, that Government will bail them out and people will ignore our employment laws. I am therefore in quite a difficult position. I do not support this proposition because of the circumstances I have outlined but in my view it would assist Members as to what is the result of the outcome of these discussions. Therefore, I am going to vote against this amendment and this proposition and I am urging Members to do likewise. In so doing I would like to insist that further discussions and negotiations do take place with the administrators to achieve an alternative solution. Now, given the problem of timing, I would like just to raise the query as to whether there might be some procedural method we can use to deal with this matter. I will plant that as a seed for Members to consider during the debate.



**Deputy P.V.F. Le Claire of St. Helier:**

May I seek a point of clarification please? Unfortunately I did not hear the Minister for Social Security yesterday say that he was prepared to offer the employees legal support and I would just like to know under which other previous occurrence that was offered by the Social Security Department or whether or not this is a new precedent that he is setting.

**The Deputy Bailiff:**

I think it is a matter for the Minister whether he wishes to refer to that.

**Deputy I.J. Gorst of St. Clement:**

I am not sure what the Deputy is asking me. I did try and make it as plain as I could yesterday. But I did not want to get drawn to this place for fear of making political capital, but my officers have offered to provide or fund some legal advice for the employees of Woolworths. I really do not want to have to be drawn into saying anything else at all on that matter.

**Deputy P.V.F. Le Claire:**

It was a simple question I asked.

**The Deputy Bailiff:**

He has answered ...

**Deputy P.V.F. Le Claire:**

On what previous occasion has he ever done that was the question?

**The Deputy Bailiff:**

It is not material to the debate today, Deputy.

**1.6 Senator B.I. Le Marquand:**

I had not intended to speak in this debate because I have considerable sympathy with the employees of Woolworths and considerable distaste in relation to the behaviour of the administrators in this matter. I was not intending to speak, I was going to vote against the proposition and the amendment but did not particularly want to influence people so that they could make their own decisions. But there is an issue of which I became aware yesterday which I do need to bring to the attention of the House because there is a fundamental issue in relation to the way in which the sums under the amendment and under the proposition have been calculated. These matters are on the assumption that the employees, if they were to be put in the same position as if they were covered under U.K. legislation, particularly under U.K. legislation in relation to redundancy, that seems to be the aim. That seems to be the intention of both the proposition and the amendment, but in fact the way in which they have been calculated is not on that basis at all. The way on which they have been calculated, particularly if the amendment has been calculated, is upon the basis of U.K. redundancy payments plus Jersey periods of notice. That simply is not an accurate way of calculating this because if they were to be put in the same position as if they were covered by U.K. legislation, what they would be entitled to would be U.K. redundancy plus U.K. notice, whatever that may be. I am under the impression, and I may be wrong about this, that historically Jersey took the view that rather than going for the redundancy package it would go for longer periods of notice. I also do not know what is the interplay under U.K. legislation of a situation where there is notice and also redundancy. I spoke this morning to Deputy Gorst in relation to this and he does not know the answer. It seems to me that even those who are minded to vote in favour on matters of principle in relation to the amendment should not do so until we know whether we are comparing like with like. That is a fundamental problem and we may need to adjourn the debate in order to find the necessary information. That is the basis shown to me and there are other reasons why I am against the proposition to the amendment but I am not going to go through those because I am simply intervening to point out there is a calculation problem and an arithmetical problem

which cannot be resolved without us knowing what the interplay would be under U.K. legislation of the combination.

### **1.7 Senator S.C. Ferguson:**

I think we all agree that something must be done but I think we need to look at this dispassionately in the light of our duty of care towards the whole population of taxpayers in the Island as well as this particular part of the population. I think the most important thing is, getting it right down to nitty-gritty, is what is going to be the best approach to extract money from the administrators. This is what the debate is about. It seems to me that whether or not we pass this proposition then the Social Security Minister will be taking up the cudgels, one way or the other. So, the end result is that Deputy Gorst will be fighting the good fight. I think the important factor is whether we give him a better chance to succeed if we pass this proposition. I am reminded of the words, I think it was Ernie Bevin, who said: "Do not let me go naked into the conference chamber." It is my judgment that if we pass this we deprive the Minister for Social Security of an important weapon in his armoury. This proposition and the amendment, well-meaning as they are, undermine the strategic position of the Minister and should be rejected.

### **1.8 Senator S. Syvret:**

We are dealing I think, if I have read the reports correctly, with a total of 84 staff. Under Deputy Southern's proposal this would amount to the States laying our hands on £139,500 and under Senator Breckon's amendment the sum would be £289,500. I think we need to reflect on those sums and put them into some kind of perspective. There are very senior incompetent civil servants who rather than be sacked have been given sums of that nature as pay-offs to go off into the sunset and keep their mouth shut. Here we have 84 ordinary people who, through no fault of their own, find themselves treated in an utterly obnoxious manner. We agreed to the spending when we approved the Business Plan and the Budget, of a sum I think that is now in excess of £300,000 for the Chief Minister's Spin-Doctor's Department, and that supposedly is justifiable even though a great deal of the time and effort is quite improperly, in my view, focused on internal Jersey politics rather than promoting the Island outside. But £300,000 on spin-doctors but we cannot look after some people who have fallen on very difficult times. I listened with great interest to the speech of Deputy Power and it seemed to me to be a rather typical Deputy Power speech which was his 'I want to have my cake and eat it' speech. He wants to be on the side of the workers saying all the popular things, pressing all the right buttons, making all the right noises, trying to ingratiate himself but is not going to support the propositions. We have heard some similar speeches from others. But Deputy Power did say something interesting; he reminded us of the full might, as he put it, of the States. The Courts, the Law Officers' Department, this Assembly, its Members ... okay, that may not be an asset, I grant you, but nevertheless the full might of the States is there ready and able to fight this battle to recover this money. I suggest that is likely to be a much more effective, more rapid, more intimidatory means of bringing the administrators to book and placing the burden on the employees themselves. Some have spoken of establishing precedents and how we cannot possibly do that. We establish precedents all the time, and the precedent we are establishing here is, after all, a political precedent. Hypothetically another firm could go broke and others could bring propositions to this Assembly seeking similar settlements. Members would not be bound or obliged to agree with those and perhaps would not, if the companies concerned had not so manifestly broken the law and behaved in such a reprehensible manner. But, on the one hand we are told we cannot establish a precedent, yet on the other we hear from the Minister for Social Security that he has agreed - his officers have agreed - that his department will fund the legal representation for the employees. Now, what is that if not a precedent? A very dramatic precedent in fact I would suggest. Very dramatic indeed with possibly quite some serious long term implications. I am not saying it is necessarily a bad precedent but it is certainly a far more serious precedent than the paying of £139,000 or even £289,000. Frankly, if we are going to employ lawyers to fight a long and tedious battle it could cost us £289,500 just to pay the lawyers.

Meanwhile, the ex-staff continue to suffer. I say let us support the propositions today, let us use the full might of the States, co-ordinate it and bring it to bear army fashion against the administrators, whoever deserves such attention, and let us recover the money from there. Some people have spoken of responsibility towards taxpayers' money. I do not see these payments as being money that we would be giving out and then never recovering. This is a temporary measure and I see the States using its full might - all aspects of it - to recover these funds and, indeed, if the legislation which has been spoken of to establish a proper provision for these things in the future are put in place, indeed perhaps recover some of it from those arrangements when the laws are brought forward so that repayment could have been made. This is not simply the expenditure of States money and it is gone, this is a kind of a loan we are going to take in the future and we will recover from other methods. But I want to finish with this observation. The States of Jersey are to blame for this mess. We are to blame. We have not paid sufficient attention to proper employee protection over the years and decades. What protection we do have is poor and we have even seen the utter shambles of that slight statutory protection that exists being circumvented and thoroughly disregarded and ignored by the directors of the company before it went into administration. So the States has a moral obligation here. We, as we look at the public gallery, contemplate the results of our failures, of this Assembly's failures over the years. I say let us help our fellow Islanders and let us fight the battle to recover the funds from those from whom they should be recovered and I can certainly say that I am going to play my part in that, hopefully some time later this week, because I am going to go to the police and make a formal criminal complaint of fraudulent trading against the directors of Woolworths because of their failure to keep the cash reserves necessary to meet their minimum statutory obligations. We, the States of Jersey, can fight this battle and so we should. Let us help these people and instead target our fire on those who deserve it.

### **1.9 Connétable L. Norman of St. Clement:**

It goes without saying that all of us believe that the employees of Woolworths have been treated extremely shabbily. They have been treated unfairly and they have been treated, it would appear, not even in accordance with the law - or at least the spirit of the law - and quite rightly we want to put those wrongs right. The question is, is this the correct way to do it, this proposition and this amendment. Making an *ex gratia* payment, which is basically what it would be, based on a statutory scheme from another jurisdiction does not really sit very well with me, and I do not think would sit very well with any of us. We have enormous powers in this Assembly but with those powers we should temper those powers with responsibility because one or 2 Members have said we are not worried about precedent. Of course we should worry about precedent. Perhaps not so much about what is going to happen in the short term future regarding unemployment - those who were unfortunate to lose their jobs during these difficult times - but we also need to think about those who have lost their jobs and not just in recent times, perhaps over the last 30 or 40 years and who did not receive what they would have done had they lived and worked in another jurisdiction such as the United Kingdom, as undoubtedly claims will come in from many of those people over the last few decades, they will come in thick and fast, and quite understandably and quite rightly. I have got no doubt at all that if we do make this payment on the basis of the proposition today the legal profession will make sure that those claims do come in. So what do we do? I may be naïve but it does seem to me that there is a simple solution and it has been mentioned during this debate. I say what we should do is pay the employees of Woolworths from States fund what they are due under Jersey law. In some cases that will amount to up to 4 months pay. In exchange for that the employees assign the debt that they are due under the law to the States and our might - a couple of people have used the phrase - will be used to persuade the administrators to meet their obligations, and I would have thought that one claim against the administrators rather than 90-odd will have much greater impact to get them to meet their obligation. I see that way everybody wins. The employees get exactly what is rightly due to them. We, the States, will do what is right by the employees and can hold our heads up high and the administrators will be pursued vigorously for a legal claim. I suspect we cannot pursue administrators for *ex gratia* payment that we choose to

make. If the proposition is, even as amended, adopted nothing in the end of the day may be paid by the administrators.

**Deputy D.J.A. Wimberley of St. Mary:**

A point of clarification. Is this a second amendment because it sounds like a second alternative? It has not been proposed by either the proposer or the amender so is this a second amendment? I know you cannot do it, that is why I am asking.

**Senator L. Norman:**

I am trying to explain why the proposition is faulty and there is a better way, and how we can do that, I would have thought, that if the Chief Minister or the Minister for Treasury and Resources or even the Minister for Social Security - someone speaking for the Council of Ministers - would say now that they will do this, they will ensure that the employees receive the money that is due to them on the understanding that the debt is then assigned to the States, and then the States can then pursue the administrators. If one of the Ministers will say this, and guarantee to do this, then surely Senator Breckon and Deputy Southern should be satisfied. The employees will get what is due to them, the States will have done what is right. Surely that is a win-win situation.

**1.10 Senator P.F. Routier:**

When I first heard of the likelihood of Woolworths closing I was obviously very concerned that the staff should be supported in whatever way we possibly could, so I was pleased that the Social Security Department were able to immediately make contact with the staff to offer what support was possible. The Minister yesterday explained the extent of the support that has been given and offered but I have to say I still find it unbelievable that the administrators could be so appallingly blatant in not observing our existing employment laws. They are not observing the notice periods which they should have given. They are not observing the amounts of money that should be paid in compensation for notice period, and it should be recognised that our notice periods and our legislation is better than the U.K.'s legislation. In fact, while we chastise ourselves for not having a redundancy law in place I cannot see any evidence from the current actions of the administrators that they would have taken any notice of that either. We know that the staff have been badly treated and badly let down by the administrators who have little or no regard for our existing laws. I understand from the Minister for Social Security, and we have heard again today, that offers of assistance with legal opportunities have been offered to the employees and this has not been taken up. I think that is a pity and I hope that we are not going to let the administrators get away with it. My distaste for the way in which the administrators have treated the employees of Woolworths will certainly colour my judgment when it comes to dealing with any matters relating to that organisation that may come before me in the future. I am amazed that the local office team have not made an announcement before today that they are going to fulfil the terms of the existing notice period employment legislation. I just cannot believe it. They know this debate is going on. I would have anticipated that they would have come forward and said that they were going to meet the local legislation. They are putting the States Members through a debate which is unnecessary. They should come forward and say that they are going to pay that. They have a moral obligation to do that, they have a legal obligation to do that [**Approbation**] and especially when you consider that the local store is one of the most profitable in the group. I heard a whisper, I do not know if it right or wrong, but the store made over £1 million profit last year. It is disgraceful that it is going to be siphoned-off elsewhere and the local people are not being supported. Of course there are the assets of the property which we know of, and hopefully we will be able to use that as a lever to get what is required for the employees. Dare I even say that perhaps the administrators themselves could even consider eating into their fees. They might even consider a bit of sympathy for the Woolworths' staff. They are making out of this, the administrators. Why do they not consider being sympathetic to the staff who are being let down? We cannot let the administrators off the hook. I think the best way we can support the ex-employees of Woolworths is to maintain our offer

of support to them with legal support, to ensure also that those who are in most financial need who are able to claim income support are protected, and I know that will happen, and of course continue with all the practical help in regaining employment. As I said earlier, the lack of the section of employment legislation which does relate to redundancy would appear to have been of little consequence in this case to the employees because the administrators have not taken any notice of the remainder of our laws by giving no notice and not paying the notice periods. I think you probably would expect me to comment on why the law is not yet available, the redundancy law. Others have already commented but I would just like to add that when we started out on the trail on implementing all the various parts of employment legislation that it was the committees, and there was Senator Le Sueur's committee, and I was a member of that committee, and it was the intention to promote the redundancy legislation in an earlier phase. But the States in their wisdom decided that was not going to be the case which I was disappointed about, and it was the Industry Committee at the time that put forward that the employment relations matters should be put in an earlier phase, which came in before the redundancy legislation, and I was disappointed about that. But that was what the States decided. Of course, I am sure Members will recall that the Employment Relations Law was a long drawn-out process because of the lengthy negotiations with the unions. Unfortunately that all took time. I certainly wanted the redundancy law to be in place sooner. So I am pleased the Minister has decided to separate the T.U.P.E. (Transfer of Undertakings (Protection of Employment)) legislation now but I would only comment that only a couple of years ago there was a call for T.U.P.E. legislation to be brought in before redundancy legislation because there was some likely takeovers of businesses to be going on in the Island. They are both vitally important so I urge a bit of caution on not delaying the T.U.P.E. legislation. I make these observations really just to put the record straight but, as I said, in this particular case, I do not really believe that it would have made any difference whether we had the redundancy legislation in place because of the attitude of the administrators. When I consider the public comments that I have received, the main concern is about the precedent. I have spoken to people who have been made redundant in recent times who think it would be totally unfair to make this precedent for this particular group of people and also they made the comments: "What about the people coming along before redundancy legislation is in place?" I think the letter to the editor by the leader of the C.A.B. (Citizens Advice Bureau) made some very relevant points and identified the clear difficulties of the crossover of the U.K. legislation and the Jersey legislation, which was highlighted by Senator Le Marquand, and I believe that it would be wrong, and he made the point very clearly that bailing out the administrators was not a thing to be doing. So, the administrators have ignored the existing law and I do hope that they are listening to this debate. The timing of this debate is unfortunate because the employees are due to be paid their final pay in a couple of days time. I would suggest to Members that we should reject the amendment and the proposition but in doing so I think we should call upon the administrators to do the right thing. I call on the administrators to write personal letters to each of the employees giving them formal notice and apologising for the distress they have caused. I call on the administrators to pay in full the notice period. I call on the administrators to pay any holiday pay that is due. I call on the administrators to match the terms of the Woolworths company. If the administrators do the right thing even now, at this late stage, they may regain the reputation that they had within the Island because it is at an all time low at the present time. I suggest to Members that this amendment and proposition should be rejected and we should all focus attention on ensuring that the administrators, when they are paying the wages in a couple of days' time, that they do meet their legal obligations.

**Deputy T.M. Pitman of St. Helier:**

Could I just ask for a point of clarification? The Senator talked about setting the record straight but as I understand it the real reason the law was never brought in was because many, perhaps shall I say right-wing Members gave more importance to preventing trade unions from representing ordinary working people.

**The Deputy Bailiff:**

Deputy, that is not a point of clarification.

**Deputy M.R. Higgins:**

Could I bring a point of clarification as well from the Minister for Social Security?

**The Deputy Bailiff:**

Is it a genuine point of clarification?

**Deputy M.R. Higgins:**

Yes, it is genuine. During the debate a number of people have talked about legal advice, legal support, and so on, there is a difference between legal advice and legal representation. Would the Minister for Social Security explain what the nature of it is? Is he saying his department will represent the workers and incur all the legal costs in that or are they just giving them advice?

**Deputy I.J. Gorst:**

I was not speaking, so I am not sure if it is a clarification on what the previous speaker was saying. At this stage - and I have tried to be extremely careful in what I have said - what my department has offered is legal advice at this preliminary stage.

**1.11 Connétable D.J. Murphy of Grouville:**

Together with the rest of the House, I have the greatest sympathy for the workers at Woolworths. It is a little piece of Jersey that has gone. For any of the parents sitting around here who have had teenage children doing their Saturday jobs in there, it was a very welcome place to go to for us and for the first learning curves of trade and commerce for them. However, I was visited by a parishioner last week who was working for a U.K. company over here in exactly the same circumstances as the Woolworths' employees were. He was fired without notice. He was just told they were closing down. He was a very tenacious character and he went off and he went to the industrial tribunal in Southampton. I do not know if the word "sued" is the correct one, but he certainly went for the company and he went for the British Government on the basis that he was due redundancy pay. He was turned down, and I understand this was one of the actual classic cases which set the precedents for further cases that came up and, in fact, for this situation that we have now. He came to me and said: "Surely, if this goes through the States, I will be entitled to go back again, will I not, and go to the States for money?" I have to say that if this goes through today, I would quite happily represent him and take his case up because that would be the case. We are talking precedents here and we are talking about creating a precedent which will go back for goodness knows how long. I listened to the Constable of St. Clement this morning when he came up and spoke, and I could not see anything wrong whatsoever in what he was suggesting. He was suggesting that we do pay them out and we pay them out exactly what they are due under Jersey law and then we go for the liquidators. I think it is a very sensible way of going. I think that at this stage we still have time for Senator Breckon and for Deputy Southern to withdraw their propositions and let us go ahead on the basis of a new proposition which would take care of the workers, make sure they got all their money, and then we sort it out with the liquidators ourselves.

**1.12 Senator P.F.C. Ozouf:**

I want to add my own words of sadness to the fact that Woolworths has gone. Somebody said that I was a regular client of Woolworths, going in to buy sweets. That is absolutely right. Woolworths was an incredibly well run shop in Jersey, perhaps unlike the United Kingdom. I would also say to Members that my great-grandmother bought the tobacconist shop outside of Woolworths on the basis that Woolworths was a place that was never likely to fail. I am sure that many of the staff of Woolworths thought that that was going to be the case, that Woolworths would have never failed. I am sure that we must give all the Woolworths' staff every support and encouragement because they have had an unexpected event and they certainly do not deserve to be put in the position of having

problems as a result of failing management in the U.K. We must, of course, first of all ensure that those staff who have found themselves without work have every possible assistance and support in getting back into the workplace. What I will say is that from my position as previously Minister for Economic Development I would be very surprised if those well-trained, excellent staff at Woolworths cannot find - with help and with assistance and encouragement - work back in the workplace. I am sure that we must do everything that we can and everything that needs to be done to make sure that the most important thing happens: that the staff get back into productive, well paid, secure work. The issue of the redundancy payments is difficult. I think that many Members of this Assembly believe that we must make plans to assist or have the Woolworths staff assisted. The difficulty is, as Senator Le Marquand has said, that the calculations both within the amendment that we are discussing and the underlying amendment are deficient. We do not know the exact calculations of an entitlement that is along the lines of what they would be entitled to in the United Kingdom. In addition, as the Constable of St. Clement has said, there is, I think, a view that Members want to know what the entitlement should be in Jersey, under Jersey law, for the extended periods of notice, the holiday pay and other areas. I think that it is quite clear that Members do not have sufficient information in order to make a decision on the actual facts of what we should be paying in terms of some sort of redundancy pay. It seems to me clear that Members need and deserve more information. There are new issues which have emerged during the course of this debate. I think that the Minister for Social Security is absolutely correct to have been careful in what he is saying to Members. He does not want to put the fact that he has made offers of legal assistance to the Woolworths' staff as almost being a factor that that offer could be treated as a pawn in a political debate. That would be quite wrong. He is being very careful about that, but the reality is that he has said that he and his department have offered assistance to the staff in terms of getting legal representation and, indeed, we may need to go further. It may be appropriate to go further in terms of representing those staff. I am seeking some guidance from the chair. It seems to me that the proposition that we have before us is deficient in terms of the financial information. There has been new information arising out of this debate which means I have come to the conclusion that either we reject the proposition because it is deficient or perhaps that we need to adjourn the discussion, move on to the next item or have a reference back, so that we can then ask Social Security to go back and conduct the work with the employees to ensure appropriate representation, we can be advised of the full information under Jersey law in relation to the entitlement of the employees, and that that process can continue before we go back and effectively write a blank cheque. I am willing to commit the resources necessary with the Minister for Social Security in order to carry out that work in order that we may first of all ensure that the employees exhaust all the available actions and possibilities that now, it appears, they have an option to redress during the local situation. I want to be guided by you, Sir, about what perhaps the best way of dealing with this is: perhaps either the movers of the proposition... Senator Breckon, may wish to invite the Assembly to defer consideration; if they were not willing to do that, maybe we can have a reference back.

**The Deputy Bailiff:**

Deputy, thank you very much. The chair will consider this on its own. Senator, the purpose of a reference back is to obtain further information. It is not at all clear to me what further information you are seeking. The proposition of Deputy Southern proposes redundancy payments as per the U.K. standard. The amendment of Senator Breckon proposes redundancy payments plus a figure which he calculates as being the Jersey minimum notice period. Those are the 2 alternatives before the States. It is free to the States to accept or reject them, but it is not clear to me what further information you are seeking.

**Senator P.F.C. Ozouf:**

As Senator Le Marquand has stated, there is some doubt on the accuracy of these figures in terms of the way that they have been compiled. There are other factors within these figures. I understand

that those redundancy payments can be offset against individual circumstances of people getting back in work. I think that we need to be absolutely clear that we are dealing with an accurate figure in terms of those figures before we make a decision on either of these amounts. There has been some doubt cast upon these figures.

**Senator A. Breckon:**

I did intend to cover this - a number of Members have mentioned this - but I do have a sheet that was produced which has every employee on and their length of service. I have also got information, but because of issues of data protection and other things, obviously it is not in the public domain. I think I can make the case in summing-up to cover that.

**The Deputy Bailiff:**

That would be a matter for Members to consider at that stage, but it is still not clear to me, Senator, what is the further information you are seeking. It is very imprecise, what you are asking for. If there is going to be a reference back, there has to be a clear request for specific further information. I am not sure I can allow Senator Le Marquand to have a second speech.

**Senator P.F.C. Ozouf:**

While Senator Breckon makes representations that the figures are accurate and complete, it does not appear to me from what I have heard from the discussions and from the observations made by Senator Le Marquand that these figures are absolutely robust and have been independently assessed. We are being asked, effectively, to make a determination on the allocation of taxpayers' money on the basis of a representation by Senator Breckon on which there is some doubt which has been cast. Therefore, I would certainly like those figures to be checked by the appropriate authorities, whether that be Social Security or J.A.C.S. (Jersey Advisory and Conciliation Services) or whatever, in order that we are absolutely clear that we are dealing with accurate information before we make any determination. Quite apart from that - and that is why I was seeking your guidance about the best way to proceed - my sense is that Members also, in parallel to understanding what the accurate figures are, want to have seen the other avenues of redress - being the pursuance of the administrator through the Jersey law - to be also being progressed before we make a decision.

**The Deputy Bailiff:**

What was put by the Connétable of St. Clement, which I was not sure whether you were going to speak to, was, of course, the idea that the Council of Ministers should consider whether, where there was a claim under Jersey law - namely to notice periods - the Council would be willing to consider help to enable the employees to exercise their rights. That, of course, would exclude redundancy where there are no legal rights.

**Senator P.F.C. Ozouf:**

Indeed, and that is exactly something that the Constable of St. Clement has suggested that we calculate the full amount of entitlement under Jersey law and that we make some sort of arrangement whereby we pay that potentially with some certainty on the fact that we are going to be able to redress it. This shows that there is a huge amount of information that Members need to make before making a determination that they are going to simply write a cheque either to the extent that Senator Breckon says or Deputy Southern. Members are not equipped with the full information that they need to make a full decision.

**Deputy G.P. Southern of St. Helier:**

If I may, I am not clear whether this reference back refers to the amendment alone or to my proposition as well. I am not clear because normally a reference back is to the Minister bringing a proposition. A reference back to Back-Benchers, is that what is proposed? It seems to me that this



is just a procedural motion to get this debate abandoned after some 6 hours, which seems to me wasting States time.

**The Deputy Bailiff:**

I am sorry, I think I have allowed enough on this. I am not going to agree to a reference back. This is an amendment. It is not clear to me this further information will relate simply to the amendment and so I am not going to allow it.

**Senator P.F.C. Ozouf:**

Therefore, I will test the mood of the Assembly. Could you please confirm that a move on to the next item would mean that we would not determine the matter; rather it would be held in abeyance, which would allow the proposers of the amendment to bring it back and table it back at some future time when it would be my hope that the Assembly is furnished with the latest information in relation to the pursuance of the administrators with the full assistance of the Minister for Social Security and, in addition, to the workings of the entitlement of Jersey law which could deal with the Constable of St. Clement. I think that is the only reasonable way that we could do it and so if procedurally a reference back is not possible in your ruling, then I move that we move on to the next item on that basis.

**The Connétable of St. Clement:**

Before the Senator does that, it does seem to me that seems to be somewhat of a big hammer to crack a nut. I think the sides on this argument are pretty close together. We all want to achieve what is right and fair to the former employees of Woolworths. **[Interruption]** It does seem to me that we are so close that it would be quite possible in a short period of time for the proposer of the substantive proposition and the amendment, the Minister for Treasury and Resources and the Minister for Social Security, to get together to find an equitable way forward. If the proposer of the proposition and the amendment would agree to defer this debate from where we are for 2 weeks to the next sitting, we could get an agreement. What we all want to achieve very quickly is a proper and decent settlement for the employees of Woolworths, and that seems to be a sensible way forward.

**The Deputy Bailiff:**

That is, of course, a matter entirely for the proposer and the amender. At the moment, what I have before me is a proposition to move to the next business. Are you formally proposing that, Senator?

**Senator P.F.C. Ozouf:**

I would formally propose that, but before doing so ask if either Senator Breckon or Deputy Southern would be willing to heed the advice of the Constable of St. Clement. If they will not, then I think that that is the only sensible way forward.

**The Deputy Bailiff:**

Deputy, are you willing to?

**Deputy G.P. Southern:**

I am not prepared to do that at this stage, no.

**The Deputy Bailiff:**

Very well, in which case ...

**Deputy P.V.F. Le Claire:**

Can I seek a point of clarification from the Minister for Treasury and Resources? The information that was furnished by the Woolworths' staff was shared among Deputy Southern, Senator Breckon, myself and Senator Maclean, made available to the Council of Ministers through Senator Maclean;

all of the information, all of the records, all of the names, all of the detail. What is it exactly that the Senator or the Treasury was not able to understand about that?

**The Deputy Bailiff:**

Senator, are you proposing a move to the next item?

**Senator P.F.C. Ozouf:**

Yes.

**The Deputy Bailiff:**

Is that seconded? **[Seconded]** **[Interruption]** There is no debate, that is absolutely right, but I think as a seconder he is entitled to say briefly why.

**Senator T.A. Le Sueur:**

It will be brief. I have a lot of sympathy with the proposal of the Constable of St. Clement, and while I was minded to endorse it immediately, I do not like making decisions *sur les champs*. I would endorse the view that this could be done within a very short delay and that procedurally the way to do that would be to move on to the next item and to commit to coming back at an early date with that proposal. For that reason, I would second the proposal of Senator Ozouf.

**The Deputy Bailiff:**

Very well. The proposal to move to the next item is proposed and seconded. I cannot say that it is an abuse of procedure or an infringement of the rights of a minority; therefore, it is in order. There is a no dwbate upon it. The appel is called for; therefore, the matter is pour or contre moving to the next item of business. The Greffier will open the voting.

<b>POUR: 30</b>		<b>CONTRE: 18</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Senator B.E. Shenton		
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Connétable of St. Helier		
Senator J.L. Perchard		Connétable of St. Martin		
Senator S.C. Ferguson		Connétable of St. Lawrence		
Senator A.J.D. Maclean		Deputy R.G. Le Hérisssier (S)		
Senator B.I. Le Marquand		Deputy J.A. Martin (H)		
Connétable of St. Ouen		Deputy G.P. Southern (H)		
Connétable of Trinity		Deputy J.A. Hilton (H)		
Connétable of Grouville		Deputy P.V.F. Le Claire (H)		
Connétable of St. Brelade		Deputy S. Pitman (H)		
Connétable of St. John		Deputy M. Tadier (B)		
Connétable of St. Saviour		Deputy of St. Mary		
Connétable of St. Clement		Deputy T.M. Pitman (H)		
Connétable of St. Peter		Deputy T.A. Vallois (S)		
Connétable of St. Mary		Deputy M.R. Higgins (H)		
Deputy R.C. Duhamel (S)		Deputy A.K.F. Green (H)		
Deputy of St. Martin		Deputy D.J. De Sousa (H)		
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				

Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy J.M. Maçon (S)				

**Senator A. Breckon:**

Procedurally, can I ask now, because that was with an amendment and with a proposition before that, who would be reporting back to whom? Because I do not have an army of officers to produce anything and I have some confidential information and it is about as clear as mud from that decision what I am supposed to do now. I wonder if you could give me some guidance.

**The Deputy Bailiff:**

Certainly, Deputy. It was not, of course, a reference back because I disallowed that. It was a proposition to move to the next item. Therefore, that means simply that debate stops and the matter can be brought back at any stage. My understanding - but that would be entirely for others - is that the intention of the proposer was to allow time to see whether the Connétable of St. Clement's remedy, for example, could be dealt with. It can be brought back at any stage and the matter can then continue.

**Senator B.E. Shenton:**

Surely the next item is the proposition itself?

**The Deputy Bailiff:**

No, the item being debated is the proposition and the amendment.

**Senator B.E. Shenton:**

With all due respect, we were debating the amendment. The next item is the proposition.

**The Deputy Bailiff:**

I suppose technically, Senator, you are right, the matter being debated was the amendment, so to move on to the next of business, the next item of business is that in the Order Paper, which is ...

**Deputy F.J. Hill of St. Martin:**

Could I just ask that the conversation you are having with Senator Le Marquand is louder so we can all hear from this side, please.

**The Deputy Bailiff:**

I am sorry? [Laughter] I think the result is the whole matter has come to an end on this, so we move now to P.1/2009. I will ask the Greffier to read out the Draft Health and Safety at Work (Amendment No. 4) (Jersey) Law.

**Deputy I.J. Gorst:**

Excuse me, sorry, I did indicate yesterday that I would be asking the permission of the House to withdraw this projet. As Members I hope will appreciate, I have been rather busy over the last few weeks and there are a number of issues that I need to address and, therefore, I ask - if that is okay - to withdraw it and I will relodge it at a later date. Thank you.

**2. Ratification of the Agreement for the Exchange of Information Relating to Tax Matters between the Federal Republic of Germany and the States of Jersey (P.171/2008)**

**The Deputy Bailiff:**

I beg your pardon, thank you. In that case, the next matter is the Ratification of the Agreement for the Exchange of Information Relating to Tax Matters between the Federal Republic of Germany and the States of Jersey - P.171/2008 - lodged by the Chief Minister. I will ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to ratify the Agreement for the Exchange of Information Relating to Tax Matters between the Federal Republic of Germany and the States of Jersey as set out in the Appendix to the report of the Chief Minister dated 16th October 2008.

**2.1 Senator T.A. Le Sueur (The Chief Minister):**

I would like to begin by reminding Members of the statement made by my predecessor on 2nd December last year regarding this Tax Information Exchange Agreement and, in particular, to point out the words of the head of the O.E.C.D. (Organisation for Economic Co-operation and Development) Centre for Tax and Policy Administration when he said on 28th October: "We at the O.E.C.D. recognise the importance of the progress Jersey has made in signing Tax Information Exchange Agreements and in receiving clear political endorsement from O.E.C.D. member countries. To show that the choice Jersey has made is the right one, we recognise the need for firm action to be taken with regard to those jurisdictions that are not showing the same commitment to tax information exchange." A clear indication of the separation between what could be colloquially called the good guys and the bad guys and a recognition that Jersey falls into the role of the good guys by the signing of Tax Information Exchange Agreements. We have now signed a number of such agreements and the procedure is that having agreed them and signed them, they are then presented to each government for ratification. So, in the case of the German agreement, it goes to the States of Jersey and to the German Government, but obviously with a commitment on both sides that this is to be signed. I think it is worth drawing attention to the fact that an exchange agreement with Germany is particularly important given its prominence within the European Community and the fact that there has been some significant comment in recent times about the activities of other offshore centres such as Lichtenstein where German attention has rightly been directed. Germany, too, has indicated quite clearly that it regards Jersey very much in the positive camp. Signing this agreement, which the Chief Minister did late last year with the German authorities, is an important step in that direction. What we are doing today is the formality, as the States of Jersey, in ratifying that agreement, and I now propose that proposition.

**The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? Very well. All those in favour of adopting the proposition kindly show? Those against? The proposition is adopted.

**3. Draft Taxation (Exchange of Information with Third Countries) (Amendment) (Jersey) Regulations (P.172/2008)**

**The Deputy Bailiff:**

We come next to the Draft Taxation (Exchange of Information with Third Countries) (Amendment) (Jersey) Regulations - P.172/2008 - lodged by the Chief Minister. I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Taxation (Exchange of Information with Third Countries) (Amendment) (Jersey) Regulations. The States, in pursuance of Article 2(1) of the Taxation Implementation (Jersey) Law 2004 and paragraph 1.8.5 of the Strategic Plan 2006-2011 approved by the States on 28th June

2006 and following the decision of the States, taken on the day these Regulations are made, to adopt Projet 171/2008, have made the following Regulations.

**The Deputy Bailiff:**

Minister, do you propose the principles?

**3.1 Senator T.A. Le Sueur (The Chief Minister):**

Yes, I propose the principles of these Regulations, which are very straightforward. They give effect to entering into the agreement. When both parties have completed their ratification a date is entered into a schedule. The schedule is shown in the fourth paragraph with at the moment no date for it, so the proposal is that when the date is known it will be added to the Regulations. I propose the preamble to the Regulations.

**The Deputy Bailiff:**

Is the principle seconded? **[Seconded]** Does any Member wish to speak on the principles? The appel is called for in relation to the principles. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 33</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

**The Deputy Bailiff:**

Senator Ferguson, this is a matter for the Corporate Services Scrutiny Panel. Do you wish to have the matter referred to your Panel?

**Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):**

No, thank you.

**The Deputy Bailiff:**

Very well. Do you propose the Regulations *en bloc*?

**3.2 Senator T.A. Le Sueur:**

I propose the Regulations *en bloc* including the schedule which is attached to the fourth Regulation. I will answer any questions that might arise.

**The Deputy Bailiff:**

Are the Regulations seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations or the schedule? Very well. All those in favour of adopting the Regulations and the schedule kindly show? Those against? They are adopted. Do you propose the Regulations in Third Reading?

**Senator T.A. Le Sueur:**

Yes, please.

**The Deputy Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on Third Reading? All those in favour of adopting the Regulations in Third Reading kindly show? Those against? The Regulations are adopted in Third Reading.

**4. Draft Protection of Children (Restriction on Supply of Goods) (Jersey) Law (P.175/2008)**

**The Deputy Bailiff:**

The next matter is the Draft Protection of Children (Restriction on Supply of Goods) (Jersey) Law - P.175/2008 - lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Protection of Children (Restriction on Supply of Goods) (Jersey) Law. A law to enable the prohibition of or restriction on the supply of certain goods to persons under full age and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

**4.1 Senator A.J.H. Maclean (The Minister for Economic Development):**

This draft law is the result of a process which began in 2006 when the States supported a proposition from Deputy Southern to restrict the sale of cigarette lighter refill canisters containing butane to any person under the age of 18. At the time, a very robust case was made by Deputy Southern for the controls through legislation. It was one of those rare occasions when not one Member voted against the proposition. Indeed, it was acknowledged that while fortunately the sniffing of butane gas by children is not a big problem in Jersey, the States should minimise any prospect of a tragedy and this law will certainly help with that objective. As Members will note, the draft law does not make any reference to butane refill canisters because it is, in fact, an enabling

law. The key provision is found in Article 2 which provides the States with the power to make regulations which may restrict the supply to minors of not just butane refill canisters but any other goods which might in the future be deemed as in the interests of public health or public safety. For example, regulations could be used as a much more robust control mechanism than the Code of Practice currently in place for the sale of solvent-based glues by retailers, but, of course, that is for another time. If Members support this law, then I can say that the Regulations will be drafted to ban the sale of cigarette lighter refill canisters containing butane to persons under the age of 18. These Regulations will be lodged in time for them to come into force around the same time as the law, which I anticipate will be in approximately 6 months' time. I maintain the proposition.

**The Deputy Bailiff:**

Is the proposition seconded? [**Seconded**] Does any Member wish to speak? Deputy Southern.

**4.1.1 Deputy G.P. Southern:**

I wholeheartedly welcome this measure, which results from an initiative I set in motion some 2½ years ago. I am glad to see it come to fruition. What I would urge the Minister to do is that he does not divert attention away from what is currently the most common form of solvent abuse, which is the butane gas canister, to another product which then becomes more readily available and perhaps becomes the drug of use or the means of getting to that abuse in other ways, and that he does as a matter of some urgency include the other sources of solvents in the Regulations at the earliest possible moment so that we have as many of the bases covered as possible. But in general terms I absolutely welcome this.

**4.1.2 Deputy J.B. Fox of St. Helier:**

I, too, welcome this proposition and I support what the previous speaker has just said. We must bear in mind, though, that this is not going to cover the whole gambit of young people's abuses, and there are other things that I am not going to mention in this House because I do not want to give people ideas. I would definitely like to discuss the matter further so that at least the Economic Development Department has the experience that I have from my previous life of the sort of things that not only can cause a risk to an individual but can cause a risk to a household and, indeed, neighbours and other places like out on the street. I will just leave it there for the moment, but I welcome this as a continuing stage to improve the safety of our youngsters.

**4.1.3 The Deputy of St. Martin:**

I, too, welcome this piece of legislation, but I do have a question. This was approved way back in early 2006, so it has taken almost 3 years to get here. Maybe when the Senator sums up he could tell us why the delay and why it has taken so long. We have already heard that this really is only an enabling system so why the delay? Why almost 3 years to get this piece of legislation which is only a matter of a 3 or 4-page piece of legislation?

**4.1.4 Deputy A.E. Jeune of St. Brelade:**

Being very well aware myself of the consequences of people who abuse such substances, I would like to ask why we are setting the age at 18 when we have set the age for people to be able to vote at 16? We say they can vote at 16 but they cannot buy butane gas until they are 18.

**4.1.5 Deputy K.C. Lewis of St. Saviour:**

This is a good bit of legislation, well overdue. Unfortunately, I have witnessed solvent abuse in the past and, as has been said by previous speakers, they will only move on to other substances. Sadly, alcohol is freely available to youngsters, which is what they will indulge with, which is something I will be bringing to the Minister for Home Affairs in due course. I have witnessed other solvent abuse. I have found people who have been inhaling underarm deodorants and I have pointed out the fact that you can freeze the top of your lungs and death can occur within 3 minutes if you do so. This is a wonderful bit of legislation and gets my full support.

#### **4.1.6 Senator P.F.C. Ozouf:**

It is certainly not fair that the current Minister for Economic Development has to account for delays under a previous Minister's watch, so I will answer the question, if I may, from the Deputy of St. Martin. He makes an important point about the reasons why such seemingly simple legislation comes to the Assembly after such a delay. I would remind the Deputy that the Trading Standards Department, which is responsible for progressing such legislation, did do - and we have done - an enormous amount of work in progressing legislation. I would remind the Deputy that the Supply of Goods and Services Law was finally dealt with, updating many of the issues that Senator Breckon had very close to his heart in relation to improving consumer laws generally, quite apart from all the issues relating to the way in which G.S.T. (Goods and Services Tax) prices worked. There was a huge amount of work that was carried out by Trading Standards, and this was done as soon as possible and lodged in the twilight of the previous administration. Apologies that it took so long, but there is only so much work that a very small team - and they do work extremely hard - can do.

#### **The Deputy Bailiff:**

Does any other Member wish to speak on the principles? I invite the Minister to reply.

#### **4.1.7 Senator A.J.H. Maclean:**

Broadly, I will just thank collectively for the support given by Members to this without going into any great detail. I would just raise the point Deputy Jeune raised in connection with age. I do not know the answer to the question, quite simply. I think it is probably fair to say that setting the age at 18 ensures that as wide a possible group of our youngsters are properly protected. Your point about voting age and so on is well made; nevertheless, I do not think we can necessarily take any risks and 18 does not seem unreasonable as far as I am concerned. I would also say to the Deputy of St. Martin, notwithstanding what Senator Ozouf has just said, that he will note that this particular piece of legislation has not sat on my desk for very long and I am delighted that we can get the thing moving along. [Laughter]

#### **The Deputy Bailiff:**

All those in favour of adopting the principles kindly show? Those against? The principles are adopted. This is a matter which falls within the remit of the Economic Affairs Scrutiny Panel, whose Chairman is Deputy Higgins but he is not in the Chamber. I am not sure who the Deputy Chairman is, but the other Members are the Deputy of St. Mary, Deputy of Grouville, Deputy Pitman. The Deputy of Grouville is not here either. Deputy of St. Mary, I think it may fall to you to say whether you wish this matter referred to the panel.

#### **The Deputy of St. Mary (Economic Affairs Scrutiny Panel):**

I was corresponding with the Minister for Social Security. Sorry, this is a bit confusing, but the answer is no.

#### **The Deputy Bailiff:**

Very well, the answer has been given no. Now we come to the individual Articles. Minister, do you wish to propose the Articles *en bloc*?

#### **4.2 Senator A.J.H. Maclean:**

Yes. Article 1 is a very short Article which deals with the interpretation and the main effect on the enforcement of the law would be carried out by the Trading Standards Officers. Article 2 is a key provision as it gives the States power to make Regulations prohibiting or restricting the supply of certain goods to minors and the particular circumstances may be prescribed in those Regulations. Article 3 gives a Trading Standards Officer appropriate powers to effectively enforce Regulations made under the Law and lays out what may be done in the course of any investigations. Article 4 makes it an offence to supply goods in contravention of Regulations made under the Law. However, there is defence for an accused to show that he or she exercised due diligence in trying to



prevent an offence. Knowingly or recklessly giving false information is also an offence which carries the threat of imprisonment of up to 12 months or an unlimited fine. Article 5 contains standard provisions concerning parties to offences where an offence is committed by a limited liability partnership or body corporate. Article 6 sets out the name of the Law and provides for it to come into force 7 days after registration. I propose the Articles.

**The Deputy Bailiff:**

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on any of the individual Articles? All those in favour of adopting Articles 1 to 6 kindly show? Those against? They are adopted. Do you propose the Bill in Third Reading, Minister?

**4.3 Senator A.J.H. Maclean:**

Yes.

**The Deputy Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in third ...

**4.3.1 The Deputy of St. John:**

Sorry, I arrived back in the Chamber late. I was caught up in another meeting. Although I am generally in support of this particular Law, can I have an assurance from the Minister that, in fact, because of the way it is pulled together about gas, et cetera, being sold in canisters to youngsters, where does this put you if you send your youngster off to get a small bottle of gas for camping gas or the like, or fuel for a motorcycle?

**The Deputy Bailiff:**

That is a matter which should have been dealt with on Second Reading.

**The Deputy of St. John:**

I can still raise it on Third Reading before we accept it. I would like to know exactly what allowance is made for a youngster under the age of 18 to be able to purchase goods legally, if you have a scooter and it is, shall we say, on L.P.G. (liquefied petroleum gas) or something similar.

**The Deputy Bailiff:**

Does any other Member wish to speak on Third Reading? I call upon the Minister to reply.

**4.3.2 Senator A.J.H. Maclean:**

The Regulations are drafted for the ban of the sale of cigarette lighter refill canisters containing butane, which is fairly specific. The Regulations will come back in due course and I think on that basis that should provide enough reassurance for the Deputy.

**The Deputy Bailiff:**

Very well. All those in favour of adopting the Bill in Third Reading kindly show? Those against? The Bill is adopted in Third Reading.

**5. Draft Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 10) (Jersey) Regulations (P.176/2008)**

**The Deputy Bailiff:**

The next matter on the Order Paper is the Draft Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 10) (Jersey) Regulations - P.176/2008 - lodged by the Chief Minister. I will ask the Greffier to read the citation.

### **The Deputy Greffier of the States:**

Draft Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 10) (Jersey) Regulations. The States, in pursuance of Article 2 of the Public Employees Retirement (Jersey) Law 1967, have made the following Regulations.

#### **5.1 Senator T.A. Le Sueur (The Chief Minister):**

Observant Members will have noticed that there are 2 very similar propositions, this one and P.177/2008 which is to follow thereafter. I propose to speak on the principles of both of these propositions at the same time to save repeating myself. In fact, if Members have read the report attached to P.176/2008 there is really little I can add to it. For those who have not, can I just explain briefly that the proposal reflects the fact that all of us in general seem to be living longer and, as a consequence, a general move towards increasing retirement ages. This is coming in very slowly, but one of the first moves made by the U.K. and by ourselves is in respect of members of what are loosely called uniformed services - that is the police, fire and ambulance people - who at the present time have a retirement age set out in the Regulations of 55 years but are able to retire at 50 years of age. We believe that in the current situation it is no longer appropriate for people in those services to be able to retire at the age of 50. So, what is proposed is not for existing employees in the scheme but that any newcomer coming into the uniformed services after 1st March should have a retirement age of 55 years and no longer be able to take early retirement at 50. We believe this is realistic and it accords with the advice given to Members last year by the Comptroller and Auditor General in his report on pension services, which said that Jersey ought not to get out of line in this respect with the U.K. I would also suggest that irrespective of that it makes sense these days for people not to be able to retire at 50 but to wait until 55. Indeed, it was originally suggested that we should have a minimum retirement age of 55 and a normal retirement age of 60 for these people. That was felt to be a step too far and at this stage all that is being proposed is that the minimum be raised from 50 to 55. That is the principle of these Regulations and I propose the preamble.

#### **The Deputy Bailiff:**

Is the principle seconded? **[Seconded]** Does any Member wish to speak on the principles? Connétable of St. Lawrence.

##### **5.1.1 Connétable D.W. Mezbourian of St. Lawrence:**

The Minister has just said that the original proposal put to the staff associations was to increase the optional retirement age to 55 and the normal retirement age to 60 and that was felt to be a step too far. Further down in the report it states that the arguments put forward by the staff associations against that proposal had some merit. I would like the Minister to enlarge upon what those arguments were because, in fact, there is no substance here as to the arguments received by the staff associations. I will be supporting this because it is a step towards achieving a higher retirement age. However, I would remind the Chief Minister that during the discussions this week with Assistant Ministers looking at the Strategic Plan, one of the proposals made was that retirement ages should be increased across the board. I think certainly what we should be doing is looking to continue from this beginning to increase the normal retirement age for the ... **[Interruption]** Sorry, we are talking about retirement age here, Senator. Sorry, Senator Perchard is interrupting. I am correct, I believe. We are talking about the retirement age, not the pension age, and I would reiterate to the Chief Minister that I see this as the first step towards raising the retirement age for the uniformed associations. I hope he will agree with that.

##### **5.1.2 Senator A. Breckon:**

While supporting this, I think the Chief Minister will also need to revisit this and take the next step. Something that was discussed at the end of last year, I think, and has been mentioned a few times since is what is nice to have and what is affordable. I would declare an interest here. I have been

to presentations where the people retiring were younger than me. Members do not necessarily need to comment on that, but with that I think the nature ... and I am looking at people who did have former lives and I think the nature of the job of some of the services that we are talking about has changed and people are no longer running around on foot and out in all weathers. There is perhaps an argument to say that building workers and people digging the roads up and things like that should be able to retire at 55 and people in a sheltered environment in an office should work a lot longer. That is something that might be explored in another arena, but it did concern me when I saw this. I remember at the time, I think he was Deputy Walker then when he was President of the Establishment Committee, he extended some of this to civil servants attached to blue light services that were doing some of the work. It is something that some of the Ministers may need to revisit because there were situations where somebody could be in a job for 30 years and because of life expectancy could live for 45 years in retirement. It is a question then of what is paid in, what is affordable and, indeed, we are the major contributor to that. So perhaps it is something that the Chief Minister could bear in mind because I do think we need to go back to the table and negotiate that. I would also say that I was a member of the Public Accounts Committee when some of the concerns were addressed in pensions areas on what was affordable and what was desirable, and I think that is another area that we need to revisit and take a longer term view of what is affordable and what is achievable.

### **5.1.3 Connétable J.M. Refault of St. Peter:**

Firstly, I must declare an interest in this, but the question I have of the Minister is has any evaluation been taking place on the likely impact through the increase in ill health retirements?

### **5.1.4 Deputy J.B. Fox:**

I suppose I should declare an interest as well as I receive a States pension. I was also a Vice-President of the Police Association for a period. If my recollections are correct, back in the early years of the police force, certainly in Jersey, a police officer on the street, by the time he retired at 50 or 55 had a 65 year-old body because of the amount of time that he spent out in the cold, et cetera. No, this is a medical fact. That was one of the reasons that this differential came in in the first place. Of course, the world has changed, as we have just heard, and we now have climate change, we have a different type of policing, and that includes the other emergency services and, indeed, other walks of life. So there are periods for review. The other thing that we have to bear in mind is that one of the options for 50 - and I am talking about police officers at the moment because I do not think it is fair to comment on other organisations that I was not terribly familiar with, although we worked together on many occasions - was the fact that when they got to 50 and they needed for their domestic circumstances or whatever to go to another job, many of these companies have a clause that does not allow them to take employees over 50 because of the insurance requirements, which was for 10 years and they expected to retire at 60. That is why some people retire at 50 and these other companies, of which there are numerous, use the skills of these retired officers because they have been very well equipped and trained to do other jobs, whether it is in the advocacy world or the security world or the retail world or wherever. I just bring that to your attention for information. The other side of the coin now, of course, is that although we have just had 17 new recruits in the police service, we are finding it increasingly difficult and expensive to train staff and to retain staff. Therefore, it must be borne in mind that when, for argument's sake, you require additional police officers for a large case such as the inquiry at Haut de la Garenne, for argument's sake, we are recruiting retired police officers on fixed-time contracts to fulfil the roles that otherwise would not be able to be possible. The argument of having a retirement age at 50 I would suggest to you is a very good argument because of the increasing life expectancy of people, but it also means that we are retaining our skilled workforce in a very constructive way for which they have been trained for. So there is merit in this proposition that has come forward and I will certainly support it, but this is only the tip of an iceberg. It needs to be looked at to a far greater extent. The question of a medical pension has been brought up. That is a completely different area,

but there are people that might not be able to do the job that they were originally trained and paid for but are more than capable of doing other jobs, which at the moment they have been enjoying a full pension for maybe 20 or 30 years when, of course, they could have had a contribution for disablement or whatever it is but still could have had a useful job. Some of our regulations within the public sector have denied them the opportunities of having such a job, and I think at this moment in time when we are looking at our fiscal policies and retraining and better skilling our workforce and, indeed, our population to be retained in the workforce, this is an area that I think that we should put back on to the agenda and make the necessary adjustment that is considered appropriate by this House and by others.

#### **5.1.5 Deputy R.G. Le Hérisier of St. Saviour:**

Deputy Fox has covered some of it. I do approve of this and while it is tempting to say this is one group who are getting a better deal than others and we need to regularise it, I think it has to be said if, indeed, it is, say, 30 years on the beat or 30 years' handling the frontline of fires or ambulances or whatever, there is an ongoing, wearing down stress associated with the work. I think we do tend to underestimate it when we are looking at the equality or inequalities that exist in a pension scheme. There are jobs that do grind down people if they are done too long and we are not terribly good at moving people, although we know there are jobs put aside, so to speak, for people who are removed from the frontline. One of the ironies of all the cutbacks and the tightening that occurs in the public services is that you remove these jobs, you remove these flexibilities from managers, and people who are struggling and who need an obvious break because of the wearing down ... I do not think many of us would want to go out every Friday night and basically just engage in a series of continual aggressive encounters, which is often what Friday and Saturday nights are about. It does wear people down. I think in the broader picture it has to be said while I do agree with this and I think the emergency services or the uniformed services have more of a point than we sometimes acknowledge, there is a much bigger political problem arising with public sector pensions: it is the distinction between them and the private sector. In the private sector you see more and more people put into pension schemes where basically they get a pot of money and they have to invest it. We all know where that is landing people at the moment. It is landing them at 0.5 per cent returns and so forth. I can well imagine there will come a time when there will be a lot of political pressure on us having pushed so many people into the private sector and said: "Manage your own pension", which is what a lot of their employers are saying, I cannot see these people as voters saying: "But, of course, we are prepared to pay an awful lot of money out to gold-plated public sector systems." There is a real problem building up in society. In terms of the specific issue, I think we tend to be perhaps a bit hard on the group, even though I think they have to be prepared to accept there is a changing world out there and we are going to be under much more pressure.

#### **5.1.6 Senator S.C. Ferguson:**

I must say I am glad to see that the Comptroller and Auditor General's reports are being taken seriously. I am very much in support of this. Apart from the fact that it was recommended by the Comptroller and Auditor General, when these Regulations were proposed ... and I am talking maybe 40 years ago and the average mortality rate for men in an average job was 60, 65 or something like that, and nowadays obviously it is a much higher average mortality rate. I suppose bearing in mind that you have more women in the workforce and certainly in some of these services, then probably the average age of the combined male and female sections of the workforce will be much higher. I notice that this has been brought in line with the U.K., but not entirely. Our terms are still more generous than for the U.K. and I look forward to the Chief Minister confirming that the overall position is going to be reviewed. It has really been quite ridiculous that the corporate memory is evicted at age 50. I would suggest perhaps that before we bring in racial discrimination regulations we should bring in age discrimination regulations. There is obviously a place for these 55 year-old retirees because when you consider that retired officers have been retained, for instance, in the police force serving in a civilian capacity, I would agree with Deputy

Le Hérissier, we do have to look at the overall picture. I would comment, though, in response to Deputy Le Hérissier - I am sorry, Deputy Le Hérissier is not here - that Friday nights can be difficult and stressful for the police, but also for the Honorary Police and we should remember that they are not going to get a pension. I support this proposition.

#### **5.1.7 The Deputy of St. Martin:**

I welcome this piece of legislation, but there are one or 2 concerns that I have. Deputy Fox said about the tip of the iceberg. I think Deputy Le Hérissier also spoke about it; indeed, Senator Ferguson has. I think what we ought to be doing... I would hope this is the start of a review. We have to start somewhere and I think it is very important. I would not think that we are just picking on the uniformed services as an easy rider. I think we have to look at the bigger picture and we really have to take serious consideration as to how we are going to be looking after the people who are getting older. All of us are getting older and the sooner we start the better. There are a couple of questions I would like to ask. The concern I have is about normally when a police officer joins the service, they work to a 30-year pension scheme and I would like to know whether in actual fact, not only the police but the fire and everything else, the pension arrangements have been changed or are going to be met to meet the change. I use myself in the example. I retired at 50 and the reason I retired at 50 was because there was no longer an incentive for me to carry on working because as I joined it at 20, I could retire on a full pension at 50. Therefore, if I had carried on working, I would have had to pay on my pension contributions, which was not enhancing. I think Deputy Fox will support this. The goal of most police officers is to live long enough to receive the full pension contributions and I think I have about 2 years to go so I am hoping that I will get my full contributions back. But the one thing I would ask, are the Regulations going to be changed to fit in for those officers who join at 20 and will then have to do 35 years' service but will their pension be enhanced from 30 years' service to 35 years' service otherwise really we are disadvantaging people joining young. The other thing I do welcome is the fact that this is not retrospective. I think it would be really disastrous if it was so. In all, I do support the proposition but I would like to know about the contributions between the 30-year service and the 35-year service.

#### **The Deputy Bailiff:**

Does any other Member wish to speak? Very well, I call upon the Chief Minister to reply.

#### **5.1.8 Senator T.A. Le Sueur:**

I appreciate the comments of those who have spoken. I think generally there is a view that this is the first step along a much broader review and I am happy on behalf of the States Employment Board to commit to an ongoing review of this and other pension matters. But I have to say, picking up the comments of the Constable of St. Lawrence, that this was not unanimously supported by the uniformed services. Indeed, it was only the Police Association who were really particularly supportive of this. Some of the other associations did point out drawbacks such as the fact that they have to continue paying social security contributions. If not, they retired. That they may find it more difficult to find work these days and that, indeed, there are not the same opportunities as there are in the U.K. to do civilian work when their uniformed duties become too much for them. So we are sympathetic to some of those views but on the other hand, we also have to be realistic towards the views of the Island as a whole and the general trends towards retirement. So, yes, we will continue to look at that and certainly we take note of the comments of the Constable of St. Peter and Deputy Fox, I think, among others, about ill health and the potential that this could cause for people working longer. That is always going to be a risk. Ill health does not particularly strike at any one age band, it can happen at any time in people's lives but I accept that as one gets older, it may become more likely. To Deputy Le Hérissier and the relationship with the Public Employees Contributory Retirement Scheme generally, yes, that is, as he says, a much broader issue but the fact that we have not tackled that one right now does not mean that we should not be doing this. Every little bit helps. As to Senator Ferguson, are our terms more generous than the U.K.? In some

respects they are and in some respects they are not. It is not always quite easy to compare like with like. What I think the Comptroller and Auditor General says and what I wish to echo is that we should not get too far out of line between Jersey and the U.K. because we do have specialist recruitment sometimes and fairness of treatment. Finally, the Deputy of St. Martin was questioning pension arrangements and years of service. These adjustments to extend the time and age minimum age from 50 to 55 do not affect the annual accruals so each year of service counts towards that pension, so people will now be, if they do start at 20, able to accrue 35/60ths of their salary towards their final pension. I think that dealt with all the comments that I have here. Senator Breckon made comparisons with building workers and office workers and said maybe we need to revisit things generally. Yes, we do and you could make special cases for almost everybody that you care to do. This, I think, simply reflects the general trend towards living longer and ultimately perhaps working a bit longer as well. I maintain the principles of the Bill.

**The Deputy Bailiff:**

The Appel is asked for, then, in relation to the principles of projet 176. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 41</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisseier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				

Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Deputy Bailiff:**

This matter falls within the Corporate Services Scrutiny Panel’s area of responsibility. Senator Ferguson, do you wish this matter to be referred to be a Panel?

**Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):**

No, we do not want to scrutinise it but we will await with interest the report that the Chief Minister’s office has been asked to do as part of the objectives in the Business Plan.

**The Deputy Bailiff:**

Very well, thank you. Chief Minister, do you wish to propose the Regulations? **[Seconded]** Does any Member wish to speak on either of the 2 Regulations? All those in favour of adopting Regulations 1 and 2 kindly show? Those against? Regulations 1 and 2 are adopted. Do you propose the Regulations in Third Reading, Chief Minister? **[Seconded]** Does any Member wish to speak on Third Reading? All those in favour of adopting the Regulations in Third Reading, kindly show? Those against? The Regulations are adopted in Third Reading.

**6. Draft Public Employees (Contributory Retirement Scheme) (Existing Members) (Amendment No. 10) (Jersey) Regulations 200- (P.177/2008)**

**The Deputy Bailiff:**

The next matter is the Draft Public Employees (Contributory Retirement Scheme) (New Members) (Amendment No. 13) (Jersey) Regulations - Projet 177/2008 - lodged by the Chief Minister and I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Public Employees (Contributory Retirement Scheme) (New Members) (Amendment No. 13) (Jersey) Regulations 200-. The States, in pursuance of Article 2 of the Public Employees (Retirement) (Jersey) Law 1967, have made the following Regulations.

**6.1 Senator T.A. Le Sueur (The Chief Minister):**

Because we have effectively 2 parallel pension schemes, there are 2 sets of Regulations but the principles of the previous Regulations apply equally to the principles of these Regulations. I do not propose to repeat myself and I propose these principles.

**The Deputy Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? Very well, all those in favour of adopting the principles, kindly show? Those against? The principles are adopted. Senator Ferguson, do you wish this matter to be referred to your Scrutiny Panel?

**Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):**

No, and with the same caveats that I applied to the first rejection.

**The Deputy Bailiff:**

Very well. Chief Minister, do you propose the Regulations?

**Senator T.A. Le Sueur:**

I propose Regulations 1 to 4, and, again, I think they are self-explanatory but I will answer any questions.

**The Deputy Bailiff:**

Thank you. Does any Member wish to speak on any of the Regulations? All those in favour of adopting Regulations 1 to 4, kindly show? Those against? The Regulations are adopted. Do you propose the Regulations in Third Reading?

**Senator T.A. Sueur:**

Yes, please.

**The Deputy Bailiff:**

Are the Regulations seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading, kindly show? Those against? The Regulations are adopted in Third Reading. We then come to matters where the leave of the Assembly is required for them to be debated today. The first one is projet 182, the Connétable of St. Helier's proposition. Do you propose that be heard today, Connétable? Is that seconded? **[Seconded]** Does any Member wish to make any observation?

**Senator P.F. Routier:**

Just one. As it is going to be in camera and if we do go on to debate the other minor items further down the list, whether it would be appropriate just to take the 2 minor items first and then we can finish with the in camera debate later.

**The Deputy Bailiff:**

Very well, that seems a good idea but let us just clarify whether we are going to take them all.

**Deputy K.C. Lewis:**

I was just going to say exactly the same thing, plus the Minister for Home Affairs, during question time yesterday, indicated he had information for Members that he would only impart in camera. Would the Chair grant the Minister permission to impart that information?

**The Deputy Bailiff:**

The debate has to be in camera, by law. Does the Assembly agree to take projet 182 today? Projet 183, the Minister for Planning and Environment. Assistant Minister, do you wish to take that today? Is that seconded? **[Seconded]** Do Members agree to take this one today, projet 183? Yes. Projet 3, the Overseas Aid Commission: appointment of non-States Commissioner. Deputy Gorst, do you ask that that be taken today? Is that seconded? **[Seconded]** Do Members agree to take this one to today? Yes. Finally, projet 4, Jersey Financial Services Commission, for the Minister for Economic Development. Do you ask that be taken today, Minister? **[Seconded]** Do Members agree to take it today? Very well. So in accordance with the suggestion that Members agree that we deal with projet 183 first, then projet 3 and then we will move into camera to deal, perhaps if Members agree, with projet 4 and then revert to 182 if that seems possible. Very well.

**7. Planning Applications Panel: appointment of members (P.183/2008)**

**The Deputy Bailiff:**

I will ask the Greffier to read the proposition of projet 183, Planning Applications of Panel: appointment of members.

**The Greffier of the States:**



The States are asked to decide whether they are of opinion to appoint in accordance with Article 9A(2) of the Planning and Building Law 2002, as amended, the following persons as Members of the Planning Applications Panel for a period of 3 years with immediate effect: Connétable Graeme Frank Butcher of St. John, Deputy Paul Vincent Francis Le Claire of St. Helier and Deputy Jeremy Martin Maçon of St. Saviour.

#### **7.1 Deputy A.E. Pryke of Trinity:**

Members of the Planning Application Panel are appointed by this House on the nomination of the Minister. Following the retirement from the States of the former Connétable of St. Peter, there is now a vacancy, plus 2 other posts which were not filled. The existing members of the panel are the Connétables of Trinity, St. Saviour and St. Mary and the Deputies of St. Peter and St. Brelade and myself as Chair. I would like to thank the former Connétable of St. Peter and the present members for all their invaluable work on the panel which has been most appreciated. Now with the Planning Law of 2002, the panel hears applications in public. I hope all Members would agree that this has broadened the participation in the decision-making process and increased the transparency of the planning process. I am delighted to nominate the Connétable of St. John, who has experience in running a rural Parish and Deputy Paul Le Claire and Deputy Maçon. Both Members represent urban Parishes and this will provide an important balance to the panel. The appointment of the members is for 3 years from the date of their appointments. I would like to thank the present members for being willing to continue their work on the panel and the proposed new members for allowing their names to go forward. I am sure they will make a positive contribution and look forward to working with them. I move the proposition.

#### **The Deputy Bailiff:**

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition?

#### **7.1.1 Deputy R.G. Le Hérissier:**

While one could not find a finer bunch of people if one were to search high and low, what I would like to ask the Assistant Minister is what are the rules on the panel in regard to considering applications from one's own Parish?

#### **7.1.2 Senator P.F.C. Ozouf:**

Just for clarification, I think it would be useful for the public to know what exactly is the process. There are 9 members of the Planning Applications Panel. Clearly, not all 9 members sit to hear determinations. For the avoidance of any doubt, could she just explain what number of individual panel members sit to hear applications and, indeed, how they are rotated, or are we proposing, effectively, extra members if they are a core member. How does it work so that there is a clarity in terms of who determines planning applications when the panel sits?

#### **7.1.3 Deputy C.F. Labey of Grouville:**

In the Assistant Minister's summing up, I do not really want to pick on people but with the present membership of the panel, does she not consider it to be a perceived conflict of interest to have the Assistant Minister for Housing on the Planning Panel?

#### **7.1.4 The Deputy of St. John:**

Could the Assistant Minister give us details or remind us who are the other 6 members of the panel, please?

#### **The Deputy Bailiff:**

Very well, I call upon the Assistant Minister to reply.

#### **7.1.5 The Deputy of Trinity:**

I will deal with the last points from my esteemed colleague in front of me. The present members are the Connétables of Trinity, St. Saviour and St. Mary, Deputy Power and the Deputy of St. Peter and they were elected during 2007. Regarding Deputy Power and his role as Assistant Minister for Housing, this has been checked with the Greffier and there is no point of conflict as sitting on the panel. If any applications did come forward from within Housing, he would therefore declare a conflict of interest and withdraw from that panel hearing. Regarding how the panel would work, there are a panel of 7. We discussed this last week as we have an induction process when different issues from conflict of interest, how we would sit, we are looking at a panel of 7 members. It is written in law that the quorum is 3 but at all application hearings, we will always have an odd number so if there is a vote, it will be sorted out that way. During all applications, we do obviously acknowledge conflict of interest because we might know the application or it is within our Parish, it is too close, and therefore that member would withdraw. Therefore the 2 other members would be included in site visits which we do the day before the panel hearings and would step in for that application. We are very aware of conflict of interest and I see that personally as a very important issue because the panel is heard in public where members of the public quite rightly put either their support for an application or objections against an application and therefore conflict is very high on my agenda. I hope I have answered all.

**The Deputy Bailiff:**

Very well. All those in favour of adopting the proposition, kindly show? Those against? The proposition is adopted.

**8. Jersey Overseas Aid Commission: appointment of non-States Commissioner (P.3/2009)**

**The Deputy Bailiff:**

We come then to Jersey Overseas Aid Commission: appointment of non-States Commissioner - Projet 3 - lodged by Deputy Gorst. I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion to appoint, in accordance with clause 7.4 of the constitution of the Jersey Overseas Aid Commission as set out in Schedule 1 to the Jersey Overseas Aid Commission (Jersey) Law 2005, Mrs. Toni Roberts as a non-States Commissioner for a further period of 3 years.

**8.1 Deputy I.J. Gorst (Chairman, Overseas Aid Commission):**

It gives me pleasure to be able to propose Mrs. Roberts to serve a term of 3 years as a non-States Commissioner on the Overseas Aid Commission. She has served in the previous 3 years and she has been an invaluable member of that Commission. Both for her experience in the banking world setting up charitable settlements and how they are administered and how they distribute money, not forgetting that she herself has been on a number of overseas aid working parties in the past, her work and contribution to the Commission is greatly valued and I hope that Members will support this proposition to nominate her again for a further term of 3 years.

**The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition?

**8.1.1 Deputy R.G. Le Hérisier:**

Just a quick question. Given the excellent appointment of Deputy Gorst, can he assure me that in that diversity which he is seeking, he will bring on board people who do not necessarily agree with what the Commission is doing and can bring a very constructive alternative view to its work?

**8.1.2 Senator P.F. Routier:**

Would the proposer of the proposition be able to reflect that there is a very diverse group of people on the Overseas Aid Commission who do have varying views and I am sure that the impression which Deputy Le Hérisier is trying to put forward is far from the actual practice of what goes on within the Overseas Aid Commission.

**The Deputy Bailiff:**

Does any other Member wish to speak? I call upon Deputy Gorst to reply.

**8.1.3 Deputy I.J. Gorst:**

Not quite the question I was expecting from the good Deputy but I was expecting one. **[Laughter]** Of course, it does really depend on what he means by having differing opinions or being critical of what the Commission does. I would not want to stand before this Assembly and be proposing someone that did not wholeheartedly support the work of the Commission and the principle that it is right and proper for a State like Jersey to be doing its part in alleviating poverty to the most vulnerable parts of the world and, therefore, I would not want to propose someone who was critical to such an extent. However, if an individual were critical of specific policies and felt that policies ought to be reviewed and perhaps some of the ways in which we administer the aid, then I would have no problem at all with that. The Deputy might be surprised to know that we do have sometimes heated discussion about where aid should be best targeted. We operate in a political world and we try not to be influenced by that but that does lead to some very heated discussions about when it is appropriate and where it is appropriate and to what particular jurisdictions it might be appropriate to give aid. So I hope I can give him reassurance on that and perhaps I could speak on behalf of Mrs. Roberts and say that she certainly is not shy in coming forward in making her opinion felt.

**The Deputy Bailiff:**

Very well. All those in favour of adopting the proposition, kindly show? Those against? The proposition is adopted.

**9. Jersey Financial Services Commission: appointment of Commissioners (P.4/2009)**

**The Deputy Bailiff:**

Do Members agree, then, that we should take Projet 4 next, the Jersey Financial Services Commission: appointment of Commissioners lodged by the Minister for Economic Development. By law, this has to be held in camera but the proposition must be read in open session first so I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether of they are opinion in pursuance of Article 3 of the Financial Services Commission (Jersey) Law 1998 to appoint Mr. John Clark Averty and Mr. Thomas Alistair Clark as Commissioners to the Jersey Financial Services Commission with effect from 20th January 2009 for a period of 3 years.

**The Deputy Bailiff:**

Very well. We need to go into camera so I would ask the media please to withdraw. I invite the Minister to propose it.

**[Debate proceeded in camera]**

**The Deputy Bailiff:**

Very well. We are now back in session so all those in favour of adopting the proposition, kindly show? Those against? The proposition is adopted.

**10. Chief Officer of the States of Jersey Police: review of procedure regarding suspension (P.182/2008)**

**The Deputy Bailiff:**

We then come to Projet 182, the Chief Officer of the States of Jersey Police: review of procedure regarding suspension. I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion to request the Minister for Home Affairs to commission a compliance check on the procedures followed by his predecessor, the former Minister for Home Affairs, in suspending the Chief Officer of the States of Jersey Police on 12th November 2008 and to report to the States on the outcome of this compliance check no later than 1st March 2009.

**[Debate proceeded in camera]**

**LUNCHEON ADJOURNMENT**

**PUBLIC BUSINESS - continued**

**The Deputy Bailiff:**

Now we are still continuing this matter which is in camera so I will ask the public gallery to be cleared, please.

**[Debate continued in camera]**

**The Deputy Bailiff:**

We are back in open session and the matter before the Assembly is the vote for or against the proposition of the Connétable of St. Helier and the Greffier will open the voting.

<b>POUR: 21</b>		<b>CONTRE: 29</b>		<b>ABSTAIN: 1</b>
Senator S. Syvret		Senator T.A. Le Sueur		Deputy of St. John
Senator A. Breckon		Senator P.F. Routier		
Connétable of St. Helier		Senator P.F.C. Ozouf		
Connétable of St. Peter		Senator B.E. Shenton		
Connétable of St. Lawrence		Senator F.E. Cohen		
Deputy R.C. Duhamel (S)		Senator J.L. Perchard		
Deputy of St. Martin		Senator A.J.D. Maclean		
Deputy R.G. Le Hérisssier (S)		Senator S.C. Ferguson		
Deputy J.A. Martin (H)		Senator B.I. Le Marquand		
Deputy G.P. Southern (H)		Connétable of St. Ouen		
Deputy of Grouville		Connétable of Trinity		
Deputy P.V.F. Le Claire (H)		Connétable of Grouville		
Deputy S. Pitman (H)		Connétable of St. Brelade		
Deputy M. Tadier (B)		Connétable of St. John		
Deputy of St. Mary		Connétable of St. Saviour		
Deputy T.M. Pitman (H)		Connétable of St. Clement		
Deputy T.A. Vallois (S)		Connétable of St. Mary		

Deputy M.R. Higgins (H)		Deputy J.B. Fox (H)		
Deputy A.K.F. Green (H)		Deputy of St. Ouen		
Deputy D.J. De Sousa (H)		Deputy of St. Peter		
Deputy J.M. Maçon (S)		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		

**The Deputy Bailiff:**

Very well, so that brings that matter to an end. Now I would notify Members that Deputy Southern has lodged a proposition, P.9/2009 entitled Woolworths employees: payment of statutory notice periods. So that has been lodged today. Then we come finally to the public business on future meetings. I invite the Chairman of the P.P.C. (Privileges and Procedures Committee) to address the Assembly.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**11. The Connétable of St. Mary (Chairman, Privileges and Procedure Committee):**

The arrangement of business is largely as per the consolidated Order Paper with a couple of additions and one slightly more tricky matter which I will deal with last if I may. First of all, the business of 3rd February is augmented by P.8/2009 - Energy from Waste Facility: rescindment. The business of 24th February increases by the addition of P.7/2009 - Property sold by the public: restriction on renting back. The slightly tricky matter I alluded to relates to P.9/2009 which has been lodged today but is obviously not in time for debate at the next meeting under the Standing Orders. The proposer has indicated he would like this matter to be debated. The 2-week lodging period would be complied with if the meeting was to move to the second day of the sitting which I think on the estimation of business to be undertaken is probably very likely but I would like to invite the proposer, Deputy Southern, to first of all confirm whether he is formerly withdrawing P.2/2009 which I assume he is as he has produced this one and then to put his case for the business to be taken at the next meeting.

**11.1 Deputy G.P. Southern:**

If it is the case that I am required to withdraw P.2/2009, and I do not believe it is because this is a separate different title and refers to a different issue. So I do not think it is necessary to withdraw it and I would rather get this through if I can and that is the point at which I will withdraw and abandon P.2/2009 but the Chair can certainly inform me on that.

**The Connétable of St. Mary:**

I would just like guidance from the Chair if I might. I understand if business is left over and not completely debated at a meeting but is left open it should be given a further debate date and I am not sure how it will deal with P.2/2009 in that case.

**Deputy G.P. Southern:**

I believe I have instructed the Greffier to park it sometime in March.

**The Deputy Bailiff:**

Just so I am clear, Deputy, you are asking at the moment or you will be asking in due course that P.9/2009 be put on the agenda for the next meeting although you accept it would have to be taken on the second day unless you can persuade Members to ...

**Deputy G.P. Southern:**

Absolutely, Sir, and to that end I think I have already persuaded the Chief Minister that he would not object if it had to be taken on the Tuesday anyway with 13 days' notice.

**11.2 Senator T.A. Le Sueur:**

I do think though we need clarity about P.2/2009 for 2 reasons. Firstly, because I am not sure whether it is in order to have 2 propositions tabled side-by-side on the same subject or nearly the same subject. I admit there are slightly variations. Secondly, I think it is unfair to Members to be in that uncertain position and my comment to the Deputy is on the understanding or naïve assumption that he was withdrawing the earlier proposition.

**Deputy G.P. Southern:**

In that case, if that is the objection I will be happy to withdraw P.2/2009. I am not sure about the amendment or what we can do with that but P.2/2009 can go if that is the case. **[Approbation]**

**The Deputy Bailiff:**

Very well. Just so we can deal with this aspect first, P.2/2009 is withdrawn and it is suggested that P.9/2009 should be on the list for the next sitting.

**Deputy G.P. Southern:**

Indeed, Sir.

**11.3 Deputy J.A. Martin:**

I was waiting, and I maybe should have spoken to the Chair of P.P.C., but I was hoping that I would have more information that I have asked for, and I am now told on P.184/2008 there is a briefing to States Members on Friday 30th, and from the Council of Ministers I will get some comments around that date or on the day of 3rd February. So what I am proposing with the leave of the House is if I could just move that debate to 24th February to give me time, in addition to the Minister for Housing's comments, that it is down to me to consult with every resident in the area which I think I will be doing a good job over the next 2 or 3 weeks if I am out every day as well as doing the proposition.

**The Deputy Bailiff:**

Very well. You have the absolute right to do that, Deputy. So you want to move P.184/2008 to 24th February. Deputy of St. Mary, you were indicating you wanted to speak?

**11.4 The Deputy of St. Mary:**

Yes, going back to P.9/2009 I was not sure whether that meant that if we do take P.9/2009 at the next sitting we have to take it on Wednesday because ... No? If Tuesday is short then we can get on to P.9/2009.

**The Deputy Bailiff:**

It will technically need the Assembly to agree to proceed on less than 14 days' notice, so it will be a matter for the Assembly at the occasion but Deputy Southern has made it clear he will be asking the Assembly to do that, so I think all Members should come prepared to debate the matter and if they agree it will be dealt with on the first day.

**The Deputy of St. Mary:**

My concern was just that P.8/2009 may not be taken at the next sitting. It rather depends on the attitude of T.T.S. (Transport and Technical Services) with regard to helping us with the information that we are requesting - only today they were denying information - that is rather difficult to get out of them.

**The Deputy Bailiff:**

But you want P.8/2009 listed for debate on that day? Yes.

**11.5 Deputy I.J. Gorst:**

I do have one slight concern with regard to P.9/2009 and that is if for any particular reason it was felt that it might need to be amended to make it watertight, shall we say, how would that sit bearing in mind we are now saying we will take it at the next session? Will that be possible?

**The Deputy Bailiff:**

Well, it could be taken on the next session anyway. It is a 14 day lodging period, is it not? So amendments would have to be one week before. It is a 14 day lodging proposition. The only unusual matter may be if the Assembly wishes to take it on the first day then it will have to specifically resolve to do so but Deputy Southern would be entitled to have it debated on the second day because it would by then have been lodged for the 14 day period. You must bring an amendment within 7 days.

**Deputy I.J. Gorst:**

Potentially then the Assembly could accept the proposition but not an amendment. Is that correct?

**The Deputy Bailiff:**

Well, it will be for the Assembly to decide at that stage how to proceed. Obviously, if an amendment had been lodged then we would debate it in the normal way.

**11.6 Senator P.F.C. Ozouf:**

Without being pedantic, Sir, you said the Deputy has a right of debating it with the Assembly's agreement. I think I can speak on behalf of the Minister for Social Security and myself that we will be working... we have given an undertaking that the Minister for Social Security will be working straight away on resolving these matters and I hope this Assembly will be sensitive to the fact that we are working and do not necessarily need an instruction to the Assembly to work. If there are amendments needed to be lodged which change matters, the Assembly may well need to decide that they ought to consider it at a later date in light of the latest information. Rushing information ... the reason we have lodging periods is so that we do not rush into decisions without having full information.

**The Deputy Bailiff:**

That is right. Now does any other Member wish to raise any matter then in relation to the arrangement of business? Very well, so on 3rd February then will be the matters listed but without P.184/2009 but with the additional P.8/2009 and the additional of P.9/2009 subject to the caveat we have heard of and on 24th February, the list as set out there with the addition of P.7/2009. Do Members agree to that programme? Very well, so that completes the agenda and the Assembly will rise and reconvene on 3rd February.

**ADJOURNMENT**