

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 1st JULY 2009

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**The Roll was called and the Dean led the Assembly in Prayer.**

**PUBLIC BUSINESS - resumption**

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

Could I raise a point of order on the good conduct of the following debate on the pay increase? In the comments of the Council of Ministers on the second page there is a reference to a review of comparison of pay which was to be sent to all States Members in advance of the debate and I have not had it, I do not think I have had it, so I would just like clarification on what is going to happen about that because we cannot have that debate without that information.

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

A review is under way, but I was not aware it was going to be presented to Members before the date of this debate and that is why we put in some figures of the previously available information. Certainly the Deputy is not alone in this; none of us have had that information. It is not yet available.

**1. Committee of Inquiry into the death of Mrs. Elizabeth Rourke (P.76/2009)**

**The Greffier of the States (in the Chair):**

Very well, the debate resumes on the proposition of Senator Syvret. The Constable of St. Helier.

**1.1 Connétable A.S. Crowcroft of St. Helier:**

The last time I am aware of deliberately supporting the wasting of money by the States was during the rescindment debate on the incinerator when quite a large sum of money, it was proposed, would be wasted in order that potentially a better solution to the Island's waste needs could be found. Effectively, one of the things we are being asked to do today is support the wasting of about £250,000 on a report. I am surprised that some States Members who have a reputation for being concerned about wastage of States money are indicating their support for the proposition if, indeed, it is taken in its entirety and the work of Verita has to be shredded. Were we £10,000 or £20,000 into the process then that would be a much easier decision to take, but it sounds to me as if we are well advanced down the road of this report being produced. The question I have for the Senator proposing the motion is, is this work so useless that we should shred all of it, including the interviews, and go back to square one? If that, indeed, is the case, and he can make that argument in his summing up to convince me, as indeed he will now have to convince the Deputy of St. Martin, then so be it. I was also interested to hear Deputy Le Hérissier speaking towards the end of yesterday's session. I was not sure what side he was going to be on. He was on the side of the review and then he was on the side of not having the review, and then at the end of his speech he got back on the fence again [**Members: Oh!**], whereas at least the Deputy of St. Martin has admitted to changing his mind in the course of the debate. That is something not unknown to me and I think it is a good thing if one hears arguments that lead one to change one's mind. Interesting also that Deputy Le Hérissier, who is a great believer in the committee of inquiry as the silver bullet to solve all problems, does not remember that not all committees of inquiry are as good as each other. In fact, a committee of inquiry is only as good as the persons that the States appoints on it. It is possible to have committees of inquiries which are biased and which are incompetent. It is also possible to have scrutiny panels which do far better work in terms of the way they ask questions and put people on the spot than a committee of inquiry, albeit that the committee of inquiry has the power to summon witnesses and so on. So I do not think we should be deluded into thinking that a committee of inquiry into this matter will necessarily be better than the work that is being done by Verita. I was also surprised because Deputy Le Hérissier is an academic and he spends a lot of time, one assumes, in his other job with professors. We had a chance to meet Verita last week. I wanted to see whether this company was as described in the proposition: "A health and

social care investigatory agency second and a firm of spin doctors first. An organisation which has as a true purpose to assist failed senior managers spin themselves out of trouble.” I wanted to see whether the panel that we met indeed fitted that description. I suspect, okay, there is a bit of exaggeration in there - just a bit - but even given the exaggeration that the Senator can be prone to at times, I do not believe that the Verita team that I saw last week is really worth just rubbishing. I would like to see what they come up with and then if we need a committee of inquiry let us go ahead and have one. We may well need one and we may well need to widen the ambit of that committee of inquiry. Let us hope we get some **[Approbation]** really good people on that committee of inquiry that do a really good job for us. Unless the Senator can persuade me of this, I am not minded to put all this work in the rubbish bin. The Constable of St. Mary made a very compelling speech also yesterday about the other issues which are leading her not to support this proposition. So, I would, I am afraid, have to echo her words, and I thought she put them very well as indeed she did when she spoke later yesterday evening, and say that I will not be supporting the proposition.

## **1.2 Deputy J.A. Martin of St. Helier:**

I agree with most of what the Constable has said. I just have a few things to add. When Senator Syvret started his speech yesterday he explained why he would not abandon (e). He said why carry on with (e) when we are having an in principle debate on a committee of inquiry. There is no “in principle” in this (a) to (d). We either vote that you have a committee of inquiry and Verita carries on or you vote on the whole and Verita does not carry on. So let us put that aside. He said about timing. Well, committees of inquiries and the way this one is structured is exactly the way that it would be. A team go away; the terms of reference come back to the States. We have one more week of sittings and it will not come back then, it will come back the first or second sitting in September, by which time Verita will have completed their work. The words he said to people: “Be brave, support the lot”, I am sorry, I do not get it. I think he should be brave. He says Verita, as the Constable has just said, are spin doctors supporting senior management. Let them produce this so-called spin and myself and the Minister for Health and Social Services and everyone else concerned will fall on their swords, and we may do. As the Constable has just pointed out, we have already spent a lot of money. I would like to comment on a few things that were said by different Members yesterday. Deputy Southern, he read in between all the lines of the terms of reference, and so did the Deputy of St. Martin, that the Minister for Health and Social Services has done cartwheels and she has done this, that and the other. Well, I think the Minister for Health and Social Services since taking over has gone to every length to make this as independent as possible. We are even going out to re-advertise, it is in a new place, and if there are any health staff that ... nobody has contacted me, Deputy Le Claire. I do know it is a small Island and Verita must get their head around the confidentiality, but they did even say at the meeting that if people have a problem with even meeting in Morier House or wherever it will be, they will find a neutral place for them to meet. So, yes, we can look at the terms of reference and we can look at the letter and, as Deputy Southern said, they no longer have direct communications. There has been a lot saying that senior management at Health drew up the terms of reference. I was Assistant Minister then with Senator Perchard as Minister and the Constable of St. Lawrence. I know that we went out or they went out to find different people who would do this investigation and when we listened to Verita the other day they said the commissioning body would want to inform them what they need to investigate. It was the first time I had met Verita because I had been invited to one meeting but I had another meeting which clashed and I got there when Deputy Noel and the Deputy of Trinity had finished the meeting with just Verita staff. So it was a hi and bye. So it was the first time I had met them and I listened. They seem very relaxed about this is how the terms of reference will normally be drawn up. But we then asked them - sorry, I did not, the Minister for Health and Social Services did - were you happy with the terms of reference that were drawn up? Did you feel that you would like to add anything or there were places you could not go? They went away, they came back with the terms of reference, it was only agreed by the Minister. So they did not have a problem. So who

are Verita? Senator Syvret in his second paragraph: "Is to agree that a nationally recognised health care investigatory organisation be invited to undertake the investigation and to nominate ...". We went to the top body in the U.K. (United Kingdom) and they said: "These are the people who would do it, approach them." Not many people replied. Timing and whatever, they did not want to do it. The Deputy of St. Martin said yesterday that he was quite happy with the credibility of Verita and that was very, very encouraging to hear. While I was thinking about and looking at this (b) of the proposition I was thinking: "Well, what about the States of Jersey credibility?" Now, we have gone out to a nationally recognised organisation - whether you believe they are spin doctors or not, and I do not believe they are - and we are going to sack them halfway through. I think we really have some problem with our credibility. Are we tin pot politicians or are we are a proper government because you do not do that. I really have a problem with that. It is about their credibility; think about our credibility. I have no problem with a committee of inquiry but for any new Members ... a committee of inquiry ... and I gave evidence to this. I was not subpoenaed. In 2003 a committee of inquiry in the procedures allocating residential property - and I have not picked this to have a go at the Minister for Housing - it has got nearly 20 recommendations. Where has it been? Sitting in the bookshop over the road. Not one of them as yet ... they might be getting around to it very shortly, they might be getting around to it very shortly but nothing. Not one of those recommendations. We also have a problem that no one is going to be disciplined by Verita. Nobody will be disciplined. How wide do you term the terms of reference by a committee of inquiry? They will make recommendations and then it will be the correct bodies that will discipline. So, please be under no illusion that the committee of inquiry is the ... as the Constable has said, some are good. We have had many ... I can just go back to this one and others that have ... recommendations have never, never been acted on. Obviously there was nothing in this one ... well, there could have been, if you read deep there could have been some further dig in, let us say, but, no, nothing happened. Senator Syvret will not drop (e). The taxpayers' money has supported this payment ... this report, even as the Minister for Health and Social Services said, we are going to go out, we are going to re-advertise, invite as many people to come in who want to talk. Hopefully one of those people will be Deputy Le Claire - he says he has information - and obviously Senator Syvret. He was in charge at the time and I am sure he has got a lot to add to this inquiry by Verita. He is welcome, he has just got to pick up the phone and go along. So why can I not support this committee of inquiry, because I think it has been said in (a) a committee of inquiry into the circumstances is too narrow. We have spoken openly and the Minister for Health and Social Services, who sometimes ... well, most of the time politically we are from right and left, but I do know she is in that hospital every day, she has worked with Verita, she is taking this job very, very seriously with myself and Deputy Noel. We are there like 24/7. If I am not at the hospital I am at Maison Le Pape or I am running around doing something and I know the Minister is as well. So she has done cartwheels, I think she has done everything to accommodate all the fears or many of the fears that the Members had. Then, again, she has been accused of doing this ... the terms of reference needed clarifying and strengthening. They have not changed, no. But they have been added to the addendum. Anything else... it is there. Deputy Southern yesterday said we found out very early in Scrutiny, you put on the last bullet point, term of reference "and anywhere else I want to go". Well, here it says, fourth bullet point: "Identify any further actions that the Health and Social Services Department should take to improve the safety and quality of health services." To me that is anywhere they want to go. It is exactly the same, it may not be worded but it is exactly there. I think I have basically covered all the reasons that I just cannot support ... I cannot chuck this money away. I do not believe they are a lot of spin doctors. I need also to hear from the Senator about: "Be brave and support the whole lot and not (e)" because he has not explained. He did make a couple of references ... well, he made the reference about 6 times in his opening speech that even Verita, the Verita people, contradicted themselves many times at St. Paul's but he never mentioned once what those contradictions were. So hopefully in his summing-up speech he will do that. It is very easy, again, to say people contradicted themselves. I think they were quite open. They told it as it was, they did not dress it up and basically we are where we are. We are very, very

far down the line to this inquiry and I, for one, just cannot say, no, it is not going to do this. As I say, discipline it will not do but nor will a committee of inquiry. It will make references and it will take a lot, lot longer. I think we wait, we see what Verita has got to say. I have spoken to other Ministers and it probably will lead to a committee of inquiry into the hospital because we all do need ... all this rumour going around, we do something. But it is not on the back of this tragic incident that happened at the hospital. If - if - this is what this is being used for I do not think it is the right way to get a committee of inquiry. I think I will finish there. The Senator really does need to convince a lot of people why he will not drop (e) and, even then, I am not sure that at this time we really absolutely need another committee of inquiry that could only make recommendations. They will have the power to subpoena but a subpoenaed witness is only as good as the evidence that they want to give and they have to say ... they do not have to say anything. They can sit there and say: "I do not remember" under oath, "I do not remember." So, please remember that, they have not much more power. As far as I can remember, on all the committees of inquiries nobody has ever been subpoenaed, but somebody may stand up and correct me, I am only going back 10 years. Thank you very much.

### **1.3 Deputy M. Tadier of St. Brelade:**

I run the risk in making this speech of being accused of joining the Deputy Le Hérissier splinter group because I am going to come out with some hopefully nuanced arguments because I believe this debate we are having is not a black and white one. No need to add, of course, the fact that I believe we all have the deepest sympathy for the family of Mrs. Rourke. The points I want to bring out are perhaps on a slightly different tack. But first of all let us talk about the issue of money being wasted. The Constable of St. Helier mentioned that the money has been wasted. I agree with that. I think it has been wasted already but is a point of perspective, of course, and depending on whether you think the inquiry has been set up in the right way - I am talking about the Verita inquiry here - that obviously depends on whether you think it is money well spent or money wasted. I guess at the end of the day we will have to wait until that report gets produced, as it seems likely the House is probably going to endorse that. The first point I want to make is that listening to the speeches yesterday it seems that Members in the House, while there is no real consensus about whether Verita should necessarily continue now, there does seem to be an appetite for a truly independent inquiry, one which will not be limited in the same way that Verita are limited, I believe, by their terms of reference; one which will also be able to take into account disciplinary action where necessary. It seems to me that there would be an appetite and if that was brought to the House I think that would probably get through. It has already been said that possibly if Senator Syvret had dropped part (e) that would also get through. It seems to be part (e) which is the controversial part here. That said, I would like to challenge Members and I challenge myself in saying this as well, why is it ... for the people who have stood up and said: "I would vote for this if it did not have part (e)" we had time to bring amendments, we had time to bring a separate proposition, if necessary, without part (e). Nobody seems to have done that so it does seem to ring slightly hollow in my ears. I understand that Back-Benchers are all busy and perhaps I should have done the same thing myself, but I am sure among 53 of us one of us could have brought this forward if that was a valid point that we believed. The next point is that we always hear the words which can sound trite sometimes: "Lessons must be learned." As a linguist I find this quite fascinating because it is always posed in the passive sense, in the passive voice. So it is not: "We must learn lessons from this. The hospital must learn lessons. The department must learn lessons." It is always: "Lessons must be learned." That is a very uncontroversial way of not proportioning blame. Of course, we do not want to live overly in a blame culture but there comes a point when people do have to take accountability and say: "This is the point where it all went wrong." Something that I was quite concerned about listening to Verita is that they seem to be saying that we can always trace this back so we will not blame it on the doctors, we will not blame it on the preceding step. It is almost that they wanted to trace it back right to the beginning and if you take that to its absurd and logical conclusion you are saying that nobody is responsible for their actions

at all because we almost live in a predestined universe, which does not sound ... although it may be true, is kind of a nonsense because we cannot live like that as States Members, we have to find the point: "Yes, something went wrong here, here and here and we have to do something about that." But what I am more concerned about is that lessons be learned or that we learn lessons as States Members. Sitting through this, what has become quite a drawn-out process which I do not believe benefits anybody, it has been evident to me that there needs to be lessons learnt here within the States ourselves. I will give the example of what I mean by that. This is not the first time that this has been brought for debate but it has been put off a couple of times. I am quite disturbed that when it was brought 2 weeks ago we were told: "We do not have enough information here, we need to hear from Verita" but, again, there was at least a 2-week period before that I believe when the Health Department could have set up an appointment with Verita for us to listen to them. I would say at this point it has been very useful to hear from Verita. But it is the cynical way in which this is always left to the last minute. We come here to debate it and say: "We have not got enough information" when this could have been done weeks and possibly months before and we could have had our fears allayed or otherwise. So, certainly as States Members we need to take a long hard think about how we are using public money and resources. I have almost come to my final point. I believe the point I am trying to make is that it was said yesterday that the credibility of Verita for most members, I believe, is not in question. I think they gave a fairly credible presentation. It will be interesting to hear from Senator Syvret whether there were flaws and contradictions. It did seem to me that there was a kind of moot point around the whole area of ... on the one hand they were saying that there would be no disciplinary action, people can come and talk to us and there will be no consequences, if you like, but on the other hand we were told: "But this can be used later on as part of disciplinary action." So that seemed to be slightly controversial, if not a contradiction there. I believe the point was also raised by one of my colleagues afterwards in talking to one of the panel members, he basically said: "Yes, I am quite a good mate of the consultant in question." He did not make any ... he did not have any qualms about telling us that. I do not necessarily believe that means he is automatically conflicted but it does seem a bit strange that someone on the panel said: "Yes, I know him very well. We basically went to college together." That seems slightly odd and disturbing to me. So I guess the point I would like to make in summing up, Verita, I noticed, said that they had no problem with a separate investigation running in parallel to theirs. I may surprise Members by saying this but I am going to ... as things stand, if the Senator will pull part (e) I will be quite happy to vote in favour. If he does not, I will probably vote against purely on the grounds that I think we heard yesterday that the report has already been paid for. If that is the case - it sounds a coincidence that it is exactly the same amount if we pull out as if we pay for the report - then I would suggest we might as well just wait for the result, see what it says, but in the meantime we should not hesitate in setting one up right now because we heard again it is going to take several months to set up an independent committee of inquiry. How that is made up is up to States Members. But the last point - I did make it earlier and sorry there have been several last points so I beg Members' indulgence - is really how was it that we allowed a failing department ... and I do not say that in any overly critical terms. I believe that is what the current Minister for Health and Social Services has inherited, a department with severe problems which need to be solved, and I am sure her and her Assistant Minister are very resolved to do that. But how was it that a department which has been failing has been allowed to set its own terms of reference for an inquiry? It just seems completely absurd. So I think not only do the Health and Social Services Department have to learn lessons, I believe that as States Members we have to learn lessons in the process that we adopt so that there is complete transparency, so that there are not any shenanigans going on in the States, because the public honestly deserve better than this.

#### **1.4 The Very Reverend R.F. Key, B.A., The Dean of Jersey:**

I will be extremely brief. I am concerned about the signals that we send because public perception is extremely important. I listened to the proposer's speech on the radio yesterday and found myself not only impressed by his oratory, as I always am, but convinced by so much of what he said, the



need that all facts should be out there and so on. I do think that in a recession when people's jobs are on the line and where effectively some people are being asked to take redundancies so that a particular organisation or firm may continue, we cannot afford to send signals that, as a States, we have £250,000 to waste. I think that is simply entirely the wrong moral and ethical signal to send to the Island. The second thing I would want to say is I do believe, listening to a number of debates, that clearly maybe a committee of inquiry at some stage is the right thing to do. We clearly have a long way to go before our disciplinary and suspension procedures are up to scratch. I know that we have a mantra that suspension is a neutral act. It is not if you are on the receiving end of it. Indeed, there are certainly some with a legal bent who have said to me that if you suspend then in the public mind it reverses the burden of proof. If somebody is suspended they are then presumed in the public mind to be guilty until exonerated. That gives me, again, some moral and ethical problems. But, thirdly - and I admit here a personal involvement - I hope that we will send from this House today, no matter what we may think about management and about departmental failings, a very strong message of support and thanks and appreciation to the many employees, from consultants down to those who scrub the wards, for all that they do **[Approbation]** because it seems to me from a lifetime of visiting people in hospitals, you can have all the high-tech equipment money can buy but if you lose morale in an establishment then that loss will be felt by those on the receiving end of the care. We need to be supporting those ordinary members who work for us in the hospital and I hope that message will go out from this debate. Thank you. **[Approbation]**

### **1.5 Deputy E.J. Noel of St. Lawrence:**

I wish to clarify the Minister's point about the drafting of the terms of reference. The 3 Health and Social Services managers did not draft the terms of reference. They initially briefed Verita on the background to the events so that Verita, together with the then Minister, could produce a draft terms of reference which was subsequently agreed by the Rourke family. I urge Members to re-read those terms of reference. Even before the recent enhancements by the Minister, they will give us the facts which led to the tragic events of almost 3 years ago. I do not see the limitations that Deputy Tadier sees in those terms of reference. The Deputy of St. Martin appears confused over the response he got last week from Verita and the enhanced terms of reference we have today. This is because Verita has only received the enhancements this week; therefore, the difference is purely due to timing. Deputy Tadier's point about the timing of the Verita presentation I would just like to comment on. The proposition was lodged on 29th May. The Minister set up the meeting with Verita on 24th June. I do not see that this is too long a period in between the 2 instances of time, especially considering the diaries of those concerned. Those concerned I am talking about the members of the Verita Board. Senator Syvret suggests that we must employ an organisation with real experience of genuine health and social care investigations. For example, the Care Quality Commission who are the inspectorate body for England and Wales. The Minister has sought a number of references for Verita and all have been exemplary. The Minister read out what the head of the National Inspection and Assessment of Care Quality Commission has to say about Verita and about the lead investigator in Jersey, Ed Marsden. It is worth repeating, so with the indulgence of Members I will just do so: "I can confirm that I am familiar with Ed Marsden and the work of Verita over the last few years during which time I was head of the investigations for the Healthcare Commission until the establishment of the Care Quality Commission on 1st April 2009. While I have never had the need to commission Verita's services directly I am familiar with their work and have always been extremely impressed by the professionalism of the organisation and the quality and timeliness of their reports. I consider Ed to be extremely knowledgeable, reliable and constructive and I could think of no better organisation to undertake this sort of work on your behalf. I trust that this is helpful but please do not hesitate to call if there is anything else you would like to discuss." That was from Nigel Ellis, the Head of National Inspection and Assessment of Care Quality Commission. So the Head of Inspection of the C.Q.C. (Care Quality Commission) says he is extremely impressed by Verita but Senator Syvret has his concerns. So who should we believe; the Head of C.Q.C. or the Senator, who as far as I am aware had not met Verita until the

Members' briefing last week? Indeed, the Senator's recollection of that meeting is somewhat different to mine and I wonder if we were at the same meeting. Let us not forget that Verita's team would not be involved in any cover-ups because they have a professional integrity to safeguard. Senator Ferguson has concerns of the examples of work documented on Verita's website. Verita did confirm that not all of their work is listed on their website for confidential reasons, especially relating to disciplinary matters which they have been involved in. Deputy Higgins mentioned the fact that the excluded consultant and one of Verita's team had met previously and this was also commented on by Deputy Tadier. This is correct. They crossed over as house officers for 4 months some 30 years ago. They have met briefly once. That particular ...

**Deputy M. Tadier:**

Sorry, if the speaker will give way. He did say that he knew him well, that is all I am saying. I am sure you can strike up a good friendship in 4 months.

**Deputy E.J. Noel:**

Some 30 years ago. That particular member of Verita, in my opinion, is not compromised. Deputy Le Claire referred to ...

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

If I could just interrupt for a moment, I think the main thing was it was not revealed in the public meeting; we found out privately. If an inquiry is going to be totally open and transparent those facts should have been disclosed earlier.

**Deputy E.J. Noel:**

Those facts have been disclosed in this Chamber, which is a public hearing, so I do not see any problem with that. Deputy Le Claire referred to, and I quote: "The gang-up system." Well, if there is one the Ministerial team will find it and we will eradicate it. But to do so, first we need the evidence which the Verita investigation may well help us find. Deputy Le Claire also referred to wasting costs of this investigation. I say that is irrelevant. Cost is not an issue here. Verita should be allowed to complete their investigation not because of the cost but because we will learn the facts about this tragic event and we will then be able to move on to protect patients' safety, commission other investigations as required and allow for the inquest to be completed. A number of Members have mentioned the "fact checking" element which will be done by the Health Department. This is normal practice. Verita will still have full editorial control for they would not allow anything else. Fact checking is simply the process to ensure that their report has rigour and stands up to scrutiny. The Deputy of St. John referred of the availability of the police investigation evidence. To date, to our knowledge, no one has refused for their statements to be released to Verita. The Deputy of St. Mary asked where we are today in relation to the Verita investigation and the separate personal disciplinary inquiry. Firstly, let me confirm that the 2 are not linked. The personal disciplinary inquiry - which by the Health and Social Services policy is being co-ordinated by the Director of Medicine, but is in fact being conducted by a specialist Health H.R. (human resources) investigator from the U.K. - is ongoing and will continue regardless of the Verita investigation. Deputy Southern's concern over the Health and Social Services staff being, until recently, linked to Verita; this was in effect one staff member who acted solely in an administration capacity, a role which has now been moved to the Chief Minister's office. Verita had the use of an office at Overdale and, again, this is being moved to Morier House. For Members' information, at no time were Verita based at the general hospital. Unfortunately, Deputy Southern could not attend the briefing last week. If he had been able to he would have heard firsthand the protocol Verita used when interviewing. They caution interviewees that their report will be published widely, that although not named as individuals they will be quoted, and that all interviews are recorded and transcripts produced, a robust approach by any standard. I agree with Deputy Power that Verita's investigation is only part of what needs to be done. To use Deputy Southern's words, we must do

the right thing. The right thing to do is to allow the Ministerial team to complete the Verita investigation as the first part, and to continue from there to ensure our Island has the very best Health and Social Services Department, which Islanders deserve. We come to this with fresh eyes, with no agenda, no axe to grind and we can see no possible reason why the Verita team should not be allowed to continue. Looking at the proposition it seems clear that the thrust is not about the issues around a tragic event, but it is about the actions of the Health and Social Services Department staff, especially management. Senator Syvret's prime target for attack appears to be the Health and Social Services Department's management and he has done this around this incident. His weapons are to impugn Verita's reputation, their credibility and their overall independence. He uses the development of the terms of reference, Verita's own website, and the concept that nothing will be done following the report, when the Minister has given you assurances and has put in place that something will be done with this report. Verita will come back after 6 months and we will ensure that their recommendations are taken up. His proposition offers no real advantages from where we find ourselves today but will delay any findings and, in turn, the solutions required. It will reduce staff morale and potentially offend the feelings of the Rourke family. The Ministerial team have an unshakeable determination to get to the facts about the tragic events, to take the necessary actions on recommendation from Verita and other reports emanating from this incident, and to drive them forward with the ultimate aim of improving patient care, treatment, management and safety. Delaying the report will only delay the improvements emanating from Verita and the other reports that might flow from it. One has to question the motivation of those seeking to bring the Verita investigation to a premature end. It is such motivation that I do not understand. Why stop Verita? What are they trying to hide or delay in doing so? Members have concerns and questions and quite rightly so. They will be addressed in this investigation. Thank you.

**Deputy M. Tadier:**

Can I ask for clarification? It is a genuine point and I believe it will help Members vote. It certainly helped me make my final decision. Can the Assistant Minister confirm - once Verita has carried out their inquiry - whether the Department will be willing and would agree to a separate inquiry? Because I believe this is the only chance we have now to vote. If we want a separate inquiry and there is not going to be a subsequent one put forward or backed by the Health Department, Members need to know what to do.

**Deputy E.J. Noel:**

I can only speak for myself in that respect and, certainly, if a further inquiry is required we will certainly do so.

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

The very last comment was very interesting from the last speaker. I have to say I have generally found this one of the hardest debates I have sat in for probably 3½ years. It is probably one where I have come to it genuinely without a view. To an extent - in a virtual sense - I have been sitting up on that wobbly fence with Deputy Le Hérisier listening to - in the words of the Bailiff yesterday - the powers of persuasion as to which argument is really the way to go. On the one hand, I have absolutely no issue and the debate is not about the present Minister for Health and Social Services. This is something she has inherited. It is not about having any confidence in her political team. There is no doubt in my mind that the Minister and her Assistant Ministers are capable and are motivated and - I think this is fair - probably also have the suitable degree of scepticism in the information they look at. But equally, I have never had a problem with the principle of a committee of inquiry. It is, putting it mildly, a very serious situation we are faced with. There does need to be a clarity and a transparency in dealing with the public perception. To an extent that has also been alluded to today. My assessment - and that is why I found the question from Deputy Tadier and the response from Deputy Noel very helpful - and my perception of the mood of the

Assembly is that once - and I will say "once" - Verita have responded that there is an expectation that there would be some form of further review or inquiry, depending upon the results and the outcome, and I hope the Minister will keep those comments in mind. However, and I think now I have got to the point finally of getting off that fence, I have never been able to support part (e) and that has always been very clear to me. In fact, a number of speakers - and I will say Deputy Hilton and Deputy Jeune from yesterday - encapsulated that very well for me and today the Connétable of St. Helier. They have all spoken on this. I have found their comments particularly helpful and, on the basis we are still taking this entire vote, I will not be supporting the proposition. Thank you.

**The Greffier of the States (in the Chair):**

Does any Member wish to speak? I call on Senator Syvret to reply.

**1.7 Senator S. Syvret:**

Thank you. I just wondered if I might ask for some more water before I begin. I listened with interest to the speech given just recently by Deputy Noel in which he claimed that he felt that I must have been at a different presentation to the one that he witnessed alongside me at Verita. I would point out to him, and other Members, that I did take the very wise and useful precaution of videoing the entire presentation on this mobile phone. So I am, in fact, quite certain about what was said and I have it evidenced. I did that precisely because after all the years of experience I have, we get these kinds of comments, this disagreement and people trying to dispute what was said at presentations. Well sorry, not this time. It is there in glorious Technicolor. It has, by and large, been a civilised and respectable debate and I hope that Members will forgive me if I do not trawl through the minutiae of each Member's contribution. Instead, I have attempted to distil down the comments to a few key issues. Strange though it may seem for me to say this, in beginning this summing up I am reminded of the words of the Bailiff yesterday when he pointed out the fact that unlike many legislatures the Government of the day here in the States could not guarantee winning every debate. He suggested that Members of this Assembly were more open minded and were open to persuasion. I forget his precise words, but they were to the effect that politics in this Assembly was less the art of the possible and more the art of persuasion. So, with those words in mind, I will attempt to persuade Members of the importance of supporting this proposition, in the hope that many of them can change their mind, even some of those who have spoken against the proposition. Let me begin by reminding Members that there are certain inescapable key facts which are already in the public domain and which we know and we must contend with in this Assembly. Just a few of those facts are: a person has lost their life needlessly; it appears tragically that the same could be said of other patients. There is plainly a dangerous culture of poor performance and of concealment within the management of Health and Social Services. I will return to this point when addressing the remarks made by the Dean. Indeed, so much so is there a problem with the management culture in Health and Social Services that some quite brazen falsehoods have been peddled to Members, to the public, to the media and even to the Minister who no doubt has acted in good faith when coming here and saying the things that she has said. We know that, quite extraordinarily - and this really is astonishing - people such as the Medical Director have played a part in the subsequent internal investigations and the exclusion disciplinary case, even though - and I will just repeat that - even though they were key actors in the incident itself, a fact which is so utterly astounding that any equivalent would simply not have occurred anywhere else in the British Isles. We know, because of leaks and because of such processes as the trial, that some quite extraordinary attempts at manipulating public opinion have occurred. Look, I even found myself in the position yesterday citing and quoting from my favourite journal, the *Jersey Evening Post*, 2 major frontline stories which accurately and honestly and professionally got to the truth, which was a front page and page 2 exposure of a number of very grave falsehoods that had been peddled to the media - and thus to the public - via those certain senior managers that were named in that article; not something that the paper would do for legal reasons unless their evidence and their grounds were rock solid. If I and the *Jersey Evening Post* can be in agreement on this issue, then surely an impartial observer has to

conclude that something has gone badly wrong. In that context, I would refer to some of the comments made by Deputy Martin. She suggested that we would be seen as, and I quote: "Tin pot politicians" if we agreed to the proposition today and the setting aside of the Verita inquiry. She also asserted that I had not referred to the contradictions in the Verita presentation the other day. That claim is, I am afraid, incorrect. I did explain a few of those contradictions. On the one hand, it was said that they were not looking at the acts and omissions of individuals, then later it was said: "Yes, we are" when they realised that exclusion was troubling a great number of Members. Then later on in the proposition they again said: "No, we are not looking at management of the hospital." These are just the kind of contradictions that were said. During the presentation Verita claimed they had access to all documents and evidence. Then they later said, well, they had to concede they had no powers to get their hands on all the evidence and that, and I quote: "Some people may not give permission for their files to be handed over to Verita." Again, another contradictory position; a contradictory statement given in the very same presentation. Deputy Martin and a couple of other people spoke of there needing to be a separate disciplinary process. I am afraid they have failed to understand the nature and the culture of how these things unfold. If this inquiry is deficient, as it inevitably will be for reasons I will again explain, then it renders virtually impossible any effective disciplinary action against anybody in the future. If one of the key pieces of evidence that will be cited is a defective report, cited in support of the management, then of course any potential disciplinary action that may be required simply will not happen; not that, frankly, there is much likelihood of any such thing occurring in the States of Jersey's senior civil service in any event. I will return to that subject later. Last night I was catching up with some work and working on some of the comments I would be making in response today, and I was contacted by a significant number of members of the public. Last night I had phone calls and emails from members of the public who have been following this debate. The message from each one of them was identical and this is an occasion where I have never, in all my years, had so many people contact me in an evening during a split debate. There must have been at least 7, 8 people, I think, in total who contacted me and, I repeat, the message from all of them was identical. I will explain what that message was. The view was, and these are some of the things that were said to me: "What on earth are the States doing?" Another person said: "Did our ears deceive us?" Another person, in making a similar comment, said: "Are Members of this Assembly even seriously contemplating leaving in place an obviously chaotic, non-independent, so-called inquiry, when the management team who designed it have so obviously conducted themselves in reprehensible ways?" Another person said: "Why are Members even entertaining the idea of handing to this senior management team victory in the battle by letting their inquiry continue?" Another person in an email said: "What is the matter with your colleagues? Do they not grasp the concept of evidence contamination, witness conflict, the need for statutory powers to get at the truth?" That was a comment from a lawyer. Another said to me in an email - and I will quote exactly - this is what the gentleman said: "Let me attempt to get this straight. At least one person has lost their life needlessly in what was obviously the culmination of a management systems failure. The management team directly responsible for that disastrous failure were able to exclude an innocent man. The same management team were able to design their own investigation by helping Verita prepare the terms of reference. The same management team has caused falsehoods to be given to Ministers. The same management team has proactively attempted to spin and manipulate public opinion and conceal certain core facts. The same management team lied to the *Jersey Evening Post* and - notwithstanding all of those obvious established facts - many States' Members are seriously contemplating handing to that self-same management team victory." End of quote. Another person said: "We [this is States Members] will be letting them come out of today [this is in reference to the management team] with their investigation still in place and ongoing; a process which will obviously contaminate and sabotage any future effective investigation." The same person went on to say: "Have they gone mad?" This is in reference to Members of the States. I continue the quote: "I voted for several of the Members who spoke against stopping the Verita inquiry but, after yesterday, never again." Those were just some of the public comments I received yesterday evening. I said I would spare Members a trawl

through every Member's comments, but some specific points and questions do require addressing. Senator Ferguson made the obvious observation on the calibre of Verita when she said: "Verita should never have accepted the terms of reference. That it did so and was willing to work in this way is just not good enough." The Constable of St. Helier asked why he should change his mind: "Is there a reason for it?" Yes, there is a very good reason why he should change his mind. This is because the money involved has already been wasted. It is already wasted on a futile exercise, moreover an exercise which will damage and brush the possibility of a meaningful future investigation. Also, I would make that point to the Dean: this money has already been wasted. It has not been wasted by me, so it is quite absurd for Members to try and use that as an argument against me and to expect me to justify that money. That money has been wasted by a management team looking to cover their own backs. In any event, the sum we are talking about is £250,000. That is a lot of money to most people, but it is significantly less than has been spent on locum cover, for example, in respect of the excluded gynaecologist. So, let us just keep the amount of money - £250,000 - in proportion. Yes. We are looking at an organisation in the States of Jersey that spends publicly over half a billion pounds a year. Are we seriously suggesting getting something as important as patient safety right is not something we can grasp now when we should do because it might cost £250,000? I am sorry, but it just will not wash. Deputy Jeune asked a question. She said what did I do when I learned of the astonishing fact that the Medical Director had in fact been a key actor in the incident? By the time I learned that fact - as indeed I learned a great deal of other information from whistleblowers which dramatically increased in scope and scale and not just in the context of this incident - I had been removed from the post. I was no longer there and able to take any action. But I will say what I did when I discovered this and other, frankly, horrifying facts - and I will make the same point in respect of Deputy Le Hérisssier - I went to the police. I went to the police not once but twice in the course of a period of months, and I still have email correspondence about it, in an attempt to confess that the organisation I had been responsible for had committed corporate manslaughter and that the wrong person was in the dock. That is what I attempted to do. So let nobody criticise me about taking responsibility. I, like other Members, respect the Minister for Health and Social Services and I think we have to take a look at her position. I respect her integrity and I wish her every success in her job. She spoke, during her speech, of her determination and her commitment to see through this House. I for one do not doubt her when she says those things but, as the saying goes: "Facts is facts." We need only look at the frankly chaotic evolution of the Verita Health and Social Services exercise and the Minister's valiant but doomed attempts to salvage it, to see what a hopeless task she faces. Many grossly inaccurate examples of information have been supplied to her and her predecessor, but I consider her position from the perspective of someone who has the relevant, often deeply painful experiences necessary to understand just what a monumental task she faces. I want to help her in that task. So let me state - with the benefit of experience - just what would be of most help to the Minister. If we as an Assembly support the Deputy of Trinity in her job, the very best thing the Assembly could do would be to vote in favour of this proposition. Such an outcome would send, finally, from the States of Jersey a powerful message back to senior managers to the effect that they will no longer be able to dig themselves out of trouble by using and misleading politicians, who they have customarily regarded as disposable and irrelevant. With the adoption of this proposition today, the Minister would be sent back to her department with a renewed and very powerful mandate. The Island's legislature would have said to the management of Health and Social Services: "Sorry, but we have had enough. From now on you will respect such notions as democratic accountability; you will recognise the fact that the public are the bosses and that their will is expressed through their chosen representatives." Let us be clear, no matter if the greatest systems in the world were put in place, the best policies conceivable, none of it would be worth a fig if not properly enacted by responsible individuals. So as much as the Minister may have opposed this proposition, let there be no mistake, if we leave this Chamber today having shown our determination to hold departments to account her hand will only have been strengthened. Another observation made by the Minister was that she wished to learn lessons and see the necessary policy

and procedures improved and put in place. Again, I have to point out the painfully obvious fact - and it is something that has afflicted taxpayers time and time again because of our failures - that no matter if you have the best systems, the best policies, the best safeguards in the world, all will prove useless unless they are properly enacted by an accountable system, and there has to be meaningful and appropriate accountability. A number of Members spoke about the Verita inquiry and suggested that following all the dramatic, panicked running around and moving of goalposts and adoption of altered and then non adoption of altered and then suddenly adopted altered terms of reference again - and whatever else is taking place at the moment - a number of Members said, quite surprisingly, that they were now satisfied with the Verita inquiry; again, statements which have utterly amazed certain members of the listening public. The fact is the Verita investigation or this kind of investigation, driven and initiated as it has been internally from Health and Social Services, should never have been established in this way. It was wrong from the outset. It is fundamentally flawed and it will not deliver what Members are expecting of it. The fault for that fact is not mine. It is not this Assembly's. The blame for the inadequacy, the structural incapability of this exercise to do the job we want of it, is the fault of the management team and, frankly - to go back to the point made by Senator Ferguson - Verita themselves, who ought to have had a good deal more professionalism and calibre to have avoided ... even if they were taking the commission, to have done so in an entirely different way and avoided having put themselves in the compromising position that they are in and, frankly, having to make a spectacle of themselves with the contradictory and chaotic shuffling around we have seen recently. It is not down to me to justify the costs. It is absurd to ask me to have to defend money that will be incurred as the result of the failures of other people, people who we pay an awful lot of taxpayers' money to for their supposed professionalism, the failures of those people to properly and professionally address this tragedy and the other issues that arise from it. But, as Deputy Wimberley pointed out, even in the unlikely case of Verita being able to do an effective job, it will count for naught as long as the senior management culture remains unchallenged and handed these kind of self-protecting victories, such as would happen if their inquiry was left in place. Some Members have spoken of the family's wish to get at the truth, to discover all the facts, and to do so in a timely manner; an entirely understandable set of views. However, I would explain to Members again that, in fact, the Verita investigation is so hidebound and hedged and structurally incapable of doing the job it purports to be able to do, but I doubt very, very much that the end result will, in fact, deliver to the family what it is they are looking for, an impartial and objective apprehension of the full facts and the full truth. In any event, we must also remember that while we are dealing with one specific incident here the fact is there is a broader issue of patient safety which is of profound relevance to everybody in Jersey. Verita, even with the best will in the world, I do not impugn their integrity but I do believe they are simply incapable of doing the task. They have, as they admitted themselves, no powers. They have no clear mandate to do what is required. The terms of reference, the apparently flexible terms of reference they are working to, are hopelessly inadequate. If the Verita investigation goes ahead, if any subsequent investigation - for example, the committee of inquiry that some Members say they will support - were to be established some months down the road, that investigation will not be able to do its job properly. Evidence will be contaminated. Witnesses will be compromised, wittingly or unwittingly, and this is because of the fact that an investigation like Verita is operating outside of an environment and outside of the powers that come with being a privileged statutory body. I know because I have spoken to a number of people in the organisations about this that they either will not speak to Verita or if they have to for appearance's sake they will be less than frank because they fear the culture in the organisation. You say: "What culture is that then?" Well, we need only look at the fact that such a deeply respected senior consultant has been victimised and excluded for all of this outrageous period of time. That is the culture that people are frightened of, but with a committee of inquiry, a statutorily empowered body, people would be privileged, would be able to speak fully and frankly to it without fear of reprisals. Some Members have spoken of the timeframe in which the report would be prepared. Look, let us be clear about this. Doing a proper job on these things takes an appropriate amount of

time. If Verita claim that they can do this job comprehensively and thoroughly and to the extent that the family, that we, that the public want in 3 months, frankly again I really have to question whether they are seeing their job as many Members who have spoken in this debate see their job because I simply do not believe it is possible to do that kind of task in that short timeframe. In my opening speech I said that there was no easy means of ducking out of this decision. I was right then and I am just as every bit right now. If Members want an independent committee of inquiry into this case they do not, frankly, have a choice. It is not a case of both. In all practicality and reality it has to be one or the other. Members must vote for this proposition, and the resultant whole thing of the Verita H. and S.S. (Health and Social Services) investigation, given that it is so heavily contaminated, chaotic and will only serve to further damage the viability of evidence and witness testimony, Members really need to be honest about this fact and face the fact that we simply cannot do both. We cannot say: "Yes, we will let the Verita investigation continue and then we will have a committee of inquiry later." The 2 exercises are mutually exclusive. Members cannot have their cake and eat it. I have to say from a personal perspective, in respect of certain of the managers involved - for example, the medical director - I truly and genuinely regret some of the profound errors of judgment he has exhibited. I always got on well with the person in question and I cannot help but suspect, a part of me suspects, that he too may have naively and unwittingly been used and manipulated in this manner as yet another clinician shield behind which the failed management structure can hide and indeed is attempting to hide. I truly wish it was not so but those are my suspicions. For even now, no matter what path events take, one can see the various managers being able to hide behind one clinician or another thus avoiding culpability themselves for what was a management systems disaster. Getting at the truth in these matters is very, very difficult. In fact, States of Jersey are extremely poor at succeeding in these exercises. This is why I have, during the last 2 years, often thought about something like the post-apartheid truth and reconciliation approach. There are so many people, and not just in respect of this issue, otherwise perfectly decent people who have got themselves in trouble or have found themselves, either through their own errors of judgment or the manipulations of others, pushed into a corner. As I said, not just in respect of this issue but others as well. Perhaps some kind of truth and reconciliation commission approach might ultimately be the way forward. We have to look, and I return here to some of the comments made by Deputy Le Hérisier. He suggested when he spoke that it was just not good enough for politicians to say: "Well, the civil servants got this wrong. They failed here or they lied there or they concealed there." Yes, he is absolutely right. I would agree with that and, indeed, I have said publicly on many occasions that what we must have in public administration in Jersey is an appropriate, effective set of mechanisms, philosophy and approach to apportioning accountability and responsibility where it truly lays in different circumstances. So, I agree with the Deputy there 100 per cent. It would be outrageous if we were in a position where politicians could fail, they would be given professional advice, ignore it, do the opposite, cause all kinds of policy disasters through their own political whims or other actions and for them then to be able to avoid responsibility for their actions by simply pointing at their departments and blaming them. Of course, that would be a monstrous state of affairs and entirely at odds with the public good, but what situation do we have in Jersey in terms of that appropriate apportionment of responsibility? I put it to Deputy Le Hérisier and others that the evidence is plain looking back over the last couple of decades. The fact is the politicians are always to blame and the senior civil servants are never to blame, even though many of the great vast public administration disasters that have occurred in Jersey have been ultimately the fault of very well paid, highly remunerated so-called experts and professionals, yet they always get away with it. The child protection failure has been just one example, the patient safety issues, and again I must reference the fact that we are not talking, sadly, about only one case here. Another example is the scandal of the dumping of the toxic incinerator ash in marine sea-porous land reclamation sites. I have seen that scandal over the course of the last 18 years claim the scalps of several perfectly good politicians, decent people trying to do their best, because they caught the flak. They were the public scapegoat. They were the fall guys for the utter incompetence and frequently the dishonesty of certain senior civil servants. Not one senior civil



servant was ever held accountable for those issues. We could make similar observations about a number of different fiscal failures the States has embarked on. We appear incapable of ever getting to the real truth in so many of these areas. Perhaps, as I said, the way forward is to adopt, at least for the moments that have taken place in the past, a kind of truth and reconciliation, no blame culture. I suspect we will only get at the truth that way but in order to realistically go down that path there has to be recognition. There has to be an acceptance. In cases like this there has to be that initial recognition that certain things have gone very, very badly wrong but we cannot hope to get towards that position if we continue to conceal and to shy away from painful truths. There is another factor that States Members must understand. Yesterday's debate has already amazed many members of the public and, to be perfectly blunt, has made the Assembly look ridiculous in the eyes of many, as I have already explained, but a failure to scrap the obviously contaminated and defective Verita investigation will return to make not only the States but Jersey as a jurisdiction look absurd and barely capable of responsible self-government. For today the Island's Parliament has an opportunity to exhibit leadership, understanding and to take the appropriate action, but Members need to understand this and mark it well. No matter if the Assembly continue to support the obviously culpable and defective management performance by voting to leave in place that team's self-designed so-called inquiry, the truth will emerge regardless and it will emerge for this reason. There are at least 4 senior clinicians who will, in due course, find themselves in front of the G.M.C. (General Medical Council) concerning this matter, at least 4. This may take a couple of years but it is going to happen and when that process eventually occurs, if the Assembly fails to support the proposition and instead continues to support the management team's cover-up exercise, that decision will be looked back upon as one of the most laughably defective and irresponsible decisions ever taken by the States of Jersey. The facts will too late eventually emerge regardless of any attempts to avoid them. There will be no escape. The States stands to make themselves look very, very foolish indeed. Just one of the issues which will emerge then is the monstrous injustice inflicted upon the excluded consultant gynaecologist. The man in question is extremely well known, liked and respected throughout this community and there is very deep disquiet in the manner in which he has been treated, the really quite shocking injustice of it. A decision today to basically let the senior management team at H. and S.S. get their way, to basically let them win notwithstanding their many obvious malfeasances by allowing their preferred farrago of a so-called investigation to continue, would be, in the eyes of the public, correctly seen as yet another savage injustice against the excluded consultant gynaecologist, nothing less than kicking a man when he is down. Today the Assembly has a chance to deliver some slight redress to that gentleman by sending a very clear message to senior managers that their conduct, their investigation of themselves, will no longer be tolerated. When he spoke the Dean made reference to the need to have regard for the morale of people working in Health and Social Services, and he is absolutely right. He rightly refers to the stalwart work carried out by hundreds and hundreds of devoted professionals and excellent frontline staff, but I have to tell him that morale amongst those excellent frontline staff is, in many cases, at rock-bottom already and it is at rock-bottom because of the toxic management culture within the department. If Members want to boost and improve the morale of the ordinary working person in Health and Social Services, the best thing we could do today is to support the proposition and send a powerful message that finally that dysfunctional management structure is going to be whipped into shape. The people of Jersey have every right to look to this Assembly to protect their interests and their safety. We will never ever succeed in achieving that basic duty unless and until we finally stop letting the tail wag the dog, especially in matters as gravely important as this. Patient safety can have no price placed upon it. We have to support the proposition today, end the Verita investigation because the contaminations and harm it will inflict upon a meaningful investigation would be too grave to tolerate and because for obvious reasons, which I have already elaborated upon and indeed many of which were accepted by Verita themselves in their presentation, they are not really empowered to or capable of getting to all of the truth. I will conclude just by reminding Members of some of those messages I had from the public who listened to the debate. If the States today fails to support this proposition people will be just

astonished. Astonished given that how powerfully and well evidenced is the failure of the management team to handle the situation effectively and properly and the hopelessly compromised and defective Verita exercise which they embarked upon and they commissioned. As I said in my speech yesterday, this is not a left wing or right wing issue; it is not an establishment or anti-establishment issue. This is simply about this legislature doing what is in the public good and taking perhaps a first yet powerful and important step down the path of finally starting to hold our very expensive and large public administration edifice properly to account. As I said, the proposition will be voted on in one. I am not going to be a party to a defective process by allowing it to be split and for people to cherry-pick it. We must have this investigation and if Members want an independent empowered committee of inquiry to be able to do its job properly then the Verita investigation has to get stopped. The 2 have to go hand in hand. I hope that Members will grasp that which is in the public interest and that has to be, from here on forward, us embracing meaningful accountability and effective scrutiny. I maintain the proposition and ask for the appel.

**The Deputy of St. John:**

Sir, before we take the appel could I ask the Senator to take this in parts ...

**The Greffier of the States (in the Chair):**

I think the Senator has made it very clear ...

**Senator S. Syvret:**

No, Sir. I have made my position perfectly clear. Members have a choice. They either want a committee of inquiry that will be effective or they do not, and if they do want a committee of inquiry that will be effective, stopping the Verita investigation is an intrinsic and inescapable part of that.

**The Greffier of the States (in the Chair):**

Very well, Senator. So, the vote is for the entire proposition as a whole and the Greffier will open the voting.

<b>POUR: 15</b>		<b>CONTRE: 35</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Senator T.A. Le Sueur		
Senator S.C. Ferguson		Senator P.F. Routier		
Connétable of St. Lawrence		Senator P.F.C. Ozouf		
Deputy R.G. Le Hérisier (S)		Senator T.J. Le Main		
Deputy G.P. Southern (H)		Senator B.E. Shenton		
Deputy of Grouville		Senator F.E. Cohen		
Deputy P.V.F. Le Claire (H)		Senator A. Breckon		
Deputy S. Pitman (H)		Senator A.J.D. Maclean		
Deputy of St. John		Senator B.I. Le Marquand		
Deputy M. Tadier (B)		Connétable of St. Ouen		
Deputy of St. Mary		Connétable of St. Helier		
Deputy T.M. Pitman (H)		Connétable of Grouville		
Deputy M.R. Higgins (H)		Connétable of St. Brelade		
Deputy D. De Sousa (H)		Connétable of St. Martin		
Deputy J.M. Maçon (S)		Connétable of St. John		

	Connétable of St. Saviour		
	Connétable of St. Clement		
	Connétable of St. Peter		
	Connétable of St. Mary		
	Deputy R.C. Duhamel (S)		
	Deputy of St. Martin		
	Deputy J.B. Fox (H)		
	Deputy J.A. Martin (H)		
	Deputy of St. Ouen		
	Deputy of St. Peter		
	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)		
	Deputy T.A. Vallois (S)		

## **2. States Employees: Pay Increase for 2009/2010 (P.68/2009)**

### **The Greffier of the States (in the Chair):**

Very well. Senator Syvret having indicated yesterday that P.49 was not to be taken today, we come to P.68/2009, States Employees: pay increase for 2009.

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

Sir, there is a statement that has been circulated. When would you wish for that statement to be made?

### **The Greffier of the States (in the Chair):**

Well, let us find a convenient time, Senator, perhaps not in the middle of Public Business. This is a late statement that can wait.

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

Can I ask on a point of order similar to what the Minister just said, I feel that that debate was quite draining. I am certainly very tired and to go straight into another series of debates without ... **[Members: Oh!]** I know there is no process for this but maybe P.P.C. (Privileges and Procedures Committee) should look at it. I would much rather, personally, have a statement from the Minister and have a little bit of breathing time. Thank you.

### **The Greffier of the States (in the Chair):**

I do not think the Assembly is with you unfortunately. Constable?

**The Connétable of St. Helier:**

Could I declare a direct personal interest in this debate and withdraw?

**The Greffier of the States (in the Chair):**

Yes. It may be helpful, Connétable, if I just (I know you have spoken privately about this matter) remind other Members of the reason for that which may be relevant to other Members in the Assembly. Any Member who is not only a Member who has a direct personal financial interest but whose spouse or co-habitee has an interest must declare that and withdraw. So I think any Members whose spouses or co-habitees are public employees probably does have such a direct conflict.

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

Could I, in that case, make the same declaration and withdraw, Sir?

**The Greffier of the States (in the Chair):**

Yes.

**The Deputy of St. Mary:**

Are they withdrawing from the debate completely or are they not allowed to vote or what is the situation?

**The Greffier of the States (in the Chair):**

They need to withdraw and not vote if the interest is direct and financial and it appears that a £400 a year pay increase is fairly direct and fairly financial.

**Deputy R.C. Duhamel of St. Saviour:**

In that case I would like to declare an interest.

**The Greffier of the States (in the Chair):**

Thank you. I think you need to withdraw, Deputy, yes. Very well. I should say for myself, although technically I am not a public employee I could be caught by the scope of the proposition but I do not have a vote so I think I have to remain here. **[Laughter]** Very well, I will ask the Assistant Greffier to read the proposition.

**The Assistant Greffier of the States:**

The States are asked to decide whether they are of opinion to request the Council of Ministers to retract their stance of a pay freeze for States employees and put in place a pay increase across the entire workforce of £400 per annum per employee.

**The Deputy of St. John:**

Excuse me, somebody is pointing behind me, Sir. Could you find out what the distraction is?

**Deputy J.A.N. Le Fondré:**

Sorry, we were just having a discussion here. Are there any other Members of the States who have spouses who are employed or are affected, looking at Deputy Southern in particular?

**The Greffier of the States (in the Chair):**

There may be Members who ... **[Interruption]**

**Deputy J.A.N. Le Fondré:**

In which case, I retract that. It was a comment that was being made on the Back Benches.

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

I hope that is not going to be a start of an ugly debate. I have been asked why I have brought this proposition at this time and it is quite simple. As a former employer I always valued my staff and without my staff and their goodwill I would have had nothing. Like the old saying goes: "Do as you would be done by." Yes, we are in a recession, credit crunch, call it what you will, but remember this Chamber has created some real pain to this Island in recent times with the introduction of I.T.I.S. (Income Tax Instalment System), 20 means 20, G.S.T. (Goods and Services Tax), and allowing a company of which we the people of Jersey are the main shareholders, J.E.C. (Jersey Electricity Company), to increase electricity by more than 20 per cent. I know the reasons why these measures were necessary but still it is a hard pill to swallow when non-local companies pay no tax on the Island and we see directors of Jersey Telecom are going to pay themselves large bonuses. When we see our Council of Ministers riding roughshod over the views of the Islanders in its stance over the issues to do with the Woolworths or Pound World people, they had to bare all in this Chamber to get a pittance in real terms from government through no fault of their own. Our own staff are told that the Island has to tighten its belt and that there is no money to pay for a pay rise at all this year. While all this is going on we see the Chief Minister and the Minister for Treasury and Resources willing to write off millions of pounds by not hedging the funds for the Energy from Waste plant, and this still has not been hedged and I do not know what the financial losses will eventually be. We also see them deciding within the Council to pay £600,000 and we are not told other than it is for orphans and widows because of bad investments on their part or the insurance scam that was carried out by a certain company but no action is taken to recover the money. All this without a debate in the States, this along with hundreds of thousands of pounds the Minister for Treasury and Resources gave to the Battle of Flowers Association in a package bail-out. It continues with the Heritage Trust needing additional funds because of wasting public money on purchasing the ducks that run to Elizabeth Castle. Likewise, we are told in late May that a settlement over the Trinity infill, which is in excess of £500,000, has been agreed, all agreed by the Council of Ministers and all behind closed doors. I could go on and tell you of scenarios of our Council of Ministers wasting our hard-earned cash but I will move on. Our staff require our support. They are the butt of many a joke and cannot answer back but that is part of their job. We have heard them this morning being scandalised by a speaker in this House and I cannot agree with a lot of that was said because I know that our staff are valued in all they do. I just look around this Chamber here and I can see several in this Chamber who have been of great help to me in my time in this House and many others across all departments. We may not always see and have the same views but so what? We are all different and we are entitled to our views. What does my proposition of £400 per annum represent? A wage increase of £7.69 per week, given G.S.T. of 3 per cent on food has not been removed. The J.E.C.'s 24 per cent increase has not been reduced. I.T.I.S. and 20 means 20 are all in place. We are all feeling the pinch. Hopefully, many employers in the private sector will try to help their employees at this time. I will do what I can for our employees, all of them within the States sector, by giving it across the board. It means that each man and each woman are being treated fairly, as a pint of milk, a loaf of bread, a litre of fuel and a unit of electricity cost the same for all. It is our duty to look after all our employees at a time of hardship equally, not give huge pay rises of several thousand pounds to senior civil servants when the manual workers at the other end only get a few pounds. Remember, do as you would be done by. Further to this, I may not be everyone's favourite States Member. I am not here for that. I am here to keep States Members honest to the people we employ and the people who elected us. For some Members, when they were elected, they forgot their roots. Well, I have not. I remember hard times when I left school and took home £1 and 10 shillings a week for a 52-hour week and gave my parents £1 back for board. I had to manage on 10 bob and that did not go far. I also remember the rationing after the occupation in the 1950s and it did me no harm, but I would not like to think that because of the reckless actions of the Council of Ministers - yes, I mean reckless - in not hedging the Energy from Waste plant that our staff should have to pay the consequences for the sins of others. Yes, the 10 to 20 pence per hour pay rise, depending on how many hours our employees work, that is what it equates to; less for some because I know some medical staff are doing as much

as 70 hours a week. For them the figure is closer to the 10 pence if they fall within our employment catchment. I ask Members to search their conscience and I am sure have compassion. I know some will say that those in the private sector are not getting anything this year. Well, we should be showing the lead. We should be showing a lead because there are some companies out there in the private sector who, in fact, are doing very nicely, because at times of recession some companies do make a lot of money but they do not wish to pay their staff any extra for that. Let us show leadership. As far as I am concerned, I will make this proposition and I hope that you all search your consciences when speaking. I make the proposition.

**The Greffier of the States (in the Chair):**

Is the proposition seconded? [Seconded]

### **3. States Employees: Pay Increase for 2009/2010 (P.68/2009) - Amendment (P.68/2009 Amd.)**

**The Greffier of the States (in the Chair):**

Very well. Now, there is an amendment to the proposition in the name of Deputy Southern and I ask the Assistant Greffier to read the amendment.

**The Assistant Greffier of the States:**

For the words: “£400 per annum per employee” substitute the words: “£1,250 per annum for all full-time employees, with this sum being adjusted proportionately for part-time employees.”

#### **3.1 Deputy G.P. Southern:**

May I start by saying firstly that I agree almost entirely with the words of the proposer of the main proposition and, in particular, the words that he chose to ask when he asked Members to search their consciences as they vote. My sole point of disagreement is in the amount that should be paid. While many of those who have immediate family employed by the States have declared an interest and left the Chamber, I nonetheless draw Members’ attention to all of their friends and extended families, their neighbours who are reliant on public sector work, who are our public sector workers and are doing ...

**The Greffier of the States (in the Chair):**

Sorry to interrupt you, Deputy, but we are inquorate.

**Deputy G.P. Southern:**

I may start taking it personally soon.

**The Greffier of the States (in the Chair):**

Deputy Fox, who returned to the Chambers, had to leave because he is conflicted and has to declare that interest.

**The Deputy of St. John:**

Because of conflicts I do not know if I am permitted to talk but as a point of order or clarification ...

**The Greffier of the States (in the Chair):**

The quorum does not change, Deputy. That may be a point that P.P.C. should consider, but it does not change the statutory position. Very well, Deputy, you may continue.

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

You were not quorate, but I cannot stay in the Chamber because my wife works for the States and, therefore, I have to abstain from this.

### **The Greffier of the States (in the Chair):**

Very well, Deputy. Deputy, you may continue.

### **Deputy G.P. Southern:**

The many members of our society who are dependent upon and who keep the wheels of the public sector going, and over the past few years they have been on the receiving end of efficiency saving after efficiency saving. As I mentioned in the Strategic Plan it is very difficult often to visualise what an efficiency saving means, but often it means the same number of people or fewer doing more work and that is the definition of efficiency and that is what happens. Those members of the public sector, whether they are teachers, whether they are nurses, whether they are manual workers, in all sorts of areas, whether they are civil servants on which we depend daily in order to get any business done, those workers are under increasing levels of stress and increasing levels of demand in order to keep, honestly, what often are creaking services on the road. What we are doing, I believe, is an insult to their dedication and their commitment. Yes, we are in a time of recession and yes, we have to react to that recession. I would ask whether a knee-jerk (because that is what it is) pay freeze is the correct way to respond to that recession. We have seen that the Minister for Treasury and Resources has said that he will support the economy and support its workers through the recession by the use of fiscal stimulus measures which for this year amount to £44 million and next year and thereafter to the tune of some £100 million plus in order to keep the economy going and to shelter many residents and many workers from some of the worst effects of that recession. At the same time we are saying we are going to put £44 million into the economy to help people, to maintain jobs, to keep the economy going, but that is not to include the £7.4 million already budgeted for a pay increase along the lines to match inflation at the time. Now, this House, very sensibly I believe, set that pay limit. It was agreed by this House in September last year. Were we aware then? Were we completely blind to the possibility of a recession? We were not. Were we aware that inflation was gradually coming down from the peak that it had hit following G.S.T. previously and that 2 per cent might be a reasonable target to set? Yes, we were. We were completely aware of that and it was a sensible decision and that money was put aside. Here we are 9 months later and we are told: "Oh, we cannot afford that now. What shall we do? Despite putting £44 million into the economy and some more in order to prevent the worst impacts of the recession, that £7.4 million we will arbitrarily and unilaterally refuse." That is not the actions of rational people I do not believe, nor is it a way to treat our workers. We must examine that then in the light of what is happening. We are told that we simply cannot afford it but let us examine what happens to tax revenues. 2009's tax revenues depend on individuals' declarations of their income in 2008. 2008 was a good year. Businesses are taxed, and it is a mixture of systems but, by and large, is 2 years in arrears. So, we are looking at 2007's profits of business, particularly in the financial sector, our major area, and that too was an ultra-boom year. So, we have got 2 years of boom for 2009 tax revenues. So the full impact of the loss in tax revenues that we are constantly harping on about are not yet being felt. Similarly, there will be some impact in 2010. The real impact of the recession will be felt in 2011. Now, that is an issue. No one is saying that will go away but it is not how it is presented or has been presented. We have got a problem, we are in a recession, bumph, we must do something now: wage freeze is the answer. I believe wage freeze is not the answer. In my report I suggest - although it is the last point I make when I talk about the wage freeze - it is a major point that wage freezes do not work in the medium to long term because what happens is you can keep wage demands down for a certain length of time and then you get bounce-back, you get claw-back. You get workers saying: "Hang on, we have done all we can. It is time to get our proper rewards" and you get bounce-back. Now, if that happens as you come out of recession, and it still looks likely that that is the way it is going to happen, if we are talking about 2011 then what you get there is rampant inflation. That is the lesson from history time and time again, when you try and seek to impose wage freezes, 3, 4 or 5 years down the line, you get that bounce-back and things get worse. What is worse, and I have not mentioned it in my report but it is certainly a valid point and one which was made indirectly by the proposer of the main proposition,

the way to act is (and I remember from my youth) it was a wages and prices policy that you needed. If you were going to attack the standard of living of your workers you must be seen to be doing something about prices to stand any chance of making the freeze stick. What are we doing about prices? We are doing nothing, absolutely nothing. Electricity prices, already mentioned, up by 20 something per cent. Inflation, let us look at inflation. Much is made in the comments of the Chief Minister of the fact that emphasis has been made on G.S.T. Emphasis has not been made particularly on G.S.T. but the fact is that the Retail Price Index is going up. Normally, at this time of year, we would be engaged in wage negotiations with the various bodies concerned. It is interesting to note that only yesterday Unite, the union, put in a pay bid which amounts, as we see here, to a flat rate payment and a reduction in the working week of one hour. Those negotiations normally should be starting about now or should have started. It is interesting to note that the nurses have just balloted on their pay rise but not their pay rise for 2009. They still are yet to settle with 2008. I shall return to nurses in particular because they are a particular illustration of what is going on. Now, I do not know what the result of that ballot will be, whether they will accept any offer that is on the table, but I know it will not be an easy process imposing a pay freeze on nurses this year. I will return to that, but let us have a look at what we have seen in the various R.P.I. (Retail Price Index) figures. Well, 2 per cent, which was budgeted for and should still I believe be followed through, was at 2.1 per cent on the R.P.I. Normally, negotiators would start talking about: "Oh, it should be closer to the R.P.I.(X) or the R.P.I.(Y)" but lo and behold, what has happened to those? Uniquely, for a number of years the R.P.I.(X), excluding the price of house purchase, is at 5.2 per cent, way above the 2 per cent mark, certainly way above the 0 per cent mark of the cut in the standard of living for our public sector workers. The R.P.I.(Y), excluding the effect of indirect taxes like G.S.T. and the cost of house purchase, that increased by 3.3 per cent so again that is larger. If we look at the justification for a flat rate what we notice is that the annual rates of increase for R.P.I. Pensioners and R.P.I. Low Income are standing at 5 per cent and 5.3 per cent respectively. So, if we want to do something about those on low income then now is an appropriate time to do so. I point out in my report that for those on a salary of £23,500, well below the average wage, that is the mark at which a flat rate, £1,250, matches the low income 5.3 per cent. It is entirely appropriate that we do a flat rate pay rise at this time for those sorts of reasons. When we come to examine the case against and refer to the comments of the Chief Minister, we see in his comments on page 2 that there will be ongoing deficits and that these will need to be funded by tax increases or service cuts; that is in 1.1. In 1.2 we are then told that it is not reasonable for States employees, who enjoy a much larger measure of job security, to expect their pay increase this year. Hang on, but I have just read in the previous paragraph: "These will be paid for by tax increases or service cuts." Well, the Minister for Treasury and Resources has committed himself absolutely wholeheartedly to no tax increases so that must mean service cuts and that means job cuts and that means job security out of the window. We have just had a strategic debate where privatisation and outsourcing were highlighted as the way forward. We were going to cut services and thereby we are going to cut the public sector. So the justification presented by the Chief Minister himself to say: "Oh, we cannot afford this and we must do this, establish a wage freeze" is denied by the 2 statements next to each other: "We are going to cut services and therefore jobs, so therefore you cannot have a pay rise because you have got stability and certainty in your job, except we are going to remove it as soon as we can in order to save money." That does not work but please do not try and say that that is the way forward because it is simply not logical. Then we are asked to go to page 3, this so-called comparison of public sector workers with the Jersey private sector. Now, I ask you to withhold your critical faculties for a minute and imagine that this is a legitimate piece of work and is accurate in some sort of way. We are told here: "A pay survey of the comparison of public and private sector pay will be completed before the proposition is debated and will be sent to all States Members." It has not been but, nevertheless, a similar pay survey was undertaken in 2006. What it shows is that in comparison, as it is said here, with the private sector: "Both finance and retail, industrial, low graded jobs in the public sector are paid well in excess of the Jersey private sector" and we are given the table and the attention is drawn to the overall pay differential



of 25.61 per cent. How accurate is that at the lowest grades in comparing public sector with private sector workers? Oh, that sounds awful. How did that happen? How did that happen? Well, the States did an evaluation of all States jobs in the last decade. It was not a Hay evaluation, it was sort of equivalent to a Hay evaluation, and established what were fair rates for the job. We are not known as overly generous employers in terms of our wage rates. We establish the fair rate for the job. So, the first point to think is, well, that is the fair rate for the job and we have carefully analysed it using analysts experienced in the field and that is the rate for the job and the private sector may or may not be, on average at lowest grades, 25.61 per cent less than that. What does that say? That says the private sector is paying less than the fair rate for the job. That is all it says. At the higher grade, however, we notice that public sector workers are paid less than the private sector. What does that indicate? That indicates that rewards for the rich and well paid are better in the private sector than in the public sector. It is a question I was referring to yesterday when I asked the Chief Minister whether he thought the bonus culture had gone and whether we were into pay freezes and low wage rates for everybody on the Island, and he said he was not aware of any continuation of the bonus culture. Certainly in the finance sector Goldman Sachs are now looking forward to their biggest payouts in the bank's 140 years history. In London, Credit Suisse, Deutsche Bank, Barclays Capital, J.P. Morgan and Morgan Stanley are also anticipating bumper profits in London, and our economy is deeply attached and linked with London. The days of bonus culture are not over. We will see high pay, high bonuses given to those in the finance sector. Even in these times of recession business is still going on out there and bonuses are still being paid. We shall, I believe, see that in Jersey. We have already seen a loyalty bonus on the cards for senior management at Jersey Telecom. So, do not pretend that everybody is in the same boat. Look at that table again, if Members will please refer to it on page 3. Even the figures there go lowest grade, highest grade comparison less than the private sector. On average, overall, public sector paid 3 per cent, a mere 3 per cent, more than the private sector. So draw your eyes to the end column, 3 per cent rather than 25.61. Then consider the makeup of this so-called piece of research. Police, at the lowest grades, 35 per cent better off than the private sector. Well, when did you last see a private sector policeman wandering the streets of Jersey? I do not know where they are. Firemen, private sector firemen, 29 per cent worse off than public sector firemen. Again, I do not know when the last fire insurance company that ran their own fire service was running in Jersey. It might have been in the 1920s perhaps before they left but a private sector fireman has yet to be spotted on the streets of Jersey, but apparently we can make comparisons with private sector firemen and they add up to the average. Prison officers are not applicable. Oh, I did not think we had any private prisoners. Teachers, not applicable, not included. Well, hang on, but teachers tend to get paid more or less the same either way and there are some minor differences, but manual workers 30 per cent. Really? Compared to whom? Where is the comparator? Manual workers versus manual workers paid by whom, what size company, et cetera, compared with shelf stackers or fulfilment stackers, are we really comparing like with like? Well, we have got private sector police that we apparently can mythically find and compare with. No, no, no, no, and nurses, 34 per cent better off than in the private sector. My gosh, it is a wonder that they can recruit anybody if you can go into the public sector with its stability and job security and get a good 34 per cent more, but let us get real here, what is happening among nurses? We saw the answer yesterday from the Minister for Health and Social Services: "As of 23rd June 2009 there are 54.99 (let us call that 55) full-time equivalent nurses places not filled. This equates to 5.39 per cent of the total registered nurse and H.C.A. (Healthcare Assistants) workforce." Now, I wondered what that meant so I phoned the Royal College of Nurses representative in the hospital and he said: "Oh, because we were worried, extremely worried about going over the 5 per cent vacancy rate because that is signalled as the critical point for the hospital. That is when services come under extreme pressure, the 5 per cent" and he was quite shocked to find that we had gone over the 5 per cent vacancy limit when things really start, it is crunch time. That is a warning light. That is the situation now when nurses have not settled their 2008 pay claim and we are saying: "And you will get a pay freeze in 2009, whatever happens, and we have got a recruitment problem which is very serious." He then

went on to talk to me, giving one example about a sexual health nurse who came to the Island some months ago and left within 3 months: "I cannot afford to live here." He talked about the extreme competition, not only with health trusts and hospital trusts in the U.K. which are offering all sorts of recruitment packages to keep and get their nurses. He talked about pay rises, the negotiations going on now in Guernsey where they are talking about a 12 per cent over 3 years deal. In the U.K. they are talking about 7.9 per cent. I do not know what the terms of that are but some sort of package. We shall further make recruitment of nurses more and more difficult. In the meantime, we have this knee-jerk reaction. We have to freeze public sector pay. Where we have to freeze public sector pay we shall see increasingly what has happened recently, 28-bed wards closed down to 7 not for any other reason than "cannot get the staff", 7 beds instead of 28. If we want to see that in the future ... and I use it not emotively, not because nobody can criticise the nurses, because that is the reality of our public sector today, creaking on the edge of breaking down with public sector workers doing their best, doing their damndest, to keep the system going. That is the reality and we are saying: "And our reward to you is to impose a pay freeze on you because of recessionary trends." I find that absolutely insulting to our public sector and not only the wrong way to approach the economic situation, which it is, it is one way to absolutely disincentivise and upset the high quality, high calibre public sector workers that we do have. I propose this amendment as the right figure of 2 per cent that we voted on in September of last year appropriately. I believe a flat rate is appropriate. I propose the motion.

**The Greffier of the States (in the Chair):**

Is the amendment seconded? **[Seconded]**

**3.2 Senator P.F.C. Ozouf (The Minister for Treasury and Resources):**

Sometimes I sit and wonder, when listening to Deputy Southern, whether he really believes in what he is saying. I wonder whether and what school of economics Deputy Southern comes from. I challenged him at a recent debate as to where the money was going to come from in one of his recent policies, and I ask him again today, where is the money going to come from? He certainly rules out 20 means 20, increases in G.S.T. and the rest of it. I am increasingly of the opinion that the school of economics that Deputy Southern seems to attend is the school of economics of sorcery. What responsible state in the world, in the teeth of a recession, with employers and private sector employers of companies putting through pay freezes and recruitment freezes, not for fun but to protect the jobs of their workers in the medium and long term, to suggest a payment of £1,250 to all workers is crazy. It is unwise, it is unaffordable and it is not defensible. More than that, it is more even than I read in the *J.E.P. (Jersey Evening Post)* request yesterday from manual workers. What responsible employer would offer more even than the opening position in relation to a pay round? I really wonder whether Deputy Southern believes and really wants us to vote on this proposition. We heard from the Bailiff yesterday that you can win debates in this Assembly, because we do not have a majority, by persuasion, and it is amazing in a debate what you can get away with. I sit here and I sometimes imagine Members like Deputy Southern doing the job of a Minister. I was listening to Deputy Southern and I was listening to what he said, and I was wondering what the advisers, what the chief officers would say to Deputy Southern in the confines of a room, when Deputy Southern would be saying: "No, I want to put a pay rise of £1,250 through." Would they be saying to him: "This is a good idea"? I doubt it. I will come to the Deputy of St. John in the main proposition in relation to some of his remarks on G.S.T., but on this proposition I will say this: public sector pay is regarded across nations around the world, and in Jersey, as very significant. It is regarded often as the thing that sets pay settlements in the rest of the economy. I have no doubt that a massive wage hike of this extent will damage the medium and longer-term issues in our economy. It will cause the public sector to become uncompetitive. It will extenuate, exacerbate the differentials between different pay groups. Worse, it will spill through to the rest of the economy. We all value our state's workforce and we need to support them, as we do the whole of the economy in the downturn, but we cannot raise expectations to unrealistic levels.

We cannot be irresponsible. This proposition is unaffordable; it is economically deeply flawed, and I hope Members reject it.

### **3.3 Deputy T.A. Vallois of St. Saviour:**

As Deputy Southern mentioned with regards to an insult to the workers by freezing the pay, I believe it is not correct to say that, but believe it is an insult that the budget and the Council of Ministers does not appropriately staff the department to cope with the ever-increasing pressures. The problem with the States is we allow the issues to drag on, brush it under the carpet and only do something when it is too late. Mentioned in the comment to the Chief Minister with regard to the sickness levels, I would point him in the direction of the G.P.s (general practitioners) on how many workers are stressed or depressed or over-exhausted by the amount of work they are having to do. Although I understand the reason and the goodwill of this proposition, I am unable to support it due to the following areas. We have a public sector that does have a relatively secure employment. The lower earners in particular areas are paid significantly higher than those in the private sector, who may I remind you do not have the added security, but also I ask, where do we draw the line and who takes the lead? By raising continuously year after year, we are only looking to gradually increase taxes and charges; therefore, the money goes in one hand and comes out of the other. We have no doubt that many of the public sector workers work extremely hard, but do we allow the vicious circle to continue? I would only ask that the Council of Ministers think long and hard about what they really want for public service and get on with the efficiency savings in the appropriate places, not by putting more pressure and stress on the workers, but really get in there and talk to the people at the other end of the scale and really find out how they are coping. However, only am I able to reject this proposition if both the Chief Minister and the Minister for Treasury and Resources can assure me in this debate that they really will look at the staffing problems and pay particular attention to whether monies are being wasted.

### **The Greffier of the States (in the Chair):**

Does any other Member wish to speak on the amendment? Deputy of St. Mary.

### **3.4 The Deputy of St. Mary:**

Yes, I think the first proposer - this is an amendment to a proposition, is it not? - started on the right tag, value your workers, and do as you would be done by, and I think we do need to keep the fundamentals in our minds. The Dean mentioned in the previous debate about Mrs. Rourke and the inquiry. He mentioned the important point about the message that we send out and he talked about losing morale in the context of what we were saying, what many people were saying about what was going on at the hospital. I think that phrase "losing morale" also has resonance in the context of this amendment. Just what message are we sending, and how do we value the people who work for us? I would like to just reinforce what Deputy Southern said about this table. I hope that we are going to get some serious comment from the Ministers about this nonsense. I cannot believe what we are being fed in their comments on the proposition, but also, the same comments applied to the amendment. If you look at this, when in the text they claim that the lowest grade of property sector manual work is paid 30 per cent higher than a similar-sized job in the private sector, and there is no evidence, as Deputy Southern pointed out. We just do not know what is being compared to what. He then pointed out that in fact there had been an evaluation done by the States of manual worker pay and what the jobs were and so on, and they had come to a fair price for those jobs, the implication being that the private sector had a problem. Now, in fact, if Members would like to think of what the consequences of low wages are in the private sector for this Assembly, for taxpayers, the consequences of low wages in the private sector, we pick up the tab; the taxpayer picks up the tab in various ways, with income support. That is really quite a large budget. I am not an income support expert, so I do not know how big the budget is. We discovered from the Minister for Housing that the entire rent abatement system and rent support system has gone into income support. Well, those figures depend in part on the wage rates of the low paid, so what we

are saying here is we are comparing States manual worker pay with the pay in the private sector, and somehow praising that it is so low in the private sector. Well, I am sorry, the chicken has come home to roost, and they come home to roost in the form of larger bills for the States and for taxpayers. Yes, Deputy Southern mentioned that the wage freeze stores up the pressure and effectively shoves the problem into the future, and that rings bells. This Assembly is very good at shoving problems into the future, and I would just like to refer Members to the Strategic Plan. At the back, we have: “Developing Long-Term Resource Initiatives” and there is a list here of vast future liabilities, in comparison to which this proposed flat rate, £1,250 across the board, you have to compare what the significance is. The shortfalls or the upcoming budgetary requirements that this House has to face: “Address the aging population and long-term care, and the setting up of some kind of fund for residential care; implement New Directions” and within New Directions, of course, the air quality strategy. There is a cost there. The Strategic Plan talks about: “Investing the sources and services now in order to improve the health, status and well-being of Jersey residents, thereby curbing future health and social care needs.” That is a long-term saving, but in the immediate and short and medium term, it is an increased expenditure and the Strategic Plan says in order to fund these new streams of activity, a new hypothecated health insurance style contribution will be required from individuals. So there is a whopping great big bill. It will not be called a tax, it will be called something else, but the fact is it is a demand on the public purse. Then we come to: “Maintain sewerage infrastructure” and remember, I am talking about the context of spending, in terms of the amendment, £7 million - which we have already voted, by the way - on a wage not even in line with inflation settlement: “Maintain sewerage infrastructure. Substantial funding will be needed, estimated to be £10 million annual for 10 to 15 years.” That is between £100 million and £150 million on maintaining our sewerage infrastructure: “Maintain States property. Backlog exceeds £120 million.” I read in the *J.E.P.*, I think last night or the night before, that the pension fund debt is now over £300 million. Now, I would not be so bold as to put out a figure like that, it is not one of my areas, but who said that? The Chairman of the P.A.C. (Public Accounts Committee), so presumably that is a reasonably reliable source. We have these vast debts, if you like, or future liabilities, all of which have been incurred by the process of shoving off to another day. Here we are, in Deputy Southern’s words, stoking a building pressure for a future increase, because people will rightly feel that their noses are being put out of joint and they will be angry. So I am not so sure that it is a good idea to put yet another problem off into the future. I think that is about all there is on this amendment, as opposed to speaking on the main proposition. I just would add in closing I find it very odd that we have to judge, because this is a pay comparability. The main argument is pay comparability, that we are paying more than the private sector, particularly at the lower paid end, and yet the figures are laughable, and the survey we were promised for this debate has not appeared. So I would just leave Members with those observations.

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

I think I ought to follow that, and again, perhaps by explaining that unfortunately the survey mentioned has not occurred. It was due to be finished by the end of June, but sadly it is 1st July today and the last results are just coming in from sources, because that survey is done by an external independent organisation and it takes information from a number - which is about 50 - of private sector employers across the board in various jobs. But I am told that the initial output from that survey is very similar to that which was undertaken in 2006, and that 2006 survey is of course available to States Members, all 400 pages of it. So it is fully evidence based and fully detailed and available should the Deputy of St. Mary or anybody want it. What we have shown in the comments from myself is just an extract of some comparisons with the private sector. I will come back to that in a moment, but I just thought I would explain that although we do not have the current survey, the information contained in these particular comments are in fact very similar to what would have been issued today.

### **Deputy G.P. Southern:**

May I ask a point of information?

**The Greffier of the States (in the Chair):**

If the Minister is willing to give way. He is.

**Deputy G.P. Southern:**

Can the Chief Minister point out where in Jersey he found private sector policemen and private sector firemen?

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

This is a comparison which the independent firm have made. I fully take the point as far as firemen are concerned. As far as policemen are concerned, it may be a comparison with security guards. Certainly those sort of questions one can look at in the detailed comments. I do not want to go into individual details, but certainly in terms of people like manual workers, civil servants and nurses, there are clear comparisons, but I think that is perhaps not the main point of this particular argument, because picking up where Deputy Southern began, yes, we are in recession. We are going to find increasing pressures, and we are going to have to deal with those pressures. I stand by the comments which I made earlier, that if we are going to meet some of these costs, there are either going to have to be tax increases or service cuts, and that we are not immune, the States cannot just act separately from the private sector. We are an Island community, so I think to try to suggest that there is one law for States employees and one law for the private sector just is not realistic, and one set of principles for the private sector. What I want and what I have striven for for years, both in my present position and going back to the days at Social Security, is the idea of fairness, of fair play in the workplace, of a fair day's pay for a fair day's work, whether that be work done in the private sector or work done in the public sector. That fairness requires comparisons to be made and not just by the pay survey that we have been talking about just now. The Comptroller and Auditor General, in a report last year, made very much the same comments when he said: "For some positions, the States pay is generous in comparison with the private sector. For some senior positions, the States remuneration is not competitive. At lower levels, these salaries are in fact above the private sector." That is well known, and what the pay survey did some years ago was to evaluate States workers and say: "Yes, they are higher than the private sector. They are higher than they should be, but we are not going to bring them down. We are going to be realistic in the future." I am suggesting to Members that we do be realistic in these times of recession. Deputy Vallois makes a good point about staff levels and staff concerns and stress levels, and certainly one of the things not perhaps germane to this particular debate, but I think it is worth pointing out, is that the States put out a survey of their employees, called *Have Your Say*, and one of the outputs of that was the indication of stress levels, particularly in certain departments. I have asked the States Employment Board to take that survey and deal with it and address some of those stress levels, some of those concerns, and where there are pressures and why there are pressures and deal with that. But that is not to do with this particular debate. This debate is, as the Deputy rightly says, on who takes the lead and who sets an example. It is up to us as the States to take the lead and to set the example. As far as the other comments of Deputy Southern are concerned, when he suggests that there we are in danger of causing staff vacancies, I would point out to him that even at the current time when, yes, there may be nurses coming and going and an absence rate of 5 per cent, nonetheless the outcome of the 2008 ballot, I can advise him that the nurses did accept the pay offer of 3.2 per cent, along with every other public service employee. So that is consistent and not indicative of any concerns about their pay levels, so much as maybe being realistic, as indeed everyone should be realistic at this time about the need for sensible pay settlements. To simply spray £7 million, not just for this year, but for every year into the future, is not the way to act realistically, not the way to act responsibly and not the way that we should be setting an example, setting a lead, and not the way which I intend to go.

**3.6 Deputy M. Tadier:**

I am going to limit my comments to talking about the amendment, and I will reserve the right to speak perhaps at slightly a bit more length for the main debate, but the point I really want to draw out here is that we seem to be conflating 2 issues. We are not the private sector. I think that is the first thing to say. We are a public sector employer. It really begs the question do we always have to do everything that the private sector does? For example, there are many things in the private sector which are unsatisfactory: certain jobs, people may only get 2 weeks' holiday a year. For example, they may be working 45, 50 hours a week. Are we going to say then that we are going to cut holiday allowance to 2 weeks? Are we going to say that we expect people to work 50 or 60 hours a week and that is perfectly acceptable? I think that is obviously not desirable at all. So to simply say that because people in the private sector are having to tighten their belts that we have to do the same right across the board, whether you are a low earner or a high earner, seems to me to be a non-sequitur to start off with. So basically, we do not always have to go with what the private sector are doing, and secondly, it has been shown today that we are not comparing apples with apples. We are in fact comparing apples with pears, so to speak, or chalk and cheese, to mix the metaphor even further. We have already seen that the statistics that we have been provided with are not completely honest, they have been spun once again. I do not think there is this consensus within the private sector that everyone is having to tighten their belt. The private sector is a different animal. It runs with the market forces. For example, as a self-employed person, one has the flexibility that if costs are going up, so if your cost base is going up, you put your price up. For example, I can only speak from personal experience, but I know that if that charge ... that some of our outsourced translation work is going up, so if we are being charged, let us say, £60 per 1,000 words and it used to be £40, then we simply pass that on to the customer, so we always make sure that we are making a living profit, so to speak. That is what flexibility people have in the private sector. Unfortunately, people in the public sector, employees, do not have that flexibility. They still have the costs, the bread goes up, the milk goes up and their outgoings will increase by 2 per cent, depending which R.P.I. index you take, and just to reiterate here, we are asking people to take a pay cut. That is what we are talking about. It is not a pay freeze we are saying. We are asking all of you to take a pay cut, whether you are a low earner or a high earner, so let us not talk about a pay freeze, because that is misleading in relative terms to the R.P.I. We are talking about a pay cut here. So those are the basic points I want to draw out. We do not have to follow all the inadequacies and inequalities that are often prevalent in the private sector. We are a public sector. We have a right to treat our employees fairly. We have already heard about the nurses, who do an excellent job. There is trouble recruiting people at the hospital, we know that. We have to pay people a living wage, and I think this way forward, it does not matter which figure you use, that is a political decision for Members. But it really, I think, is to be commended, both the initial proposition by the Deputy of St. John and then further amendment by Deputy Southern here, because it is proportional. So even if we just adopt, for example, the £400 figure, we are saying that is really going to mean a lot to someone who is on a paltry wage and it is very easy for us to sit here with our £44,000 a year, with our free lunches that we do not even have to pay for, which are very nice - again, crab, salmon, all really, really nice stuff - we are not going to cut that, of course, but we are going to give all workers a pay cut of 2 per cent or more. So this is really what we are talking about here. I would suggest if we are really trying to save money we should be looking to close the gap between the rich and poor and the inequality. That is the real issue: if you want to save money, perhaps the Council of Ministers could think about shaving 10 per cent off the top civil servants, because it seems that they have been responsible for a lot of inadequacies that we have been seeing and a lot of the waste. Let us see proper leadership: take money from those who can afford it and not from the ordinary workers.

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

I am fascinated by Deputy Tadier's view of the market economy. If your costs go up, you increase prices. Well, in the real world, if prices rise too much, people will use substitutes. Putting it simply, if butter is too expensive people will use margarine, or they might even use automatic

translation machines. A thought: excessive expenditure by the state fuels inflation and that is going to be our problem coming out of this recession. I am glad the Chief Minister quoted the Comptroller and Auditor General. It is nice to think his reports are read seriously in the corridors of power. Yes, he queried the veracity; the Members have been querying the veracity of the comparisons, and as the Chief Minister said, the Comptroller and Auditor General quoted comparisons. However, Deputy Southern mentions the police. Well, now I can tell you that last year, a police constable newly qualified in London earned around about £25,000 a year, plus £6,000 London weighting. His equivalent in Jersey earned £37,000 or thereabouts, so the figures, there is some validity in them. Finally, we do have the indications of a structural deficit. All these amendments, whether they are the Deputy of St. John or Deputy Southern, are permanent ongoing expenditure. They are not timely, they are not temporary or they are not targeted. At this stage in the economic cycle, I think we must restrain ourselves, and I ask Members to reject all the amendments and the proposition.

### **3.8 Deputy J.A. Martin:**

I have to agree with a lot of what the Deputy of St. Mary said, because we are just comparing workers, and we asked the Minister for Treasury and Resources yesterday is he going to ask all departments to freeze the charge, and the biggest one I can think of, that is to say the private rent rebate sector and in income support ... and as an interest, yes, I am a States tenant and I do not receive any rebate, so I can talk about that. But the Deputy of St. Mary says if that rises, the people on the lower end of the scale will have to go somewhere to get that money paid. It will be straight down to Social Security and say: "Have your wages gone up this year?" "No. My rent has gone up, this has gone up." Well, it goes on income, but then they are going to put the benefits up, so they already know that, but it will be more people claiming, but I am quite upset. I really did not realise that he had pulled this, because giving £1,250 to anyone round about the £40,000 and over mark really does stick in my craw, because the civil servants for many years have had the percentage rise and they have waited while the manual workers fight tooth and nail for one and 2 per cent, and one or 2 per cent of £15,000 is not one or 2 per cent of £150,000 or anything above £80,000; a very nice lump sum if you can get it. They have not really made any comment and, then again, if you are on £108,000 - or over £80,000 - what is £400? They are not going to argue over it, are they? Percentage they would argue. But where I really have difficulty ... and I am not sure which one I will support. I will probably have to go now with the original and I will explain why, because yesterday - and Deputy Southern could well be shooting himself in the foot and many public sector workers - Deputy Trevor Pitman put in a question to each Department and I will read you ... It is about the Strategic Plan and what private or outsourcing and how many jobs will this affect? Further still, what savings are planned, and there are different answers to different questions but there is a paragraph in each which is very telling, and it says: "All departments need to keep the provision of their services under constant review, which must include whether there are more convenient ways of working or opportunities for wider private sector involvement as a means of improving the efficiency and keeping down costs." Well, if we give the bill of £7 million to the Treasury to find I can tell you where they will find it. They will lose those jobs, they will go out to private tender, they will get a good, maybe a cheaper price, but the man on the street - as they have just proven themselves - the private sector cleaner earns a lot less than the public sector but that man, the very man who owns the company, will be getting a very nice contract from the States, the manual worker will be getting the minimum wage and where will he be going for the rest of his money? Straight back down to income support. **[Approbation]** So, I do not know if we can have our cake and eat it. I was listening to Deputy Vallois. I would like to give £400 a year to everyone under £31,000. I thought that was a good idea but I have not quite made my mind up but I do think Deputy Southern, who wants to protect manual workers and wants them to have a wage increase, could see the other strategic aim being fast forwarded by the Council of Ministers. Well, Deputy Southern thinks it will not work; this will not work. Well, I am sorry, that is exactly what will happen and Deputy Southern's amendment does speed up the Council of Ministers to go out and do

this. So, has he actually spoken to any manual workers who have said: “I would rather have my job at this wage or no job at all next month”? **[Approbation]** I am sorry, I have had no one phone me on it and I am a member of the union, so I really am not sure on this one and I would like to hear, when Deputy Southern comes up, what consultation he has made and he does owe us that question because I, like him, want to see the workers keep their jobs.

### **3.9 Deputy M.R. Higgins:**

I would just like to make a few comments on this and, in fact, they relate to both propositions. First of all, Deputy Southern is correct about pay freezes and history has definitely shown, from an economics point of view, that they do build up problems for the future. They cause us problems for the future because they build a resentment on the part of the workers who have had their pay cut, and when the opportunity comes for them to try to influence new negotiations in better times they are going to try and recover what they have lost. So, if they have lost 3 per cent now, the next wage claim will not just be 3 per cent of the cost of living, it will be the 3 per cent they have lost plus the cost of living figure plus they are always looking for something to improve their living standards. So, if we agree with the decision of the Council of Ministers and accept a pay increase and do not put the money into the economy we are going to have problems in the future. Mark my words, you will have them. Now, secondly, pay freezes also cause lots of other sorts of problems. Sorry, just one other point on that. Obviously, utility charges have gone up and these things were all taken into account in those pay demands which are coming forward. Going back to the problems caused by pay freezes, we have heard that it can affect recruitment. What happens is all sort of dodges are done and the dodges to get around the pay freeze and to get those workers will cause us further problems in the future. What are those dodges? You change job descriptions, you modify it a little bit here; you regrade the job. You have things where it is not only regrading in that sense but you create new jobs which incorporate elements of the other. So there are all sorts of manipulations go on and so the structures you have got are distorted. That is just 2 comments, really, about pay freezes in that sense. The other comment I would like to make is about the structural deficit that we talk about going forward. That structural deficit is largely of our own making, or the States' making, in the sense that we had to remove international business companies and we had to remove exempt companies because the revenue that we were getting from those, basically, we could not, in the international arena, stand up and say that these taxes held up to scrutiny. They were judged to be unfair taxes by O.E.C.D. (Organisation for Economic Co-operation and Development) and all the others, so we had to do away with them. We have come up with the idea of Zero/Ten, which is going to be the solution to filling the lost revenue, but the Zero/Ten proposals are not going to work. We know very well that we have got companies from outside the Island who own businesses in the Island are going to pay no taxes at all and so, at some point in time, we are going to find we are not going to be able to fill the taxes that are being lost, and I know darn well that in 3 years' time G.S.T. is going to be 10 per cent. I do not care what anybody says. The Minister says that over the next few years, yes, we will not be putting up G.S.T. but it will go up to 10 per cent to fill the gap that they are not filling by going after these companies and coming up with, perhaps, some capital taxes which we have not got.

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

Sir, would the Deputy give way?

### **Deputy M.R. Higgins:**

No, I will not.

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

He is talking nonsense.

### **Deputy M.R. Higgins:**



Well, I am sorry, Senator. There are a lot of people who talk nonsense in this House, including the Minister for Treasury and Resources. **[Approbation]** Something else I would also say, too. We do have a skewed tax system, there is no doubt in my mind on that, and we have no proportionality at all and all that does is maintain the status quo. Going back to the idea of this pay cut, I find it strange, in one sense, that we are talking about a pay freeze but it is, effectively, a pay cut. I find that we are doing this at a time when we are also trying to stimulate the economy because we have a recession. Essentially, what is a recession? It is demand efficiency. There is not sufficient demand in the economy and, therefore, output is down. If the private sector is not spending money then the public sector normally injects money into the economy and that is exactly what we have just done. We have just started injecting. We put £44 million, or we are proposing to put £44 million, of discretionary spending into the economy. Why? To make up for the reduced amount that is there already. What have we also done? We have agreed to pay £112 million into the States coffers to cover the budget deficit which is caused by lower taxes and also by the increase in income support. So, we are trying to stimulate the economy by putting money into it to make up for this demand efficiency. If we cut back on the States workers' salaries, as we are proposing to do ... it has already been budgeted, by the way. We have already put £7 million into the budget. You take that money out of the economy again ... so we have a contradictory thing. On the one hand, we are putting money into the economy; on this one we are having a pay cut, effectively, for the States workers and, therefore, we are taking money out of the economy. Now, we know in the private sector, yes, people are suffering wage cuts, they are taking reduced salaries and so on, so what we are doing is we are compounding the problem that is already there in the private sector. I understand why they are doing it but because they are cutting back on their workers' salaries there is less demand in the economy. If we cut back on our States workers' salaries there is less demand in the economy, so you are injecting it on the one hand and you are taking it out on the other. It seems totally ludicrous. The other thing, too, that I would say, I happen to agree with the comments being made by some of the other Members in this House about whether we have across-the-board wage increases or we have a flat rate. Now, I happen to agree with the flat rate and the reason is I think it is absolutely obscene some of the wages that we are paying in the public sector. There are so many people earning in excess of £100,000 or even £200,000 or even up to £250,000, people who, quite honestly, would do those jobs for less money because they want to have those positions, they want to be able to run these things and they are prepared to do it but we pay these obscene salaries trying to match the private sector when it is totally unnecessary. So, I personally am quite happy with having an across-the-board, flat rate increase which benefits those lower down and not those higher up. I will just leave it at that.

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

I think it will come as no surprise to either the proposer, or the opposer, of the amendment about where I stand on this point as Members will know that I put forward a proposition to suspend Members' pay rises as well this year. I do firmly believe that this House needs to show leadership but not the leadership of Arthur Scargill of the miners or Red Robbo of British Leyland who demanded everything and killed their industries. We are in danger of doing the same. This is more akin to the Viv Nicholson school of economics where it was spend, spend, spend and she lost all her money about 5 years later. **[Approbation]** If we were to go with Deputy Southern's amendment and pay out £7.4 million of tax, assuming that those people all paid top rate of income tax, that would probably yield somewhere around £1.4 million back to the Exchequer. There are so many more people out in the private sector at the moment becoming unemployed, falling on the back of social security and income support; what are we going to pay them with? The £1.4 million will probably not be enough to cover the increase in the amount of money required to support the people on income support. Our public sector, they have good holiday entitlements and I am proud of that. They have good sick pay schemes and I am equally proud of that. They have a generous pension scheme and I have to admit that I am a recipient of that and I am proud of that but should that continue? That is an argument for another day. They also have good terms and conditions of

employment and they do have good rates of pay. I do not know the rates of pay of different people but what I do know is that in Jersey we have set a minimum wage and I think it is somewhere around about £6.50 per hour. I would round it up to £7 and for a 40-hour week it comes out at round about £14,000 a year and last time I looked at the wage scales for the manual workers I believe they started somewhere round about £20,000 a year. So, one could argue there that there is some disparity between the wages paid by the public sector to public sector employees compared to those in the private sector. Deputy Southern mentioned a number of banks that are offering good bonuses this year, but if he thinks back to last year those same banks had to shed a significant number of staff to bring themselves into profit. That is why they are getting bonuses this year because they had to trim their operations to be able to get back into profit and they have rewarded the remaining employees who are actually working harder and covering more ground for probably not very much more money. There is also very strong evidence that if we do pay everybody a pay rise this year that those that have do not need it. Those that need it will not get it. Those that do have do not need a pay rise because they have enough to cover their basic spends now. If we give them a pay rise, all we are going to do is give them more money to put into their bank accounts and not necessarily go out and spend to support the economy. Discretionary spending can ...

**The Deputy of St. Mary:**

Can I ask for a point of clarification?

**The Connétable of St. Peter:**

Certainly.

**The Deputy of St. Mary:**

Thank you, I always give way. No, what it is, is you are laying the case out very well, if I may say so, for your amendment, so I am just puzzled as to why you are not tabling it.

**The Connétable of St. Peter:**

Yes, the Deputy of St. Mary, I will answer. I have withdrawn my amendment because I have considered this long and hard. I was trying, in bringing the amendment forward - if the House permits me just to talk to that for a moment - to limit the exposure of the Government on the amount of money it would pay out. My amendment would have come out at somewhere about £1.5 million this year rather than the £7.4 million that is currently at the point we are debating. I withdrew it because, on mature reflection, I felt that although the Deputy of St. John is a very good friend of mine, I am not going to be able to support his ... I do not think I am going to be a very good friend of his after this today, but I will not be supporting his proposition either. So I felt it would be wrong for me to bring forward my amendment to debate when I was not going to support the Deputy's proposition. I do not think there is very much more that I would want to say to it today other than, unfortunately, I cannot see my way to supporting either the amendment or the original proposition, as much as I really do like both the gentlemen sitting there smiling at me today.

**The Deputy of St. John:**

You can see the sun shining on his head.

**The Greffier of the States (in the Chair):**

Does anyone else wish to speak on the amendment? Deputy Trevor Pitman.

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

I thought the Constable of St. Peter was going to go on longer. I was not quite ready but there we go. I do wish to make only a few brief points because there have been some very good speeches, I think. The first is to simply reiterate that the £7.4 million was precisely the sum set aside in the 2009-2010 pay award in the annual business plan so that sum and the reasoning behind it has

hardly, I think, been pulled from thin air, as I think some might suggest. So, let us just bear that in mind. The second point I would reiterate is that, just as Deputy Southern and, indeed, Deputy Higgins have highlighted, pay freezes do historically tend to have a sting in the tail. I do not think that fact can be denied. This manifests not just as has been said, however, in terms of workers eventually trying to claw back even more than they would have asked for, it also manifests in destroying morale. I would suggest to the Assembly that morale is not something we can afford to kick even harder and that is what we will be doing in what will, indeed, be a pay cut. I think morale is at rock bottom in many areas and I do know a lot of people in these public sectors. The third and almost final point I would like to dwell on is yet another example of completely bogus figures and comparisons offered to us by the Council of Ministers. This kind of thing simply is not good enough. It seems to happen again and again and it really should not be acceptable within a democratic government. I would almost be tempted to vote for the proposition and against the Council of Ministers on the fact of being presented with this utter tosh. Finally, I would just respond to the observations from the Constable of St. Peter regarding leadership and the dig about Arthur Scargill and Red Robbo. I do not know if that was aimed at me as one of those people but I certainly cannot be linked there. What I would say is we certainly do not need the leadership of the tin lady, Margaret Thatcher, the politics of greed, looking after some and totally abandoning other people. We certainly do not need leadership of that sort. People need a living wage and I think maybe this Government should remember that sometimes. I think it was Deputy Higgins who mentioned perhaps we ought to start looking at taxation and we can get off track here by going off to that area but it is something that we have got to tackle. It is all interrelated; let us not forget that. I think Deputy Southern, and, indeed, the Deputy of St. John have been quite reasonable in what they are asking. I intended to go for Deputy Southern's. People can read into that what they will but I am caring about ordinary working people. I suppose I would say I am an ordinary working person; some may say otherwise but that is where my heart is. I believe we are just looking at commonsense here from Deputy Southern and some of the comments, I think, by the Minister for Treasury and Resources are, quite frankly, embarrassing and really have no place within government. They are laughable. Let us look at the facts and support this.

**The Connétable of St. Peter:**

Can I make a point of clarification on the comment made by Deputy Pitman?

**The Greffier of the States (in the Chair):**

Briefly, Constable.

**The Connétable of St. Peter:**

What I was referring to in talking about the leadership school of Arthur Scargill and Red Robbo is that I would not like to see States workers, or public sector workers, getting very good pay rises at the expense of some that will, ultimately, have to be made redundant and lose their jobs. That was the analogy I was trying to draw from that.

**The Greffier of the States (in the Chair):**

Thank you. Deputy Dupre.

**3.12 Deputy A.T. Dupre of St. Clement:**

Very briefly, surely the people only should get pay rises because they deserve them and they have worked efficiently and to show that they are appreciated for the work that they are doing, not just across the board.

**The Greffier of the States (in the Chair):**

I call on Deputy Southern to reply.

**3.13 Deputy G.P. Southern:**

I am just trying to get down the actual word that was used. I think I have got it correct but I cannot be 100 per cent certain because I did not believe my ears. Okay, here we go, give this a shot. We have had a reasonable debate on this subject, despite all the absentees because we are all connected to people in the public sector, as I mentioned in my introduction. It was interesting to hear Senator Ozouf say that this was a massive wage hike. It is 2 per cent which we budgeted for last year, in the light of the recession, as reasonable expectation given what the R.P.I. was doing. He then criticised me for asking for more than the T. and G. and we are suggesting, on behalf of their members, that he left out one vital element. I do not mention anything about reduction in the working week so it is roughly ... it is that sort of equivalent. It is not a problem at all. Certainly, there is room for negotiation around the working week, which is an important factor, so it is not impossible, though, for this proposition despite what apparently appears to be a lower request from T. and G. Then, amongst all the dogma about what we should be doing, he then went on to say: "And if we give this pay rise, it will spill through to the rest of the economy." Yes, it will, just like the £44 million he has allocated to saving the economy [**Approbation**] and the £100,000 plus over the next 3 years he is putting into the economy to cater for paying for the bills that we will face, that were mentioned by the Constable of St. Peter. That is accounted for by the fortunate good management of the Minister for Treasury and Resources that he has got a fiscal spend with this ballot package which can deal with the ongoing problems of income support and the additional bills that we will face in the coming years. To Deputy Vallois, I would say to her that she said she did not want to vote for my proposition because the real issue was the demoralisation of the staff and the reduction in numbers and that unless she got a commitment from the Chief Minister or the Minister for Treasury and Resources to do something about that she would not be voting unless she got the commitment ... no, she wanted the commitment from the Chief Minister in order that she could justify not voting for my proposition. I point out to her that no such commitment was made. There was no commitment on staffing numbers or demoralisation. There were no effective measures at all. She should, in all honesty, be voting for this proposition, this amendment. The Deputy of St. Mary pointed out, quite correctly, that a low wage economy, where it exists, simply adds costs to the taxpayer in income support, in rent rebate or its equivalent nowadays. The less we pay out in wages the more we pay out in benefits, the more claims there are, the more we encourage a dependency culture and we must be careful, be aware of doing that. Senator Le Sueur, when asked, could not identify where the private sector police or firemen or, interestingly, the prison sector ... in the prison sector column it says: "Not applicable lowest grade, highest grade not applicable, average 37 per cent better off than private sector prisons in Jersey." It just beggars belief that the Chief Minister can then ask us to take this sort of stuff seriously. It is simply not true [**Approbation**] but, nonetheless, he said: "A legitimate company did this" and then he went on to talk about a fair day's pay for a fair day's work and his continuing commitment to that principle. If he was seriously committed to that principle he would be voting for my amendment, surely, because that is a reasonable way to treat our employees. Then he went on to say: "And who sets the lead, who sets the example?" This is not an example I wish to set. So, I do not wish to pay my public sector workers appropriately along the lines of the R.P.I. so that they are at least kept ahead of the game and do not have their pay effectively, as Deputy Higgins says, reduced. Again, Deputy Tadier said: "What we should be doing is treating our employees fairly." I believe my proposition is a fair one. Senator Ferguson briefly mentioned the CAG (Comptroller and Auditor General) figures. I believe the CAG figures, in making his comparisons, were a deal better than the tosh we received today because what they looked at was the whole package of remuneration and they looked at, particularly, pensions as well and said: "Given the whole package, then the comparison looks different." But this issue is not about pensions, this is about dealing with the recession, about dealing with a pay freeze today and reducing the standard of living of our public sector workers. To Deputy Martin, I was extremely disappointed to hear what she had to say and she talked about playing into the hands of the States Employment Board and the Ministers and that if we were to award a pay rise this year then what we would get is mass redundancies and I say to her: "Yes, that is the threat." I say to her: "Please do not be bullied." That is what happens when an employer is

faced with a pay rise. It threatens your job. Now, the lead that this body should be taking is not to be doing that and I believe the States, in all fairness, should search its conscience and set an example, which is a good one, to its employees. Try, even at this stage, to preserve the morale of our work force. Try, at this stage, in the words of the Deputy of St. Clement, Deputy Dupre, to appreciate the efforts that our public sector workers have made in holding together public services at present. Please vote with a conscience and give this amendment your vote. I maintain the amendment and call for the appel.

**The Greffier of the States (in the Chair):**

Yes, very well, the appel is called for on the amendment of Deputy Southern.

<b>POUR: 8</b>		<b>CONTRE: 32</b>		<b>ABSTAIN: 0</b>
Deputy G.P. Southern (H)		Senator T.A. Le Sueur		
Deputy P.V.F. Le Claire (H)		Senator P.F. Routier		
Deputy S. Pitman (H)		Senator P.F.C. Ozouf		
Deputy M. Tadier (B)		Senator S.C. Ferguson		
Deputy of St. Mary		Senator A.J.D. Maclean		
Deputy T.M. Pitman (H)		Senator B.I. Le Marquand		
Deputy M.R. Higgins (H)		Connétable of St. Ouen		
Deputy D. De Sousa (H)		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. John		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Le Hérisssier (S)		
		Deputy J.A. Martin (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 of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		

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

## **LUNCHEON ADJOURNMENT PROPOSED**

### **The Greffier of the States (in the Chair):**

Yes, it seems a convenient moment to break. Just before the adjournment, Members should have this morning had distributed to them 2 matters that have been lodged: an amendment to the proposition on the Esplanade Quarter on the Waterfront Development, an amendment to his own proposition by the Deputy of St. John; and a new proposition from Senator Shenton, P.110 Pension Schemes dealing with Past Service Liability. I also draw Members' attention to a proposition that was lodged yesterday - I think the Bailiff inadvertently overlooked to mention it - which was by Deputy Le Fondré, Composition and Election of the States: Single Election Day Each Year. Those are all duly lodged and the Assembly will adjourn until 2.15 p.m.

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

Just before the adjournment, if I may, can I just remind Members that we have a briefing at the Pomme d'Or at 1.00 p.m. on the Depositor Compensation Scheme, if any Members would like to come along. There are light refreshments as well, as an inducement. Thank you.

### **The Greffier of the States (in the Chair):**

Thank you.

## **LUNCHEON ADJOURNMENT**

### **The Greffier of the States (in the Chair):**

Standing Order 56 requires me, initially, to summon elected Members. If there are any elected Members who are in the precinct I would ask them to return urgently to the Chamber.

### **Deputy A.T. Dupre:**

Can I say, Sir, the briefing went on a bit longer than expected.

### **The Greffier of the States (in the Chair):**

Standing Order 56.2 requires the Presiding Officer, having allowed sufficient time which he or she considers reasonable, to ask the Greffier to call the Roll and I think ...

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

If I may say in part what has happened, Sir, I think some people are still at the Pomme d'Or.

## **PUBLIC BUSINESS - resumption**

### **4. States Employees: Pay Increase for 2009/2010 (P.68/2009)**

### **The Greffier of the States (in the Chair):**

Well, we are now quorate so there is no need to call the Roll and the debate resumes on the proposition of the Deputy of St. John in its unamended form. Does any Member wish to speak on that proposition? The Constable of St. Brelade?

#### **4.1 Connétable M.K. Jackson of St. Brelade (The Minister for Transport and Technical Services):**

We would all like to give the States employees a gift with no strings attached and I am sure they would all be happy to receive it. I am particularly concerned with job security and am conscious that the present States pay structure gives a reasonable salary, job security and, importantly, an attractive pension. The private sector is hard pressed to match the conditions that prevail in the public service and while many private employers would aspire to this it is just not commercially possible. Much of the work done in my department can be done by others and it is essential, in my view, that we do not allow differential to creep in that makes it attractive to use the private sector rather than the highly skilled and talented team that we have taken years to cultivate. I appreciate that many Members have had no experience of employing people and wondering where the next week's wages may come from. Many employers in the private sector are in this position at this very moment and it is a hard commercial fact that if no money comes in high wages cannot be paid. We in Jersey are, and will be, suffering from reduced income and in simplistic terms cannot afford increased wages. I urge Members to reject this amendment and the proposition however, on the surface, attractive it may seem.

#### **4.2 The Deputy of St. Mary:**

An immediate response to the previous speaker, who mentioned that this was a gift to the workers for the States: it is not a gift. If we persist with no change it is a pay cut and even with the change of the Deputy of St. John, the £400 flat rate, it is still a pay cut but it is a smaller pay cut. I shall just start by explaining that because I think it is important that we know what we are talking about. I refer Members to Deputy Southern's report on pages 4 and 5 where he explains in beautiful detail about the different Retail Price Indices, and I must say it has made things very, very clear to me and I would hope it makes things clear to Members. Now, if we remember Deputy Southern's amendment, which was £1,250 flat rate, it was based on the premise of the 2.1 per cent. It was based on the average or what they call the all-items Retail Prices Index, so even if we had voted for Deputy Southern's amendment we would have imposed a pay freeze. It would have been the status quo. What we are doing, even if we go with the Deputy of St. John, the annual rate of increase of R.P.I. pensioners and low income, which is what we are really concerned with mostly, although the Constable of St. Peter withdrew his amendment for some reason. But the R.P.I. for pensioners and low income is 5.0 per cent and 5.3 per cent so if you compare that to £1,250, which would have been 2.1 per cent, and £400, it is quite clear that, contrary to what the Constable of St. Brelade said, by accepting this proposition we are simply voting for a slightly less big pay cut. What the Deputy of St. John is trying to do is to send a signal, I suppose, to say: "Look, we do note what you are going through with the price increases and so on, even though we are not prepared to fund an increase that is remotely based on inflation." I just wanted to say that at first because it is very easy to think: "Well, £400 is a gift." It is not a gift. We are in an environment where the cost of living is going up all the time and the all items is going up 2 per cent and the items that affect the poor most of all, the food, absolute basics, 5 per cent and the Deputy of St. John is not even asking for 2 per cent. So can we be quite clear about that. This is a palliative measure. This is the absolute minimum that this House should do and to do anything less, to go back to zero, is really not acceptable and I hope people take that on board. Now, the second thing I want to say is about inequality. We talked about this at length in the Strategic Plan and I checked with great difficulty on the States website but eventually I found it and we did, in fact, accept and the Council of Ministers accepted and this House voted with virtually no votes against the following words into the Strategic Plan. Now, okay, they are just words and this is just a Strategic Plan but under priorities, page 8, we wrote in the words ... well, I will read the whole second paragraph as it now reads: "The following priorities have been identified and the table overleaf shows how each priority supports the main aim of the plan." Then this is what we voted in as an amendment, supported by the Council of Ministers and by nearly everyone in the Assembly: "In the application of these priorities, due attention must be paid to the creation of greater equality." To the creation of greater

equality, so that is the first reason for paying attention to equality and that is because we have said that we believe in it. The second reason is that in a time of recession when things are hard and yet inflation continues, we need to reduce inequality because the impact of hard economic times will always fall on the poor and the poorer rather than the better off because, of course, they have less margin to play with. So at a time of recession we need to protect people against inequality, not increase it, and I would remind Members this £400 will increase inequality but less than obviously doing nothing, which would increase it even more.

**The Connétable of St. Brelade:**

Will the Deputy just give way for a moment? Thank you very much, Deputy. I made the point that we are trying to reduce the difference of equality between the public and private sector and I am not sure whether the Deputy took that on board.

**The Deputy of St. Mary:**

Yes, the point about comparison between the private sector and the public sector has been dealt with in the previous debate and I think we will just leave it there, really. If the public sector have been assessed and those wages found to be right by a fairly rigorous process and then if the private sector pays less than that, well, really, that is a matter for this House as well because as we have gone through, those people end up claiming income support because of their low incomes. So it is not a solution to drive everybody down into yet more poverty. Another point about inequality is the fact that, as I have pointed out in the Strategic Plan there, just remind Members in the Strategic Plan debate that the extra pound goes a lot further when you are hard up than when you are very well off and so it really is important to put money in towards people who have less income rather than at the top end and, of course, the point that was made by Deputy Southern at length in the Strategic Plan, well made, and nobody, I think, shot any real holes in it, that inequality has a real effect on well-being and on health and if we reduce it, if we take steps to reduce it, we are doing the right thing. We have just, in fact, by rejecting Deputy Southern's amendment, voted for more inequality but, for goodness sake, let us not vote for even more inequality by rejecting this proposition as well. I would like to put some questions to the Chief Minister or anyone on the Council of Ministers who might like to pick up the challenge of answering some questions in this debate. The context is that the Chief Minister has claimed in the third line of his comments to the original proposition: "The resulting cost would increase future potential deficits and would have to be funded from public taxes." Then, later on, he talks about either service cuts or tax increases. Now, we have a real problem here. To fund this £400 which, as I say, is only a reduction in the increase in inequality, he is saying that: "Well, we would have to increase taxes." My goodness. Well, I would like the Ministerial colleagues over there to comment on a few things. The first one is would he like to explain to the House and, indeed, to the public the honest position about our public finances? Here we are talking about £1.5 million, I think, or just over £1 million. As I pointed out in my previous speech, we have a backlog of around about £500 million of expenditure that has just piled up in the form of the debt in the pension fund, in the form of the non-expenditure on sewerage, in the form of the backlog on property, and that is not to count the fund for health, the residential fund, so it is a big backlog and that exists because we did not spend the money in the past. It is because we shoved it off so I would like the Ministers to explain to the public and to us the honest position, why we have these vast accumulated liabilities, and to confirm that there will be a need for increased public expenditure. Now, you can call it something else. You can say that maybe it will be done by public or private partnerships or you can dance with words but the fact is the public, in one form or another, will have to spend more money on public provision. The funding will be one way or another. It may be by taxes, it may be by ring-fenced funds, whatever you want to call it, contributions of one sort or another, but the fact is the take from the public as a percentage of their income will increase and I just want the Ministers to comment on that first of all. The second thing I would like them to comment on is why the tax take is so low in Jersey and if they would like to comment on why other jurisdictions have higher tax takes and yet none of



them are bankrupt and why their tax take might be higher than ours. I want to refer Members to the answer to the written question back on 19th May, I think it was. It is the international comparison of government expenditure and I have chosen to look at the social benefits column because I think that is relevant to what we are talking about in terms of income support, low wages, the connection between how much we support our less well-off people. These are comparative figures given to me, and I appreciate that, by the Minister for Treasury and Resources. It was a good reply. There was plenty of information in it and these have been verified. These are truly comparable figures. Jersey's percentage of G.D.P. (Gross Domestic Product) spent on social benefits is 6.9 per cent. Now, let us compare Canada, they speak English, 10.3 per cent. Or if you want to go to a country that is not reckoned to be terribly well off in Europe, Greece, 13.2 per cent, nearly double on social benefits as a percentage of national income. What about Norway, comparable to us, very wealthy country but still not as wealthy as us, 12.4 per cent, U.K., 12.8 per cent. If you want to go to a country that really believes in social protection, Austria, 18.5 per cent. The only 2 O.E.C.D. countries in this list that spend a lower percentage on social benefits than Jersey are Korea and Mexico, so I rest my case.

**The Connétable of St. Peter:**

Can I ask the Deputy to give way? Thank you, Deputy. Just getting my own back from this morning, thank you all the same. Could he clarify that those figures that he has just given us reflect the same type of environment in so much that in Jersey we have a very low percentage of unemployment. In the U.K., it is considerably more than us and in other countries could that well be the same and that is why there are different amounts of money given for social support? Could he clarify that for us, please?

**The Deputy of St. Mary:**

That is a point well made and I cannot cross-correlate those figures with the amount of unemployment, but if I had gone down the general government expenditure, which perhaps I should have done, it would be the same picture, that Jersey is at the bottom of the league. Most countries, in fact all of them, spend a higher percentage of their G.D.P. on public expenditure and I will not go through the figures again but it is between double and one and a half for most countries. I am just making the point that our tax take is historically very low and it could be that that £500 million backlog is to do with that and the fact that we are talking about not being able to afford or some people will, no doubt, in this debate be talking about not being able to afford a tiny reduction in the increase in inequality in this Island because we cannot afford it. I would like Ministers to explain, as I said, why the tax take is so low in Jersey. You are quite right, Constable, it was the wrong column, but the tax take in Jersey is low and why others do have higher tax takes and why they are not bankrupt as we are constantly warned. Those are the 2 main things I would like the Ministers to comment on but there are a couple of other points I would also like them to tell us about. One is why this £400 could not come from the money already voted by the States for the purpose of a pay increase and, finally, could the Ministers explain what effect staff efficiencies will have coming on top of the staff efficiencies that have already happened. Year after year, we have been told that staff efficiencies have been happening and I think that was touched on by somebody in the previous debate. There is a limit to how fast the hamster can run on the wheel. So I just make those points to Members and I do hope that the central point is that this proposition is a palliative exercise. It is the very, very least we can do. If we do not vote for this, then we are voting for a real pay cut and we are voting for more inequality in this Island.

**4.3 Senator B.I. Le Marquand (The Minister for Home Affairs):**

I want first to pay tribute to the work of public employees, particularly those who work under the auspices of Home Affairs, including the police, customs, immigration, prison, fire and rescue service and various other groups. I think that most Members of this House are by now aware of my general political leaning towards lower paid workers. Some Members would want me to lean even

further in that direction, of course, and my colleagues on the Council of Ministers can bear witness to my caution in relation to proceeding with a “pace priz” policy. You may gather from this that I have some sympathy with the projet of my friend, the Deputy of St. John. However, **[Laughter]** there are a number of problems with the projet. I think I have identified 6, which I will endeavour to explain. **[Laughter]** **[Aside]** Firstly, we are, as we all know, facing a difficult time in 2009 during which very many private sector employees are facing no wage increase and some are facing a reduction of working hours in order to avoid redundancy and others are facing redundancy. Although I have no evidence for this, I would expect private sector employers to be offering a lower remuneration package to new employees. The first objection which I have is this. Can it be right that in 2009 public employees be treated much more favourably than their private sector compatriots are? Secondly, there appears to be a problem in terms of the work which has previously been done in relation to salary comparisons. Now, I have some concerns about studies in relation to lower paid workers because Jersey has for years brought in labour from outside the Island to do lower paid work, thus effectively driving down the level of wages at the lower end and there are issues as to whether it is right, therefore, to make direct comparisons. Nevertheless, there is evidence that public employees at the lower end are paid much more than their corresponding private sector compatriots. A problem with this proposition is that by giving a lump sum to each employee this will worsen the position of differential between lower paid public sector workers and lower paid private sector workers. Thirdly, there is another issue in relation to differentials because the public sector has a very clear pay scale grading system in relation to different aspects of work and whenever one has a lump sum approach in the way proposed here, that has the effect, of course, of eroding differentials between the different grades and creates difficulties and, again, the comparability studies tend to indicate that this is a difficulty. Indeed, a lump sum approach will only make this worse. So there are strong grounds on fairness alone to object to the proposition; fairness between different groups of employees in the public sector and fairness between public sector employees and private sector employees but there are other considerations which I suppose one may view as the more pragmatic considerations. Sadly, Jersey is facing a period of recession. The effect of that appears to be arriving later here than in other places and the extent of it remains uncertain. As a result of this, we are facing a period of budgetary control. We have rightly set aside money for a fiscal stimulus package to relieve the worst effects of the recession but that leaves us in a position in which money for general expenditure for 2009, 2010 and 2011 will be very tight. We are still in the process within the Council of Ministers of going through some very hard bargaining in relation to how what is available will be divided up and, of course, if this proposition goes forward, we may all find ourselves with even less to divide up and, therefore, with further service cuts. Fifthly, the position from 2012 onwards is going to be much worse. We do not know how much worse. The best estimations which we have at the moment are that we are facing a structural deficit of about £60 million a year from 2012 plus a further shortfall on capital expenditure because the current levels of capital expenditure are not sustainable. We are therefore going to have to look very carefully at public sector expenditure and also at public sector pay levels. I have recently said publicly, and I repeat it now, that sadly the era of low tax with high levels of service but with gaps in those levels of service is now coming to an end. That is not a popular message but it is a message which I have said a number of times and repeat today because it is the truth. It is not a message either that the general public want to hear from politicians. They still hope somehow we can squeeze yet more out of the public sector lemon and somehow “magic” the figures right. Well, I am afraid, on the figures that we have, that is not going to be possible. Nevertheless, it is going to be necessary for us to take a painful look at the public expenditure between now and 2012 and part of that process sadly is going to be looking at public wages. I particularly am painfully aware of the fact that if credence is to be given to the figures contained in the much maligned schedule - and I accept there are difficulties of comparison and I do not know where these figures have come from **[Laughter]** - but if they are to be believed to any degree, I suspect they are more comparisons with similar workers in other jurisdictions, in fact, that I am presiding over 3 pay groups which, on the face of it, have a high level of pay and that is going to

cause me difficulties. I have already publicly stated that prior to 2012, we need to look carefully and have a proper review of pay levels of all pay groups in the public sector, including the 3 major groups, police, fire and rescue and prison, for which I have particular responsibility. That is going to be a difficult process, not one that I am looking forward to but these are all part of the difficulties and the realities. This proposition, of course, takes us in the wrong direction in relation to all those issues. Sixthly, the proposition is partly put forward on the basis of G.S.T. Now, there is an issue as to whether or not we take account of the 1.9 per cent increase in relation to G.S.T. as part of any pay settlement. The view of the Council of Ministers is that we should not do so and, of course, if we do not do so, then on the normal basis of pay settlements of the March 2009 cost of living figure, 2.1 per cent, if we take off the 1.9 per cent, we would be looking at a 0.2 per cent pay increase, in which case, in reality, the argument would be over 0.2 per cent. There are a number of different problems with taking into account G.S.T. If we do not discount this from States pay policy, then that will mean that public employees will have been insulated from the effects of G.S.T. whereas the rest of the Island will not have been and that, in my view, is not fair. Furthermore, the benefits of income from G.S.T. will have been eroded by reason of the wage increase and, of course, if right across the public sector there were wage settlements which included an element for G.S.T. and, of course, if we were to allow for that, we would be sending out a message to private sector employers in that regard, then that would simply have an inflationary effect throughout the economy and would set up an inflationary spiral accordingly. I therefore, with some regrets, feel obliged to oppose this on the 6 grounds which I have already set out, although I fully accept that this is very much a debate that should have taken place and indeed it is good that it is taking place.

#### **4.4 Deputy M. Tadier:**

It is probably appropriate that I speak after Senator Le Marquand because I come to a completely different conclusion and I am disappointed with his comments there, effectively appearing to be a rapporteur for the Council of Ministers, because I believe he was a man who was elected top of the poll for a very good reason and that was because of his social conscience. It is a shame that he has not been able to see the very compelling arguments for which I will try to put forward here if Members will indulge me. First of all, I want to come back to this whole idea about the comparison with the public sector. This is simply a conflated issue and I will give a couple of examples. I mentioned it earlier. Are we saying that we are to be dictated to by the private sector? That is the bottom line. Just because some people in the private sector are taking a pay cut, why are we imposing a pay cut on our employees? Now, a friend of mine who works in the private sector, if we are going to make a fair comparison - and this is quite commonplace throughout the finance industry but also in other industries - this friend has to work regularly through her lunch breaks so she does not necessarily take lunch breaks, she may grab a sandwich. She also does overtime which is unpaid, maybe sometimes half an hour, an hour, and if she did not she would probably lose her job, and that is replicated right throughout the finance industry in some areas and in other jobs. Are we saying, therefore, that we are going to start doing this and imposing these kinds of conditions on our own States employees? Certainly, I do not think this is the desirable thing to do but, of course, this is already happening. We know this is already happening. I can see one of the Senators nodding his head in agreement across the way. From my talks that I have had recently with States workers, certainly in the health industry, this is commonplace. It happens already. They are understaffed and they are already beyond breaking strain and so this pay cut that we are proposing here today - and which we have already agreed is a pay cut, it is just a case of how far we cut that pay - it is really like a slap in the face to them. **[Approbation]** At lunchtime, I took the initiative to go up to speak to some people at the T.G.W.U. (Transport and General Workers Union). I believe that is what it is called. I just strolled up there and there were a few people sitting around, some union reps, and I was quite disturbed with what I heard because it confirmed some of the rumours that have been going around that and I will quote. She does not mind being quoted by name. Rose Pestana, who is the union official, said that she could go into the hospital

and at the drop of a hat she could organise a walkout and the staff would not even need to know why. Those are her words, okay. This is even before we have spoken about cutting their pay by 2 per cent.

**The Deputy of St. John:**

A point of order. The current employment legislation would not allow that to happen.

**Deputy M. Tadier:**

That is as may be, so they would be doing it in spite of the current legislation. They would be committing a criminal act because they feel so strongly about it, so this is about the sentiments which are being expressed. I do not have to say whether they would or would not do that or whether they would be legally entitled to. This is what the sentiment is on the street already and we are talking about basically cutting their pay when costs are going up. I was also told that the shocking ... well, I found it shocking. Maybe I am slightly naïve but many people in the hospital, just for an example, are receiving income support anyway and we are going to basically give them a 2 per cent cut this year in relative terms and so presumably they are going to be going down to income support again. It is only going to be increasing their dependence on the state. Is this really the way we want to be going? I would ask previous speakers like Deputy Vallois but also other Members who represent the urban constituencies, whether they would reconsider, because it is going to be the people they are representing, their constituents, who are going to be phoning them up in even greater numbers saying: "Well, I cannot afford this this year because I was counting on a 2 per cent increase which is what I should have got. I have already budgeted for it and I cannot even afford to buy clothes for the kids or even the small luxuries like going on holiday." This is what we are talking about in real terms; £400 can pay for a modest holiday for a family or it can certainly contribute to that but we are going to be depriving our workers. We always go on about how great a job our public sector workers are doing and I would like to reconfirm that. The reason they are doing a particularly good job is because they are doing it often under very strenuous conditions which they should not be having to work under. It is very easy for us sitting here or standing here who may own our own houses or we may be fairly comfortably off and we forget that rents in the Island are going up. The people who are most likely to be renting in the private sector are those who cannot afford a mortgage so, therefore, those who are on lower wages. Anyone who has been looking for accommodation, as I know some Members in the House and I have been, will be staggered by the disproportionate hike that there has been in the private sector for housing. You are looking basically at £800 to £900 for a one-bedroom apartment and that is a qualified apartment. You are looking at a minimum £1,100 to £1,200 for a 2-bedroom apartment which I think, compared to 2 or 3 years ago, has probably gone up 40 or 50 per cent. The wages have not gone up 40 or 50 per cent but we are asking you to take a 2 per cent decrease in real terms and it might be more than that for those on lower wages because we know that there are essentials in life and you still have to pay for them. So this is what we are being asked to do today and if the Dean was here, he might say that you reap what you sow. That is a nice little biblical lesson for us so if you want to sow the seeds of dissatisfaction and low morale which we already know exists... we have heard it this week at Jersey Telecom. As a former employee, I have got good contacts with Jersey Telecom staff, the grassroots staff, not necessarily the directors who are going to do all right out of their little settlement, but dissatisfaction with Jersey Telecom staff I know is at an all-time low and it does not help when they are not given any kind of token ... I call it cost of living increase, because it is not a pay increase. The same could be said for the health workers and I am sure the manual workers, the labourers who do such a good job on the coal face. So really, we do live in a universe of cause and consequence and if we really think that by today we are just going to save ... okay, we will save a small amount but essentially we are punishing the workers for our own profligacy as a States. We waste millions of pounds. We know that we have done it, not to talk about the actual commissioning of an incinerator but we know that the hedging or the non-hedging of it has cost us millions already. That is millions of pounds which could and should be going to

States employees because the £7 million was already earmarked for them to be paid. Now, we have already clawed back about £3.5 million by rejecting Deputy Southern's amendment so what we are asking for in real terms ... and let us put this into perspective, because I think this is really nothing radical which is being proposed by the Deputy of St. John. So, in real terms £400 for every States employee. What does that mean? So, somebody who is earning £40,000 a year, a pretty good wage, probably above the median, certainly slightly above average, that means an increase of 1 per cent for them, so they are already taking a pay cut of 1 per cent because we know the cost of living is at least 2 per cent. So if you are on £40,000, you are getting a pay cut of 1 per cent. If you are on £20,000 a year, and good luck to you if you are because I do not know how anyone can survive in Jersey on that amount, then you are just getting what you deserve, you are getting your 2 per cent cost of living. That is on £20,000 so this is the real terms costs that we are talking about. It is only if you earn less than that you are getting a pay increase in real terms, so anybody who is earning under £20,000 is getting a negligible pay increase you could argue. Obviously, the higher you go up that scale, if you are earning £80,000, it is only the equivalent of 0.5 per cent so that is the actual benefit, if you like, with this proposition. The lump sum in that respect does target the need most. That said, I am disappointed that the Constable of St. Peter has withdrawn his amendment. I thought that was even one step further and one step better than what we have got now so I have to support this. I will give a warning that if this is not supported, and I think it is an absolute disgrace that the Council of Ministers could not even see fit to support this modest and paltry proposition, we are going to face consequences. There will be within the realms of possibility industrial action and I know that for a fact and certainly if they do not get any pay increase I will be supporting any industrial action and I will be talking to the unions to make sure that they get a fair deal.

#### **4.5 Deputy J.G. Reed of St. Ouen (The Minister for Education, Sport and Culture):**

I am not going to repeat many of the words that Senator Le Marquand spoke but I would support them all. What I would like to do is just to touch on perhaps a number of points that have not been covered and stress maybe another one. The first one is that let us not pretend that we are not in and facing challenging times. All the indicators are showing that we will be facing structural deficits as a result of our economic downturn. Even with the latest decisions regarding the use of the fiscal funds available, we identify that the income that we have and derive as an Island will not support our current services within the next 2 or 3 years. We have got some major problems to face, major. If there is a criticism to be made of the Council of Ministers, it is that perhaps we have not shared with other States Members the information or spent time trying to explain the implications of that structural deficit more clearly. What I would like to say is that surely our aim must be to keep as many people in employment as possible while continuing to fund the essential services with the proviso that we are going to have to try and keep the tax burden that is imposed on our local residents at a level that they can afford. These are the difficult decisions that we as an Assembly have to make. It is extremely easy to look at an isolated case, in this case the proposition that has been made by the Deputy of St. John who clearly wants to support some of our States employees. I too would like to do that. However, and it is a big however, and it is a big but, the trade-off is that we will have to be required to maintain our employment costs at current levels. If we provide at the present moment increases in wages, the likelihood is that we are going to have to shed jobs. Now, that might not be pleasant. I do not find that particularly comfortable myself but that is the reality. With that in mind, and I do believe I have had an opportunity now to speak to many of the people that I am responsible for as the Minister for Education, Sport and Culture, but clearly there is a job to be done. I would like to provide and, in fact, perhaps some of the other Ministers will reinforce the view that I am being required to reduce or consider reducing my current budget at a time when we all know and the Deputy of St. Mary quite rightly pointed out, there are some major funding pressures that need to be dealt with. Now, clearly, this cannot be looked at in isolation. We need to get to discussing the bigger picture. We need to get to the point of discussing the medium and long-term solutions if we are going to, all of us, collectively support our Island and provide those services that our residents want.

#### 4.6 Deputy G.P. Southern:

I am feeling extremely weary this afternoon because here we are going through a series of speeches and debate that I appear to have heard before. To be honest, I am feeling thoroughly sickened by it. Here we are with a series of people giving the sympathy vote, illustrated absolutely perfectly by our own Minister for Home Affairs who said: "People will be aware of how I lean towards the low paid" and who then went on with his big however to say: "And here (to the low paid) take this slap in the face." We pretend to have sympathy. We pretend to support our low paid. We talk about fairness and yet when it comes to voting, we vote against the interests of the low paid in our society time and time again. Here we are with some of the worst employment laws in the world whereby somebody can be sacked or imprisoned for taking industrial action in the wrong circumstances. Here we are with an income support mechanism which barely supports many. Here we are with a minimum wage, set at £6.08, which is a poverty wage and clearly is and we have sympathy but we can find up to 6 reasons why we should not act on that sympathy. This happens time and time again in this House. We have just been asked by the Minister for Education, Sport and Culture to consider the bigger issue and the larger scale and not to take this in isolation. Well, did we not do that last month in the Strategic Plan on the bigger scale? Did we not just about squeeze in a statement about greater equality and working towards it? We did. Did we reject the possibility of supporting our public services? Yes, we did reject that. Let us be honest for once. Let us stand up and say "quite frankly we do not care, we have other interests". We would far better defend the interests of the businessman and defend low wages, poverty wages, and defend high rents and keep the status quo as it is. Who will pay for this recession? Well, we will make sure, damned sure, that it is not us and it is not the business class. It is the workers. We will start with the ones we are responsible for, the public sector workers. Now, I would not mind if people stood up and said that but we do not. We pretend and we spout cant and hypocrisy while doing what we should not be doing. There is no moral defence for not taking this token payment, pitiful as it is, at least in saying there is some appreciation for what the public sector is doing. We come up with quite frankly shameful statistics which are invented on the back of a fag packet. Surely, we invent private sector workers that we can make comparisons with, police, firemen and private sector prisons. We seriously expect to be able to hide behind such specious nonsense and say: "Oh, well, the comparators suggest that the public sector is already better off." That is simply wrong. It is simply hiding. Time and time again, this House says: "I have every sympathy, I would like to help you, I would like to do something, but ..." and finds a bolthole to hide in to say: "Ah, well, I only voted that way because of this." The levels of honesty in this House have sunk to a new low. That is the reality. Come on, let us get over these: "I support the low paid, I support the workers but ..." Let us not hear any more of those. Let us proceed to the vote. We are talking a tiny amount relative in terms of what is contained in this proposition. So either vote for it or do not vote for it, but do not give us any more of this mendacity, this pretence to feel sympathy but vote the other way. And, yes, stand up and say: "If we vote this through, then we will sack people. We will get rid of their jobs. We will reduce the level of service that we deal with" despite the fact, as the Deputy of St. Mary has pointed out, we are an incredibly low tax and low spend society. We will defend that right to low tax come what may at the cost of your jobs. Let us just say it. While the Minister for Education, Sport and Culture is examining where he might make his cuts as a result of being forced to pay his workers £400 extra, let him start ... well, where should we start? Shall we start with teachers? I doubt it. How about teaching assistants? We can get rid of a few of those. How about music lessons? That is always a good target. How about... youth service? We failed to make that statutory the other month so we can get rid of that. He did not have to do that. Sell off some playing fields. Why not? That is where we go, that is the reality. Let us stand up and be honest about it and say: "Right, we are going to cut public services, we are going to start sacking people, we are going to lay off, we are going to privatise. That is the cost." You cannot afford £400 for workers who are working their socks off to hold our public sector together. Let us be fair and let us be honest. Let us do this if you want but stop, please stop pretending.

#### **4.7 The Connétable of St. Peter:**

I stand with some trepidation to have the temerity to talk against my ex very good friend, the Deputy of St. John, again on his proposition. I think there are some points and listening to some of the arguments put forward today, I am absolutely astounded that some of the Members in this House do not understand the very basics of economics. I find it quite incredulous, quite frankly. However, I think, coming to the item under debate, we must all share the burden of this recession, not the public sector, not the private sector, not the States Members but all of us. We all have to give something to help the economy of this Island. It is totally incongruous to give something to those that do not need it thereby taking it away from those that do need it. But after all, it is only £1.5 million that we are asking to be paid out to these workers and that will give a tax yield to the Exchequer of about £0.3 million.

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

Would the speaker give way? The figures he is quoting are incorrect. It is closer to £3 million than the £1.5 million and, secondly, if he would put his own proposition forward, his amendment, then he could be quoting £1.1 [Approbation].

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

I apologise for the confusion, which I think I sowed.

#### **The Connétable of St. Peter:**

Thank you, Deputy, for your correction. I will modify my figures. It is only £3 million that we are asking to give them which will give us a tax yield of £0.6 million, which will support approximately 60 families on income support. That is all. When I was looking at my proposition on States Members' pay, I did some research obviously as one has to, and I spoke not to any trade union or particular group. I went to the Citizens Advice Bureau, which deal with all sectors of employment. People on low wages and some people even on very high wages were going to them for advice about how the economy was going and how it was impacting them, and that is why I brought my proposition to States Members to show the lead and not to take a pay rise this year. But the very real danger that I think we face here today, and while the Deputy of St. John's proposition is totally altruistic and well motivated and I support him in why he is bringing it forward, I do feel that there is a very real danger that if we do pay our staff more money, that will make them less competitive to the public sector, which are paying because of the recession - not because they are forcing their wages down but because of the recession - lower pay. Therefore, their cost base is lower. We will be back in this House in a few months' time demanding to know why we are doing certain things on public sector employees when it can be done for half as much by the private sector, thereby saving more money to the Exchequer. That is what we are going to do and when we get to that point, that is when we are going to face the real reality of the potential, the horrible potential of some States workers losing their jobs. I think another point was made. The answer to one of the points is are we asking the private sector to pay for this recession while we give ourselves and the public sector a pay rise? After all, the private sector is the bulk of our electorate, the people who we are supposed to be representing.

#### **4.8 Deputy A.E. Jeune of St. Brelade:**

I feel compelled to respond to the statement made in this House a little earlier by Deputy Tadier. I find it quite unbelievable that a union representative can say such a thing. I thought unions represented workers and my experience was the union did what the members said, not what the representative said. As I understand it, there is nobody who is a States employee who is on minimum wage. That is all I have to say on it.

#### **Deputy M. Tadier:**

May I clarify? The union rep is not here to defend herself. I think it is only appropriate, I suspect, and it is probably through my own words that she has been misrepresented. I do not believe she ever said that there people on the minimum wage but what she did say is that they would ballot and they were considering industrial action. I do not ...

**Deputy A.E. Jeune:**

That is not what you said.

**Deputy M. Tadier:**

That is right so that is why I am clarifying because I believe I ... but she did say that she could organise at the drop of a hat a walkout from the hospital, so that is to clarify. I do not want to misquote anyone.

**4.9 Deputy J.A. Martin:**

I really will be brief. I could not support Deputy Southern this morning. I thought maybe that was going just a bit too far. As soon as I saw the Deputy of St. John's proposition when it was lodged quite a while ago now, I thought, yes, well, that is a good idea because as I said earlier, I am fed up with these percentages because a percentage of £20,000 and a percentage of £80,000 is totally, totally different. I have just checked my Order Paper and last week I did not see and I did not hear the Constable of St. Peter say that we would not be debating his amendment, but we are where we are and, listening to the stamping of the feet when the Deputy of St. Mary said: "Well, why would you not keep it in because you are talking to the amendment and it is £1.0 million", I think the reason the Constable never kept it in was because it would have persuaded a lot more people to vote for it and it would have been a halfway house. But to me that is cynical. It was pulled and so we have the devil or the deep blue sea, so I think we can afford to give the workers something and hopefully this will backfire because I do not think this probably, maybe, has just come from the Constable of St. Peter. A lot of people probably did miss this. I did. The Deputy of St. Mary did. Deputy Southern said that he brought his and if I had thought about it, I would have liked to have done an amendment that it was not on the £400 but it was the lower paid workers got the £1,250. I could have been quite happy with that [**Approbation**]. I got accused at lunchtime, Deputy Southern is doing enough work and obviously I should have probably done that. I could not support him. I think this being pulled is a total cynical move and I hope it backfires on them because I am going to support the Deputy of St. John.

**4.10 Deputy M.R. Higgins:**

The Constable of St. Peter said earlier that there is a lot of misunderstanding about economics in this House. When I was talking earlier ... and I did not really get across very clearly, but there are problems with wage cuts. We are not talking about a wage freeze. We are talking about a wage cut because when inflation is taken into account it will mean a cut in real terms. However, Paul Krugman is a leading economist and, if I am not mistaken, he is a Nobel Prize-winning economist, and he said what a fall in wages does is lessen demand. Remember, this recession is characterised by the drying up of credit, declines in spending and by attempts to pay off debt, all of which are exacerbated by falling wages. He said, in particular, falling wages and hence falling incomes worsen the problem of excessive debt. Families are trying to work hard to reduce that debt by saving more than they have done in a decade, but as wages fall they are chasing a moving target and the rising burden of debt will put a downward pressure on consumer spending, keeping the economy depressed. Now, remember, we know there is wage cutting going on in the private sector. If we add to it wage cuts in the public sector, we are going to exacerbate this problem, and I might say it is a problem and it is not just a question of low paid or middle income earners, to be honest, because Francis Le Gresley, the manager of the Citizens Advice Bureau, has stated on radio recently that they are getting increasing numbers of people going to the Citizens Advice Bureau to talk about debt and he said "many of them are people we have never seen before, the middle



income earners". They have many of the people who are also experiencing the wage cuts out there. So the debt is a problem. It is affecting everybody and Krugman also said the cautionary tale is Japan. He says: "Where private sector wages fell by more than 1 per cent a year from 1997 to 2003, this wage deflation made a significant contribution to the economic stagnation of that country." Now, New Zealand has been having a similar debate to what we are going through and in New Zealand, public sector jobs and public sector incomes have been propping up the economy over there and saving their economy. Now there are proposals for public wage cuts and sweeping job restructuring in the public sector and economists in that country are arguing that it risks knocking out one of the very few props remaining for their domestic economy. The urge to cut costs and reduce debt on the one hand are in genuine conflict with a pressing need to keep stimulating the economy. I happen to believe that, yes, we are saving money here now. Next year, the Minister for Treasury and Resources will be coming back and asking for more money to stimulate the economy because we took it out at the wrong time. So do not think all this is in isolation or it is political dogma, left versus right or anything else. These are things that are going to affect our economy and I think it will affect the economy seriously. It is not a question also about, I think, equity, one group or another, setting an example for one or the other. Look at the situation. A recession is demand efficiency in the economy. The more we reduce wages, whether it be in the private sector or the public sector, we are reducing demand further. So more people are going to find themselves losing jobs, whether it be in the private sector or whatever, because the shopkeepers are not going to have people coming and buying their goods because they will not have the money to do so.

**The Connétable of St. Peter:**

Would you give way?

**Deputy M.R. Higgins:**

Just for a moment, yes.

**The Connétable of St. Peter:**

Thank you very much. Would you concede...

**The Greffier of the States (in the Chair):**

"Would the Deputy". Through the Chair please.

**The Connétable of St. Peter:**

Sorry, Sir. Thank you for that. Would the Deputy concede that cutting wages and keeping more people employed will have the same benefit to the economy?

**Deputy M.R. Higgins:**

I do not see that it is one or the other, to be honest, because the point is it has exactly the same effect. If, for example, the States decide ... and, for example, they have already funded the next 2 years because we have done that with the economic stimulus package to cover the deficiency in tax receipts and the higher income support. Now we are going through, and I know all the departments ... I have been speaking to some of the Ministers, I know they are all looking for efficiencies, they are looking to cut costs and probably they are looking at job cuts. The truth of the matter is job cuts will have the same depressing effect on the economy as well. So the point I am trying to make is wage freeze or job cuts will have the same thing at the wrong time. So anyway, just to finish, I will just make the point again. If wage cuts become widespread across the economy, there will be a negative effect on real disposable income and this will cause a further cut in consumer demand and could lead to a deeper recession and to a significant chance of deflation. Deflation, by the way, is extremely painful. It is not just falling prices. It has a knock-on effect on so many other areas of the economy. As I say, the other thing that will happen is the real value of debt will rise just at a

time when people have less money to spare to start paying it back. Think carefully about what you are doing. I think you are going to make the economy worse rather than better.

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

Firstly, I would like to start by saying that one in 8 of the Island population live in St. Brelade so I think it is fairly representative opinions in their mutterings about the States. I notice since last year's election that people are voluntarily cutting back. People are voluntarily making decisions to alter their domestic budgets, their household budgets, and how they spend their money. To me, that is indicative that people are worried about the future. People are extremely worried about holding on to their jobs, how they pay their mortgages, and they are acutely aware of redundancies on this Island and job losses on this Island. So if that is happening in my pocket of the Island, it is happening in your pocket, too. Now, the Dean used the phrase "public perception" and the public perception to me is that we need to be doing something about how we react to this recession and that we have to cut our cloth to fit. I think there is a great expectation on the States, on this Assembly, and on the various departments of the States to respond to this recession in an appropriate and in a sensible and in a modulated way. There are many ways of doing this. One, as has been said, is controlling public sector growth, controlling public sector employment, public sector expenditure and obviously what we are dealing with today, the Deputy of St. John's proposal to award a flat amount pay increase to States employees. But we also need to remember that what is happening outside this Island can happen to this Island in a sense of time afterwards. Things happen to the Jersey economy in a time lag way. It happens after it has happened in Ireland, in England and France, in Scotland, in Wales, and right across the world as we have seen. What we have to do is we have to be very careful and we have to be very careful about the decisions we make because we are not immune. We are simply not immune. We have not suffered the ravages of the recession that I have seen in my country that I was born in and what you have seen in the British Isles, but it could happen. If we were to reflect on where we were 2 years ago, we had not even seen Northern Rock fall and if you remember from the summer of 2007 right through what happened last year with the U.K. Chancelleries, et cetera, ploughing in and taking over banks, we never thought it would happen but it is very short, a very short period of time. So we do not know what is around the corner. It is very difficult to make predictions. It is very difficult to follow any form of economic indices or economic indicators at the moment and we are on a warning. I think in some ways when you look at what the public are doing and what the public are saying, to me, in any event, they are being very careful. I think, as I said, there is a public perception that the States needs to be extremely careful as well in the way it conducts itself, in the way it hires people, in the way it pays people and in the way it makes economies. It is like a ship. We are in stormy waters at the moment. We know that the weather is going to be bad for some considerable period of time and the ship battens down its hatches to survive this storm, and that is where we are right now. For anyone to think that we are in a cocoon that will not be affected by this, they do need a dose of reality. So my view is that I am not prepared to support this proposition. I think we have got to be very, very careful of the way we carry on and I respect those people out there who have jobs and who say to me: "I would prefer to hold on to my job and batten down, make some economies and carry on" but we have got to approach it that way. So I will not be supporting this proposition and I am looking forward to the debate on the Business Plan.

#### **4.12 Deputy D.J. De Sousa of St. Helier:**

We are currently putting £44 million through the stimulus package into the economy yet we are asking the public sector workers to effectively accept a pay cut. That will only serve to take money out of the economy, as there will be less disposable income. We will have to increase spending through topping up earnings by providing subsidies through income support or rent abatement. I have to disagree with the previous speaker who said people are adjusting accordingly their spending. They are being forced into this because of the economy that we have today; it is purely through necessity, not want. The most important thing that I have picked up from the comments of

the Chief Minister against this proposition ... in number 3 of the comments, the Minister for Treasury and Resources has lodged a proposition, P.78/2009, which will be asking the States to remove the provision for the pay increase from the ...

**The Greffier of the States (in the Chair):**

I am sorry, Deputy, the States are inquorate currently. I ask another Member to return to the Chamber, please. Carry on, Deputy.

**Deputy D.J. De Sousa:**

The Minister for Treasury and Resources has lodged a proposition, P.78/2009, which is asking the States to remove the provision for the pay increases from the 2009 cash limits as a first contribution towards the inevitable savings that will be required to balance the States income and expenditure in future years. This money has already been put aside and now we have Treasury asking to take this money out. These employees need some sort of pay increase to compensate for the increases they have had in electricity, in price increases. I will be supporting this proposition but I do feel that the best one that we had was retracted.

**4.13 Deputy T.A. Vallois:**

I am sitting here listening to the debate and as much as I understand the reason for the Council of Ministers undertaking a pay freeze, I am yet to have a full assurance from either the Chief Minister or the Minister for Treasury and Resources with regards to the staffing problems and paying particular attention to where the monies are being wasted. We need to be making savings but could they clarify exactly where else they are attempting these savings, because I have serious concerns that if I reject this proposition and receive the budget to only show that we are increasing expenditure elsewhere for an unsubstantiated reason, I will be seriously concerned as this would not be the initial aim of the Strategic Plan put forward by the Council of Ministers and democratically voted through by this House.

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

We have heard during the course of this debate a certain amount of discussion, economic theory and so on, supply and demand. I was particularly interested not on that point but Deputy Power was referring to the fact that a number of his constituents are voluntarily reducing their expenditure, their habits. Not surprising in the current climate. I think it is fair to say that all Members will agree that what we are facing at the moment and have been since the third quarter of last year with Lehman Brothers, R.B.S.I. (Royal Bank of Scotland International), banks being rescued and all the rest of it, consumers have quite naturally taken a position where they are saving money where they possibly can. They are cutting back expenditure and in itself, of course, that has ongoing effect to businesses in all sectors, retail, wherever they happen to be. They are finding less demand. Less demand drives down prices. One of the issues about increasing pay and worrying about the available expenditure that the less well off have got to sustain basic needs, foods, and so on. But we are beginning to see a reduction in costs and I would certainly hope, with appropriate pressures, that we will continue to see prices being constrained as we move forward. It was interesting. Again, Deputy Power reminded me that only this morning I had a breakfast meeting. I attended a briefing from AIB (Allied Irish Bank). They brought over one of their economists talking about the state of the global economy. In particular, they were looking at various trends but in particular he talked about Ireland most naturally and the problems being suffered in that particular economy and how they were going about dealing with it. What struck me with his comments was that not only were the private sector cutting back, as you would expect in response to less demand, businesses were having to cut back and offer voluntary redundancy, pay freezes, pay cuts in certain instances, but he also explained that the public sector were also doing exactly the same. In very real terms, the Irish are cutting back public service expenditure and pay by in real terms about 7 per cent. I had a meeting earlier this week with some executives from British Airways. Members will, I am

sure, have read the stories about the troubles that the airline are in and the quite extraordinary steps that they have taken to date with regard to pay. They have asked for the usual steps of voluntary redundancy, of reduced hours, of unpaid leave, and I was quite surprised when the executive explained to me their surprise that 800 staff of British Airways have agreed to work for free for a period in the summer. It demonstrated how important they realised their need to contribute towards the sustainability of the business they worked for, the ability for that business to remain in business to sustain their jobs for the long term. Really, I think, although I have a great deal of sympathy for the Deputy of St. John, not for the Deputy himself but for his proposition, I should point out, I think it is fair to say that although it is without doubt ... and I do not particularly like the phrase “well meaning”, however, I feel that the general thrust of it, although well meaning, does not get to the root of the issue here and that is, quite simply, that we are in this together. It is not a question of public sector, of low paid or middle paid or high paid or private sector, it is everybody. We are facing and in the middle of a circumstance which is unprecedented. I think we all realise that what we are facing now we have not seen probably since the 1930s depression. They are extraordinary circumstances and the key aim for all sectors, private, public, whoever it happens to be, is to ensure that we keep people in jobs, keep them working and ensure that businesses, as such, can do exactly what they are good at and that is be profitable, to raise taxes that we can hopefully spend wisely. I thought Deputy Vallois was absolutely right in her comments. It is all very well talking about savings. It is all very well talking about pay freezes. It is all very well talking about efficiencies but it is what we do with the money that we have got and, quite frankly, historically it is fair to say that I do not think that we have been as wise as we could have been with the money we have spent. I think there is an improvement. I think there is a long way to go in terms of ensuring that we target our expenditure to where it needs to go, where it is most needed, and that we drive efficiencies in every area of the States. Deputy Southern may raise his eyebrows but frankly that is what we should be doing. It is what we have not done enough of and it is what we need to do a lot more of. But tough decisions are what is required, tough decisions now. I was also struck earlier on by the Deputy of St. Mary because from the Deputy of St. Mary we heard a degree of honesty which I have not heard from Deputy Southern, although he was jumping up and down giving himself blood pressure, I suspect, earlier on. I understand and I respect the passion that he has and the way in which he works hard to look after the less well off in our society. He does a good job in that respect but we have a responsibility to look after all people in this Island, from whatever part, background or area of society they come from. It has got to be a rounded approach and the Deputy of St. Mary was right when he said taxes are low in Jersey. They are. We have been very fortunate and he was raising the point because he was talking, in effect, about how we pay for an issue that I do not think Deputy Southern necessarily addresses when he talks about the fact that we should be paying out more money. He was supportive obviously of the pay increase of £1,200 to all staff, the proposition he brought earlier on today. But the realism of that in context of the environment that we are currently in and the fact that it has got to be paid for in one shape or form and the only way you are going to pay for it is by more efficiencies which will go so far, by cutting costs and by raising taxes. He has not addressed the issue although the Deputy of St. Mary did allude to the point that taxes are one area that will have to be addressed if we do not tackle expenditure in the way that we should. But tackling expenditure has to be the top priority first. It is on that particular basis and the fact that the proposition from the Deputy of St. John is so wide-ranging. He is offering the £400 increase to all sectors and I accept and understand the equity of what he is trying to do, but I am far more persuaded by targeted support and expenditure to those who most need it rather than giving it to those that perhaps at the current time do not need it. On that basis, I am afraid that on this instance I cannot support my good friend, the Deputy of St. John.

#### **4.15 Senator J.L. Perchard:**

Firstly, can I thank Members for excusing me over the last day and a half while I was out of the Island attending my son’s graduation. [Approbation] [Laughter] To me, this debate is not about economic theory. It is not about threats of industrial action. It is not about the plight of the low

paid or the randomness of the Deputy of St. John's £400 figure. Where did that come from? Did he pin the tail on the donkey and come out with £400? I would be very interested to know. It is not about the fact that some U.K. workers are taking a 10 per cent cut in wages and a 10 per cent cut in working hours. It is not about the British Airways workers being asked to work for nothing. No. This debate is about the States of Jersey getting involved in the day to day dialogue negotiations with the public sector workforce. Outrageous. There is no place for this Assembly to be negotiating with the public sector workforce as to what level of salary they should receive. This is a dangerous precedent. We should not go there. We have a States Employment Board who does that. If we do not like what they do, we go for the States Employment Board. Do not let this Assembly come down to the level of trying to negotiate with public sector workforce, please.

**4.16 Deputy J.M. Maçon of St. Saviour:**

On a point of clarification, will the Senator make the same speech during the Minister for Treasury and Resources' lodged proposition?

**4.17 Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):**

I am part of the department with the highest staff, over 3,500, and I know and I want to put this very much on record that I value every single one of them, be they manual workers, engineers, nurses, doctors, management staff. Everybody is valued and I would really make that very clear, especially with the previous debate that we have just had. I would like to think that they all need a pay rise because they work hard, under pressure, not only under financial pressure as a hospital is and I know you are all well aware of it. But I have got to look at the wider picture. Having this could be seen as a retrograde step. We are in recession. This is not a "just this year" where everything will be back to normal next year. We have to look forward. We have to make sure that the staff are kept in place. We need them all and every single one of over 3,500. If we did accept the Deputy's proposition, it would need to be paid for. Would that come out of my budget which is already well stretched? I would rather have the staff and I will not be supporting the Deputy.

**4.18 Senator J.L. Perchard:**

On a point of order, the Minister has said that we are in recession. Will she confirm that Jersey is in recession?

**The Greffier of the States (in the Chair):**

Well, that is what she said.

**Senator J.L. Perchard:**

I insist. The Minister said that Jersey is in recession. Will she confirm that we are?

**The Deputy of St. John:**

On a point of clarification. The former Minister for Health and Social Services only came into the debate late in the day. He comes in. He has not heard all the debate. He has not heard the opening speech and he is now demanding that the current Minister explain herself. I think he is out of order.

**[Approbation]**

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

May I attempt to assist the Assembly by speaking and hopefully paper over some of the cracks? I have to say I find myself somewhat in agreement with Senator Perchard that we should not, as an Assembly, really negotiate pay rates. But as Deputy Maçon rightly says, this Assembly needs to set overall cash limits and he is quite right to point out, if I may say, the fact that we do effectively set envelopes for wage rates by setting overall cash limits. In a sense, both the Senator and the Deputies are right. What the Treasury do is set an overall envelope and, as Senator Perchard says, the States Employment Board works to pay rates. In relation to the question of a recession, I think it is fair to say that the best economic advice that we have is that the Island is falling into recession,

if not already has fallen into recession because of the global contagion, and the Assembly I do not think needs any more information than that that was set out in the Fiscal Policy Panel. If we are not in recession, we expect to be in recession at some point this year and we expect the economy to contract. That is why the Assembly has taken bold steps in order to stimulate the economy. It seems to me that this debate has centred, in some Members' minds, about economic theory and we have had a couple of speeches about different schools of economics. We have heard Deputy Higgins arguing that we should accept - and he is my friend too **[Laughter]** - the Deputy of St. John's proposition. He has got a lot of friends in this Assembly in the coffee room. We should accept the £400 increase across the board because it stimulates the economy. Well, I would raise 2 questions: whether we should do it and, secondly, as a number of Members have said, how we should pay it. Deputy Southern accused Members ... I think he was pushing at the boundaries of Standing Orders but he was suggesting that there was some dishonesty. If I may say to Deputy Wimberley, I think that he is being completely honest. I am going to call him from the Norwegian School of Economics. He is absolutely clear, I think, in his political view, in his economics, that we should be taxing people more and spending more. I say Norway because Norway, I think, has 25 per cent V.A.T. (Value Added Tax), an income tax rate of 50 per cent and, on the back of it, a huge savings. They have an equivalent of a strategic reserve which is much higher per capita than our strategic reserve. They have huge budget surpluses.

**The Deputy of St. Mary:**

I do need to have a point of clarification, either now or at the end. I just reject the implication that I am in favour of Norwegian tax rates. I am just pointing out that Jersey is a low tax jurisdiction and is reaping the consequences.

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

The Deputy is entitled to his view. The fact is that he is, I think, quite honest in the way that he demonstrates the fact that he would be prepared to pay and would be prepared to ask Islanders to pay for increasing spending, perhaps not at the Norwegian rates but certainly higher taxes, whereas some other Members, including Deputy Southern, still think to explain that there is some magic money tree somewhere which we can magic this money from nowhere. I do not think that that is possible. Now, the economic arguments of fiscal stimulus, I am perhaps an uneasy Keynesian spender, but confronted with the economic advice it is clear that we should and are needing to inject money into the economy. I am afraid where the arguments start being unwound in relation to the £400 is that it is not meeting the criteria of the Fiscal Policy Panel's advice to this Assembly. I am afraid that it is not ... as the Australian Finance Minister gave all pensioners and various different groups in Australia a one-off payment to boost the Australian economy, this is not a one-off payment. It is building £400 year on year into the base and, therefore, that is why we have had to take other measures and we found other ways to inject money into the economy. Members should not, in my view, vote in favour of this proposition on the basis that it is an alternative or could be argued as part of the Fiscal Stimulus Package. It is not temporary. It is permanent. I have to say the other thing that I was very surprised when I originally read the Deputy of St. John's proposition is that he seemed ... and he has been in this Assembly for a long time and he was part of the Assembly that, I think, discussed the initial parts of the Fiscal Stimulus Package. He wants to - and I know that we would all like to do it - protect people from the costs of G.S.T. and I am afraid if we do that to everybody, then we will have ended up where we started. We will end up having to engage in this permanent escalator or rising expenditure and raising taxes. I am afraid it is very difficult and it is an extremely problematic statement to get across but G.S.T. was a removal from pockets from the Island of a permanent nature in terms of taxation. Of course, some of it has been mitigated by absorbing of prices and that has been a good thing and, of course, we have put in very significant protections for lower income families, et cetera. But to suggest and to argue in favour of a proposition that seeks to protect our public workforce against the effects of G.S.T. is, I am afraid, completely counter to all of the debates that we have had on the fiscal strategy. I want to deal, if I

may, next with Deputy Vallois' concerns. She is a member of the Corporate Affairs Scrutiny Panel and is taking a very active and detailed interest in States spending. No doubt, she is one of the Members of the Assembly today that will have read the Comptroller and Auditor General's report that was published yesterday calling for a Treasury that is capable of questioning - and Ministers will not like this - departments and their spending and, as the Comptroller says, their cost profiles. So it is quite clear to me that the system of devolved financial management that has existed in the States and that which we have today is going to have to change. I give the Deputy an absolute undertaking that in my term of office, for as long as I am Minister for Treasury and Resources, I will continue to put in place a structure in the Treasury and continue to devote my time to shining the torchlight to find efficiencies and priorities. She is absolutely right in what she says that this Assembly does need and we all need to be responsible in the way that we make demands on our public sector. She is absolutely right when she says that there are in many departments workers that are under strain and senior officers under strain across the organisation, and that is because we want to continue to in a very benevolent, in a very caring way, put more and more services at the service of our community. We are going to have to prioritise. We are going to have to have a completely different approach. As Senator Le Marquand has said, the years of incredible plentiful supplies of money where we could effectively just provide the services that departments wanted and asked for are over and we are going to have to approach matters in a very different way and we are going to have to do it responsibly and we are going to have to do so properly in a way that does not put our public sector workers under strain in asking unreasonable demands, assisting our public workforce, assisting all people who work for the States to do their job properly and to equip them with the tools and efficiencies and I.T. (information technology) systems that they need to do their work. We have a responsibility to do that. I am clear that also we need a fundamental review on pay and pensions. I do not know whether Senator Shenton is going to speak but I have seen his proposition, which I think was timed for today's debate, which calls for I think it is about £16 million of additional spending in order to repay the pre-1987 pension debt earlier. I am clear I am new to it, I am new to the whole arrangements of pensions and taking a fresh look at the whole issue of pensions and pay, and I am clear that we are going to have to implement the Comptroller and Auditor General's recommendation of a fundamental change and a fundamental review in the way that we pay workers going forward. There are unfairnesses in different areas of our public workforce. There are some areas in our public sector who are extremely well paid compared to U.K. counterparts or Guernsey counterparts or the private sector equivalents. There are others in all sectors which we need to look to see whether or not their remuneration levels are appropriate. There are going to be some difficult decisions and there are going to be some difficult findings, I think, when that report comes. It is clear that overall we are going to have to look very carefully at our public sector pay arrangements. In the short term, the Council of Ministers, because of economic necessity and because of the latest information that we have on R.P.I., put forward the proposition for the pay freeze. This is a somewhat unconventional debate as we are having effectively 3 debates on one issue. We will come to my debate in relation to, as Deputy Maçon says, removing cash limits or removing the budget for a pay freeze in 2 weeks' time, but all of the information, all of the evidence that we have from the private sector indicates that it is appropriate for the public sector to lead and to put in place a pay freeze. Private sector organisations are doing the same and they are doing more in terms of recruitment freezes and trimming jobs, as we have seen from local job numbers. The public sector needs to be responsible. The public sector leads and we need to be showing leadership in sending a signal of a pay freeze for the public sector which will be complemented and followed through to the private economy, and that is the best thing that we can do to protect not only the competitiveness of the Island but protect jobs in the longer term. If Members are thinking that there is something quite unfair about this approach from the Council of Ministers, is any Member of this Assembly seeing Minister for Treasury and Resources or finance ministers in any other nation in the world using the public sector pay arrangements in order to sort out their economies? Are we hearing the Prime Minister of the United Kingdom saying: "Yes, we need to pay workers significantly more to help us get through

the recession”)? No, they are not and this is a responsible approach, and an approach which I hope Members will not support but will support the Treasury proposition in 2 weeks’ time to take this money out of the base of the employment budget.

**Deputy G.P. Southern:**

I do not want to interrupt the speaker but I think he misled the House when he suggested I wanted magic money to pay for it. I have always proposed and supported progressive taxation measures to increase tax and he really must not mislead the House in that way. **[Approbation]** It is outrageous, especially when I was out of the House.

**4.20 Senator B.E. Shenton:**

I suppose the answer to that is do not go out of the House. **[Laughter]** I must admit, I did have a wry smile when Senator Maclean was talking about making sure spending was targeted and we must avoid waste, simply because he is known as the “Minister for Bollards” in our house. **[Laughter]** I have lodged a proposition with regard to the pension issue that Senator Ozouf raised because we do have a liability that is on the books of the States. I do not want to talk too much about pensions because it is quite a complicated issue, but we do have an actual liability of about £325 million which is in respect of the pre-1987 P.E.C.R.S. (Public Employees Contributory Retirement Scheme) debt and the Teachers’ Superannuation Fund debt. Now, this is actual debt that we owe as the States and it equates to roughly every single taxpayer on the Island diverting about £6,500 of their tax straight into the public sector pockets of pensioners in order to clear their deficit. In addition to this, there is also the post-1987 deficit which I have not covered in my proposition in which the next actuarial valuation could easily be well over another £100 million. We cannot buy out the pension fund because we do not have enough money. This Island, although it is a wealthy Island, is perhaps not as rich as people tend to assume that we are and we have to live within our means and that is the big problem going forward. Our expenditure as an Island is too high and the main part of our expenditure as an Island is public sector salaries. Now, I am not someone that wants to see any job cuts because if you cut jobs in a recession there are no other private sector jobs for them to pick up and it just makes life worse for people in the private sector because there are more people going for the same number of jobs. But we do have to bear in mind ... and let us just go back a couple of years. I endorsed Constable Crowcroft when he stood for election and I endorsed him on the strap line that we needed experience to see us through the forthcoming economic downturn. You can talk yourself into a downturn, but 2010 is going to be very, very tough. Speaking to some of the banks that have recently lost significant amounts of money means that they have got losses that they can carry forward. Some of the largest banks may not be paying tax on the Island again until 2016, 2017, because of the size of the losses being carried forward. From 2010 perhaps and 2011 almost definitely we are going to have severe structural deficits. Now, we have spoken about Ireland where I believe in Ireland the public sector have taken a pay cut. I do not know what they agreed on but 5 per cent was the figure put forward by the government, but if I could just quote you something from today’s paper about Iceland, and this is where we do not want to be in a couple of years’ time.

**The Deputy of St. Mary:**

Could we ask which paper because they vary in reliability?

**Deputy M. Tadier:**

Could I also ask which Iceland? Are we talking about the Iceland where people will have to buy food from now in Jersey? **[Laughter]**

**Senator B.E. Shenton:**

No, it is Iceland, the country, and it is the *International Herald Tribune*: “On Monday, Iceland’s Parliament passed a Bill so filled with tax increases that it would make even the most spendthrift politician in Washington wince. Equally, the Bill’s corresponding spending cuts were deep enough



to embarrass the stingiest fiscal conservatives.” If you get to a position where your income and expenditure does not balance, you end up with a dual problem of raising taxes at the same time as significantly lowering services, and this is what we have got to be very, very careful of. Obviously, we all want to pay as much as we can to members of the public sector, but at the end of the day we have to balance our books and we have to make sure that we do what is right over the very long term. So I cannot support a £400 payout at this time simply because I am aware of what is going on worldwide economically and my outlook for the Island is not a particularly happy one at this time.

**The Greffier of the States (in the Chair):**

Does any other Member wish to speak? I call upon the Deputy of St. John to reply.

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

I would like to thank those who have spoken and will pick up on a number of the comments passed, but I cannot let it go past. Unfortunately, the Minister for Health and Social Services is not in the House but, in fact, some staff within the States employment are getting or have had a 1.5 per cent increase. That is double standards. It is in your own report, Chief Minister. We can give it to some, yet we cannot give it to others. Some people have 1.5 per cent. It is all well and good. We have got 2 former Ministers for Health and Social Services across the floor there. They were there or one of them was for sure. They have had a 1.5 per cent increase and yet they are not prepared to support the remainder of the workforce. Double standards. This is what this Chamber is operating, totally. Just read it on page 2, item 5, of the Chief Minister’s report. There was another Minister who is out of the House yet again, Senator Maclean, making claims that all businesses are basically on the breadline when, in fact, I spoke to a motorcycle shop the other day, in fact, who is having the best year he has had for years. Some businesses are doing very nicely, thank you, very nicely indeed. I heard my good friend Senator Le Marquand’s comments. He was one of the Members who was on the platform who wanted to do something about G.S.T. and so did I, but we do not seem to be able at this moment in time to sing from the same hymn sheet. But that is fair enough, that is the democratic society we live in. But really, Members, I am not going to go through each and everyone’s comments here. I am just going to ask you to search your consciences. If we can do it for some of our workforce, as is quoted on page 3 of the Chief Minister’s report or comments, we should be doing something for all our workforce. With that, I am pretty sure that I am not going to win this debate but I will say this much. It has been a good debate. Everything has been well aired and I am sorry for those members of staff we employ who will ... and some of them will be having bread and dripping. Others will not but some people will, and I ask you all to search your conscience. If we can pay some Members of our staff a 1.5 per cent pay increase, we should do it for all. I ask for the appel.

**Senator J.L. Perchard:**

Just before we do vote, I wonder if the Deputy would accept that the 1.5 per cent increase that has been afforded to a few at the Jersey General Hospital is as a result of a contractual U.K. link and no discretion could be used on behalf of the States Employment Board at all. It was a contractual link with the U.K.

**The Deputy of St. John:**

I will not pass a comment. I will just ask for the appel.

**The Greffier of the States (in the Chair):**

Very well, the appel is called for. Members are in their designated seats. The vote is for or against the proposition of the Deputy of St. John.

<b>POUR: 12</b>		<b>CONTRE: 29</b>		<b>ABSTAIN: 0</b>
Deputy J.A. Martin (H)		Senator T.A. Le Sueur		
Deputy G.P. Southern (H)		Senator P.F. Routier		
Deputy of Grouville		Senator P.F.C. Ozouf		
Deputy P.V.F. Le Claire (H)		Senator B.E. Shenton		
Deputy S. Pitman (H)		Senator J.L. Perchard		
Deputy of St. John		Senator S.C. Ferguson		
Deputy M. Tadier (B)		Senator A.J.D. Maclean		
Deputy of St. Mary		Senator B.I. Le Marquand		
Deputy T.M. Pitman (H)		Connétable of St. Ouen		
Deputy T.A. Vallois (S)		Connétable of Grouville		
Deputy M.R. Higgins (H)		Connétable of St. Brelade		
Deputy D. De Sousa (H)		Connétable of St. Martin		
		Connétable of St. John		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Le Hérisseur (S)		
		Deputy of St. Ouen		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy J.M. Maçon (S)		

**The Deputy of St. John:**

Could I thank all those who voted in favour, but also I would like to thank everyone who participated in the debate because it is important that these things are aired.

**5. Jersey Mutual Insurance Society Incorporated: alteration of Fundamental Rules - Petition (P.71/2009)**

**The Greffier of the States (in the Chair):**

Very well. We come now to the Jersey Mutual Insurance Society Incorporated: alteration of Fundamental Rules - Petition in the name of the Connétable of St. Saviour and I ask the Greffier to read the proposition.

**The Assistant Greffier of the States:**

The States are asked to decide whether they are of opinion to grant the prayer for the petition presented on behalf of the Jersey Mutual Insurance Society Incorporated (“the Society”) that legal effect be given to the amendment to the Fundamental Rules of the Society as set out in the petition.

**5.1 Connétable P.F.M. Hanning of St. Saviour:**

This is hopefully a brief item on the agenda regarding changes of the rules of the Jersey Mutual Insurance Society. The Society is, as the name says, a mutual society. There are no shareholders. It is wholly owned by the members. It was established in 1869 and has grown to have approximately 10,000 members insuring £3.7 billion worth of property and contents; that insured in Jersey alone. The Society was incorporated by the States in 1908 and, therefore, it requires a petition to be brought to the States to change the rules. As a Member, I have been asked to bring this petition to the States. The first amendment is to grant the Society power to carry on social or benevolent activities, including making of donations, raising funds and giving of sponsorship. The second amendment is to change the title of the Secretary of the Society to General Manager. This better describes the work that is done and also avoids the confusion that sometimes arises with communication out of the Island. The final amendment will enable the Society to communicate with members by way of electronic communication. There are obviously savings to be made by doing this but some members do prefer information to come to them electronically and it means the Society will be able to do this. I think the Members here have seen the comments by the Minister for Economic Development. I would like to thank the Minister for his comments and for dealing with the matter so swiftly. Finally, Sir, may I thank you personally for your guidance and advice to me on the procedures of bringing forward this petition and I would like to propose the petition.

**The Greffier of the States (in the chair):**

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

**5.2 Deputy R.G. Le Hérissier of St. Saviour:**

I must thank the Connétable. I am surprised he has not brought a fourth amendment which is to the effect that we will move away from having to draw up detailed laws, can we please be given the means of introducing simple administrative changes such as the use of email without having to come to the States Assembly. I wonder whether he will be bringing an amendment because it strikes me it puts his Society and, indeed, the States, to an awful lot of bother for what the rest of civilisation seems to have caught up with some years ago.

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

I have to ask, as a shareholder, would one be entitled to join this vote or not?

**The Greffier of the States (in the Chair):**

Yes, I do not think you have any direct financial interest in the matter. I do not think any of these matters have any direct financial consequence but for you personally I think it is all right. Do you wish to reply, Connétable?

**5.4 The Connétable of St. Saviour:**

I would just reply to Deputy Le Hérissier and say this will allow communication by email. That is the point of doing this and it is the result of requests and propositions that were brought at the A.G.M. (Annual General Meeting). This is not my private idea to do.

**The Greffier of the States (in the Chair):**

I put the proposition. Those Members in favour of adopting it, kindly show? Those against? The proposition is adopted.

## **6. Suspension of States Employees: Composition of Review Panel (P.98/2009)**

### **The Greffier of the States (in the Chair):**

The Assembly, of course, dealt yesterday with the (Appointed Day) Act so the next item of business is the Suspension of States Employees: Composition of Review Panel in the name of the Deputy of St. Martin. I ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion to refer to their Act dated 30th April 2009 in which they approved revised procedures relating to the suspension of States employees and States of Jersey police officers and agreed *inter alia* that 28 days after a suspension and every 28 days thereafter the continuing need for the suspension would be reviewed by a panel drawn from within the public service which would be independent of the department where the suspended person was employed and to request the States Employment Board to rescind its decision to appoint the members of the Corporate Management Board as the pool from which the review panels will be selected and to appoint instead a pool of 9 States employees drawn from across the public service who are not members of the Corporate Management Board to fulfil this role.

### **6.1 Deputy F.J. Hill, B.E.M., of St. Martin:**

Members may recall that on 30th April the States, by 31 votes to 19, approved my proposition which would ensure that when States employees are suspended there will now be a formal process which will provide for employees being given written notice for their suspension and also at the time of their suspension may be accompanied by a person of their choice. Also the States agreed that 28 days after suspension and every 28 days thereafter the continuing need for the suspension will be reviewed by a panel drawn from within the public service which shall be independent of the department where the suspended person is employed and which will report its findings to the States Employment Board. The States also agreed that at that review the suspended person could be accompanied by a person of their choice. It should also be recalled that the Council of Ministers had lodged an amendment which proposed that there should not be a formal review but the States Employment Board should conduct a review without the right of the suspended person to be in attendance. It is probably worth remembering that the States Employment Board consists of the Chief Minister, the Deputy Chief Minister and 2 other Ministers. During the course of the debate the Chief Minister withdrew his amendment because it was quite clear that there was very little support for it. It should be noted that the Council of Ministers had claimed that I had not provided any evidence to support my claims that the present system was failing. I can assure Members that the evidence I produced had come from States employee representatives, suspended employees, and the suspension statistics which had been provided by the Chief Minister's own department. I have never adjusted the figures but it is clear that despite the last review in 2006 to reduce suspensions, suspensions have increased alarmingly which is causing intolerable harm to the suspended employees, staff morale, the taxpayer and the Island's reputation. In those comments, the Council of Ministers accuses me of suggesting a public sector being deluged with long-term suspensions that for a variety of reasons are not being appropriately dealt with. I repeat I have never altered any of the figures. The figures I have produced are those given in response to written questions by the Connétable of St. Lawrence. What is a fact is that the suspensions have been costing the taxpayer in the region of £1 million a year and the Council of Ministers has done very little to tackle the problem. It is a fact that in an attempt to reject my proposition the Council of Ministers is now claiming that it intends to revisit the discipline and suspension process. I say how convenient, how timely but how hollow because it is a fact the 19 people who voted against my

proposition mainly came from the executive side of this Chamber, which suggests, I presume, that very few have any feelings at all for suspended people. It is worth noting also that the *J.E.P.* in its editorial comments column welcomed the new measures, commenting that it was as a result of a debate lasting 5 hours. It also added, which is very important: "The core of the proposition was a review mechanism involving an independent panel. This would mean that any States employee will have their case impartially reviewed every 28 days. The suspension issue is no trivial matter in terms of the impact on the workforce or cost. It is, therefore, entirely proper that Islanders should be confident that each and every suspension is being treated with appropriate urgency and transparency. Even more importantly, to protect our international reputation as well as in the interests of natural justice, we must be confident that the way in which we deal with the issue satisfies Article 6 of the Human Rights legislation which says that everyone must be entitled to a fair trial." I congratulate the *J.E.P.* for being spot on with their attention to human rights legislation because again it is evident that the Council of Ministers is only paying lip service to our Jersey Human Rights Law. That side I will return to later. As a result of the States approval, the States Employment Board was tasked with arranging for various disciplinary procedures to be amended and to establish a review panel drawn from the public sector and draft terms of reference. On 2nd June, in answer to my oral question, the Chief Minister stated that the review panel would consist of a pool of members drawn from the Corporate Management Board. The Corporate Management Board consists solely of chief officers. Therefore, it is most questionable whether they are independent but they are certainly not representative of the public service. During the debate there was much discussion as to the format of the review panel and it was more than apparent that the panel would be drawn from a range of employees, and during that debate I circulated 2 letters of support, one from Miss Karen Huchet and the other from Mr. John Moulin who, apart from being a chief officer of the Ambulance Service, also represented the Civil Service Association. As we know, Mr. Moulin has now retired. In Miss Huchet's letter, she said, and I quote: "It is essential that within the current Island climate and to gain the faith of the electorate an independent panel is established. This should instil no fear in any organisation if best practice has been followed and the duty of care to the employee has taken precedence." In Mr. Moulin's letter, he said, and I quote: "Whilst we consider the current civil service policy to be sufficient and well tested, we do have concerns about the lack of proper review period carried out in an impartial way. We would like to see a system of timely reviews undertaken by a panel of independent people drawn from the public sector, one of which would be from the staff side or other union not involved with the suspension." In the report in which he sought States support for his amendment to replace the proposed panel I was putting forward, the Chief Minister claimed that my proposal would be resource-hungry but he never justified that claim. Certainly, there was no mention about the proposed panel not having the authority to challenge a continuous suspension originally made by a chief officer. In his comments lodged yesterday, the Council of Ministers feels that it would unfair and unreasonable to subject a more junior employee who may have not have this type of exposure to the pressure that acting as a reviewer in such a situation could create. It must be remembered that these are procedures relating to employment matters, not a court of law. I just wonder who was drafting this on behalf of the chief officers or the Chief Minister. The main task of the panel is to review the need for the continuation of a suspension. The panel will not be press men or women. They will be employees with an aptitude for the job and they will be appointed by the States Employment Board so the States Employment Board will have a full knowledge of who they are employing for the task. It must be obvious that the Council of Ministers have been busy fishing for red herrings because it must be naïve in the extreme or so pompous to believe that the wisdom and common sense rests solely with the Council of Ministers or the Corporate Management Board. Has it not heard of juries which are drawn from across the board of public life? Does it honestly believe that States employees are incapable of knowing when the wool is being pulled over their eyes? The Council of Ministers has failed to appreciate that the world has moved on. Rightly, we now live in a society that not only aspires to justice and fairness but expects to see it done, particularly in the public sector where employees' salaries are provided by the taxpayer. Justice will be done by a review

panel drawn from all quarters of the public service. It would appear that the Council of Ministers have taken offence to my opposition to the Corporate Management Board reviewing the continuation of suspensions. It claims that my proposition is a serious challenge to the chief officers' professionalism to suggest that a chief officer drawn from another department is less likely to act in an independent, objective manner than a more junior employee drawn from another department. It also says it also interferes with the due process of line management of staff within the public sector and, by implication, says that the chief officer members of the Corporate Management Board cannot be trusted to act impartially when undertaking reviews of suspensions. I wish to make it clear that in no way do I cast aspersions on the integrity of any board member. My opposition, and hence the reason for my proposition, is that the reviewing panel should be appointed from within the public service as was intended when the States approved my proposition last April. It was also imperative that there should be no hint that the review body is not independent. Chief officers will be required to justify the continuation on suspension they have implemented before the review panel. Given that the panel will comprise solely of chief officer colleagues, the process lays itself open to human rights challenge. I earlier mentioned a human rights issue. Article 6 requires tribunals to be independent and impartial. The Council of Ministers may claim that as reviewing chief officers will not be from the same department then it is proposed it is human rights compliant, but it has not said so in its comments. I submit it has not done so because it is very doubtful whether what they are proposing is human rights compliant. At the human rights seminar organised last month by the Attorney General for all States Members - but only one Minister attended - Ministers were informed that in addition to tribunals being independent and impartial, they must also have the appearance of independence. Those who went will have received one of these forms and there it says ... I have put a nice little cross just in case the Chief Ministers do not believe me, but there it is. Can Members believe that a review panel comprising solely of chief officers and hearing the evidence of a chief officer gives the appearance of independence? During the oral question time on 2nd June which I previously referred to, the Chief Minister was questioned about the panel's appearance of objectivity and impartiality and it was incapable of meeting the test of the appearance of objectivity. The Chief Minister replied, and again from Hansard he says: "Yes, but I will accept that on face value this does not appear to be specifically objective. On the other hand, we will have to look at the practical aspect of it and see what will actually work." What we have here is a Chief Minister accepting that his review panel might not be human rights compliant yet is allowed to have a "suck it and see" approach. This is Wimbledon week and I have got to ask the Chief Minister: "Are you serious?" or: "You cannot be serious", is it? We are a mature House making mature decisions. Therefore, we cannot allow a practice to continue where we doubt it is human rights compliant. My proposition to form a panel drawn from across the public service will leave no doubt in anyone's minds. That is what my proposition is all about and I ask for Members' support and make the proposition.

### **The Greffier of the States (in the Chair):**

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

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

Firstly, I should make it quite clear, as I did at the time of the original debate, that I am not happy with the length of time which certain suspensions have taken and the relevant related costs that that has incurred and the denial of opportunities to the people suspended. I am as anxious as the Deputy of St. Martin and anybody else to try to reduce the time period in which people are suspended and, more importantly, to try to reduce the number of suspensions by ensuring that staff behave at all times in a responsible and professional manner. But what we have here is a system for dealing with a situation where staff for one reason or another are alleged not to have acted in that totally professional manner. When that happens, then clearly there is a need for suspension. As I have previously said, in the majority of cases those suspensions last a matter of weeks and it is very rare

for a suspension to last for more than 8 weeks. Indeed, the Deputy recently - I think it was the Deputy - asked some questions about the number of people who were still suspended and how long they had been suspended for, and I think I gave some information on that one. In any case, they are contained in the comments which the Deputy referred to, which we presented to the States earlier this week. In fact, there were only 5 cases where there was an ongoing suspension and in each case the reason was police investigation, police investigation, police investigation, police investigation. That tends to be the situation. While I am anxious to try to reduce the length of that time, I am equally anxious to ensure that that investigation is carried out rigorously. What we have here, I think, is a very narrow problem and I think one in which the Deputy of St. Martin perhaps slightly and unwittingly misrepresents me. Because certainly I have no doubt that the procedures that we have put in at the present time are, indeed, human rights compliant and if they were not human rights compliant, if I did not believe that they were human rights compliant, I would not have sanctioned them. What I did say is that there is a difference of point of view about whether it is the appropriate sort of panel for this task, and that I stand by. But really, I think what this proposition from the Deputy of St. Martin today is trying to do is, in fact, use the wrong tool to solve the wrong problem. It is rather like a car with the engine misfiring and he says: "Let us change the petrol and see if that makes it better." **[Laughter] [Interruption]** Change the tyres, yes. What we have here is a need to overhaul the engine, and that overhaul is in the process of being done. What this proposition asks to do is to change the constitution of a panel not investigating the suspension but reviewing the ongoing need for that suspension. It is important to note that difference. It is not reviewing the suspension itself; it is the need for the suspension. He believes that chief officers in that respect, a panel made up of members of the Corporate Management Board or chief officers or senior executives, could not be independent and would not be representative of the States workforce. I will accept that they may not be representative of the States workforce. If they were to be representative, you would probably need one person aged between 20 and 40 who was white and female, one between 40 and 50 who was white and male, and one some other age who is possibly white and possibly male or female, but what does an average mixture like that actually contribute? What one wants for this panel are people who know what they are talking about and know what they are doing. In that respect, I suggest that the inference that chief officers cannot be independent and cannot be objective is a slur on the excellent chief officers that we have within our organisation. **[Approbation]** I repeat, this is not the way to solve the problem. What the Deputy seems to be suggesting is that if you have people from a variety of different backgrounds, at least 3 different backgrounds, faced with the same facts, they will come up with a better point of view than 3 senior people. I fail to see the logic of that. I fail to see that this proposition gets us any further forward. Indeed, I believe that what this proposition does is, in fact, take us at least one step, if not 2 steps, backwards. I was surprised that the Deputy seemed to make so much play of the human rights of the person being suspended and believing that by having that review carried out by 3 members of the Corporate Management Board that would be infringing their human rights. I am sorry, I just cannot understand that. The human rights Article 6 ...

**The Deputy of St. Martin:**

Perhaps the Chief Minister will go to the next seminar being arranged on human rights; it might help.

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

I went to the previous one before the Deputy went to the one that he attended, but be that as it may, the right to a fair trial is not being removed in either instance by this. This does not get us any further in the right direction. It gets us, in fact, a step backwards, as I say. What we need to do is to review more thoroughly the suspension process, not tinker with this little bit of the engine which perhaps is not firing, but at the moment all we are going to do is to bring the thing to a complete halt. So I cannot accept this proposition from the Deputy of St. Martin.

**6.3 Deputy G.P. Southern:**

I think that speech was as misdirected as the analogy he drew where he talked about the misfiring engine. In fact, changing the petrol and making sure there was no muck in the petrol might well be a solution in some cases to a misfiring engine. Equally ...

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

I hope the Deputy was not suggesting that there was muck in respect of the chief officers.

**Deputy G.P. Southern:**

I will try not to refer to any analogy extended or otherwise in future. But no, I was not implying that at all, and nor would I. That is not the point. The point is that this hearing, which decides on a very narrow point of should this suspension continue and is not a trial as such, is nonetheless a hearing. The Article referred to in human rights about a fair trial refers to a hearing, disciplinary or otherwise, even over a small issue like this and so, therefore, could be applied. The point is not that one system is or is not absolutely fair but is seen to be fair and appropriate. On those grounds, which were not addressed by the Chief Minister it seems to me at all but avoided, on those grounds the perception and, therefore, the risk of appeal that the process is somehow unfair - because that is what it hinges on - and any opinion on its compatibility and proportionality with human rights can only be decided by an appeal to the Royal Court. The risk of that appeal going through or being sought exists if the perception is that it is open to challenge. So, it is a grey area. There are no black and whites; there is no absolute, this is compliant, this is not compliant. The question is, is what has been introduced seen to be absolutely fair? Certainly, on those grounds, the Deputy of St. Martin's proposition is absolutely sound and the arguments against it, I am afraid, are woefully thin.

**6.4 Deputy R.G. Le Hérisier:**

I would like to congratulate the Deputy of St. Martin for pursuing this matter, but in a sense the Chief Minister did have a point because it strikes me one of the issues which in a way is such a holy grail that we cannot really have a proper discussion about it is this issue of police investigations. There is this notion that once a case goes into that great black hole ... Now, I think something is going to have to be looked at. There is a thing called case management in the way U.K. and, I am sure, Jersey courts operate, and judges try to work out how a trial will proceed and the roles that people will play and the general amount of time. You can see that done very explicitly in American courts. We are going to have to look into that because the notion ... I do not know what happens in that process because, as I said, it is a holy grail in which we cannot become involved, but I do not know if we have busy police officers who are rushing hither and thither with all sorts of cases and they pick up the file every now and then or there are long waits for certain witnesses to be dealt with and depositions to be taken and so forth. The whole thing just goes on and on and on, and it grinds on. That is clearly the area, perhaps with the co-operation of the Minister for Home Affairs, that something has to be done because that is by far the biggest, as we well know from this notorious case. The second issue, as I heard Deputy Hill put his case - and I have corresponded with him on some aspects over the week - I did begin to wonder should we, in fact, be pushing for a panel staffed at all by public servants? I thought he made a very good case for there to be a non-public service panel as opposed to one based on certain members of the hierarchy or not, as the case may be. That being the case, I was wondering if perhaps - and, of course, this will delay things and I apologise that I did not bring this up earlier - that is not what we should be looking at. At the risk of making things sound awfully laborious, which I know the Chief Minister wishes to avoid, the point remains there is a feeling that there is a mindset at the top of the civil service, not deliberately exercised but because it is a mindset, that if chief officers are going to look at the actions of other chief officers, even though you might have the finest intellects and men and women of the world, you are not going to get that surgical or forensic objectivity which is required. At this point, I think it would be useful, as we have had human rights cited and as I have floated the possibility, should it be, indeed, an outside body, at the risk of going over the top? The Solicitor General might like to



offer a few comments on what is, indeed, an impartial and objective tribunal and how it can be composed.

#### **6.5 Mr. T.J. Le Cocq Q.C., H.M. Solicitor General:**

I am not sure that it would be of any great assistance for me to offer those comments at this juncture because in my legal opinion this has nothing whatsoever to do with the human rights at all. Article 6 is predicated upon a hearing to determine a civil right and human rights jurisprudence is entirely clear that the making of a suspension or the review of a suspension is not a civil right or a determination of a civil right and, therefore, does not have to be Article 6 compliant. That is an enormous distinction, of course, to a dismissal of an employee, which does determine a civil right and does have to be Article 6 compliant. So a suspension is very much to do with the relationship between an employee and an employer and is something that the European Court of Justice has taken outside of the Article 6 requirements. I do not think I can help further.

#### **The Greffier of the States (in the Chair):**

You have concluded your remarks, Deputy Le Hérisier? Deputy Maçon.

#### **6.6 Deputy J.M. Maçon:**

I cannot believe that we are debating this again. This House spent 5 hours debating this subject. This House rejected the amendments of the Chief Minister, and I think it shows great disrespect to the Deputy of St. Martin and to this House which made its democratic decision months ago. This House gave clear instructions to the Chief Minister about what it wanted him to do. How can he be seen as credible when this House democratically gave their will, when they have not followed the will of this democratically elected House? I ask the Chief Minister to withdraw his opposition to this proposition. We have already been through this debate. We have already decided this. I think it is absolutely ridiculous.

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

This is one of those very unfortunate tales that until something is re-examined and looked at is going to come back again and again and again. I brought this subject up with the Home Affairs Committee before Ministerial and while I was dealing with a number of other different issues, principally about police motorbikes [**Members: Oh!**] and the removal thereof. I was told in no uncertain words that had I had a complaint from an officer concerned, which I had not - I was talking generally; the officer concerned had been suspended for a considerable amount of time - that I was not able to bring this subject up at all as it was a disciplinary and going through due process. I am fully aware of due process. I served for 27 and a half years, but I was also a member of the Police Association as the Vice-President for many years, and I was also very conscious of what seems to get forgotten. It is not just an officer, whether it is a male or female, that suffers during any suspension; it is the family, it is the children, it is when they go to school, it is the grandparents, it is the relatives, it is everybody. One has to bear in mind that when a police officer you are like a big family. You spend a lot of time working together. You socialise with your friends and with other colleagues and their families, et cetera. Then all of a sudden, for whatever reason, you are suspended. Often in the police force it is to be seen to be whiter than white. A complaint has come in or it is something from internal or whatever, and you are then cut off. You are not allowed to talk to any of your colleagues or communicate with them or anything else. You are not working, you are at home, you are devoid of knowledge, you are devoid of information, you are devoid of company and everything else like that. You have a welfare officer, obviously, and you obviously have a friend who you can be represented with. Nevertheless, what you do not have is information. If it is something that may be considered of a criminal nature, it then does not get investigated other than the part of the criminal nature and often will be sent to the Crown's officers for consideration, whether it is prosecution or not. Until that process comes, no other internal disciplinary activities are generally taken other than the process. The consequence of that is that

you are in limbo, and I have known officers who have been suspended for 15 months, 18 months, 2 years, and at the end of it have been reinstated with no charges laid against them or that they have been through court and they have been found not guilty or that the prosecution has withdrawn all the serious offences and you might end up with one or 2 or 3 very small misdemeanours. I am not talking about offences if a police officer has done wrong. Like anybody else, they stand due process and trial and go forward. But what I do say, there is merit in this proposition of having 28-day reviews so that at least the person who is suspended and their family know that somebody is looking at their case and is ensuring that if there are delays that the delays are justifiable and that people are actively pursuing it, as opposed to it just going on and on and you sit there without information.

**The Greffier of the States (in the Chair):**

Just to clarify, Deputy, to save you going too far, the debate today is not about the 28 days, of course. That has been agreed already. This is about the composition of the review board. Twenty-eight days is in the bag; it has been agreed previously.

**Deputy J.B. Fox:**

Yes, I appreciate that and you are right to point it out. One tends to get very passionate about people that suffered a suspension, et cetera. I was coming to the precise point that you are leading to, that the composition of having random people who, like everybody else, can be trained in how to deal with such boards, panels, and can be called upon, not necessarily the same ones all the time, and coming to give the independent feel about it, I support. What I am very disappointed about is that from the years and from the time when I was looking after the interests of police officers and during the 10 years that I have been in the States that we are still discussing this. This should have been dealt with a very, very long time ago and it has not been. This is not necessarily the perfect answer, but it is the only one on the table today and I am going to support it.

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

I had, like Deputy Maçon, thought we had voted for this procedure. I thought that it would be implemented within 3 months and I cannot believe what we are doing debating this again. The fact that the Council of Ministers have decided to bring their own proposals later could be seen as an attempt to muddy the waters. There is a view out there that we spend too long talking about things and here we are revisiting something that as far as I was concerned was decided. I think the Council of Ministers and the Chief Minister are stalling and stopping the will of this House, and I do urge them to simply stop opposing this proposition and get on with doing what the House asked them to do months ago.

**6.9 Senator S.C. Ferguson:**

I suppose the delay might suggest to people that this is a more knotty problem to sort than we thought. I was thinking about Magna Carta - I think it is Magna Carta - which is the right of trial by peers. Now, I know this is not a trial, but somebody of the same level or slightly above would have a better view of this. We have problems with the perception. If the board is purely of chief officers, no matter how objective they are, there is a sort of subliminal effect where they perhaps will not criticise the acts of their peers and may well agree with them. I think we should perhaps look at a compromise. It would be better balanced with some membership by employees of equal grade or grade between the grade of the suspendee and the chief officer to give a much broader view. Otherwise, I think if we do not do that, then we are going to have to look at Deputy Le Hérisier's idea where you get independents in to look at it. I wait to hear what the other Ministers say before I finally decide on this, but I am very unhappy about the general perception of a board composed completely of chief officers. You can have one chief officer on it just to give balance, but not all chief officers. I am sorry, the perception is wrong.

**6.10 Deputy D.J. De Sousa of St. Helier:**

Most of what I wanted to say has been said. I just cannot believe that we are wasting time debating something that I understand to have already been passed by the House. I have only been in the States for about 7 months and several times people have said: "Why are we wasting time going over and over on the same thing?" This proposition was brought to the House earlier this year. It was agreed democratically and it should be adopted now and this should move forward and stop wasting time.

**6.11 The Connétable of St. Brelade:**

First of all, I think from the point of view of the States Employment Board it is agreed among everybody that the process is such that it needs to be speeded up. No one wants suspended employees for any length of time. Having said that, the board have consulted professionals, human resources professionals, and they advise us that principally the system as proposed by the Deputy will not work. The proposals as put forward in the comment are perfectly clear and the board are keen to put in place a system that will be streamlined, that will work efficiently and deal with the suspensions in an expeditious way to the satisfaction of all parties. I would take issue with the final line on page 3 of the Deputy's proposition, there being no financial and manpower implications for the States with this proposition of using a pool of 9 States employees. There clearly will be financial and manpower implications for the States because those people, if they are not doing their jobs, will have to be replaced by others who will have to be paid. So I feel that ...

**The Deputy of St. Mary:**

May I ask for a point of clarification on that?

**The Connétable of St. Brelade:**

Of course.

**The Deputy of St. Mary:**

Chief Officers are paid more than people lower down the scale, are they not, so if chief officers form the board then the costs to the States will be greater.

**The Connétable of St. Brelade:**

The Corporate Management Board regularly meets together and that could easily form part of their meeting process. I have no issue with that. So, I would urge Members to take advice from the professionals in this and let us get a system in place as soon as possible that will work.

**The Greffier of the States (in the Chair):**

Does any other Member wish to speak? Senator Ozouf.

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

A couple of Members have spoken and referred to the comments made by the Bailiff yesterday that you can turn a debate on a speech and the ability for the Government of Jersey not to have an automatic majority to get things through. There is the ability for Back-Benchers to bring forward propositions and issues of public interest and public importance and win the day. I have no doubt at all that the Deputy of St. Martin is supported by many Members in the issue of suspensions and the real public concern about suspensions. I took the opportunity of reading or at least glancing at the transcript of the debate that we had previously on this, and clearly Members are concerned and they sent a signal to the Council of Ministers. They sent a very strong message, as Deputy Maçon said, that they wanted something done about this. It is difficult to say, but sometimes when matters are of significant concern and there is quite a highly charged debate of real issues of importance - and we are all concerned about some of the issues of suspensions that we have seen - decisions are made very quickly and perhaps not with full knowledge of what the consequences of those decisions are. I am a new Member of the States Employment Board and I am learning about the issues of suspension and employment and how we should deal with things appropriately. I have

asked questions about the issue of suspensions and I am concerned, like other people, about employees that are suspended for lengthy periods. We have to find ways. I am not sure there are going to be any easy solutions, but we have to find appropriate ways to deal with the review of suspensions of particularly people who are undergoing criminal investigations. There are real issues about asking questions in terms of the employee when there are criminal investigations underway.

**The Greffier of the States (in the Chair):**

I am sorry to stop you, Senator, but I believe we are inquorate. If there are any Members in the precinct, would they please return to the Chamber?

**The Deputy of St. Martin:**

It is rather a reflection, really, of some States Members, how little they think of those people who are suspended, and I feel it is rather a shame that they have to leave the Chamber.

**The Greffier of the States (in the Chair):**

Deputy, you should not be making comments when we are inquorate, please. Very well, you may continue.

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

I hope that it is no reflection of any concern or lack of concern about suspension that people are not in the Assembly. I think it is a function of a long debate, et cetera, so I would not suggest any disrespect. The fundamental issue here is that the States Employment Board has been faced with a situation where reviews are proposed and being conducted by people at effectively a lower grade than the person that is suspended. That is the fundamental problem that the Council of Ministers has and the States Employment Board has. I hope that Members will put themselves ... a Constable in an earlier debate mentioned that perhaps there have not been many Members of the Assembly that have been employers, and I think that Members need to put themselves in the position of the officer, the head of the department, the chief officer, in respect of a suspension and their decision to suspend, which obviously is a very important act, a neutral act maybe, but it is an important act. To have the decision to continue to suspend reviewed by somebody who is more junior than the person having conducted the suspension is a problematic issue and strikes at the heart of management's ability to manage and make decisions and to keep issues such as suspension. I think that this Assembly ... I am not an expert on employment practice, maybe there are some Members of this Assembly that are, but I have to act upon professional advice and I certainly listened to that professional advice. That professional advice seems to me entirely reasonable. I sent an email in the absence of the Chief Minister last week to Members, sent to the Deputy of St. Martin, saying that there is a desire to hear Members' concerns on this issue of suspensions and to work with the Deputy of St. Martin to find something that is workable. The proposal of any employee, any public employee, hearing suspensions is, I am afraid, not advisable and not workable. It may well be that a better solution is that we get some sort of independence. Maybe Senator Ferguson has a point that it should be simply not only chief officers but there should be some measure of independence. I am certain that some sort of solution is going to have to be found and I would implore the Deputy of St. Martin, who is very good on his feet, who is very good in keeping the Council of Ministers and Ministers on their toes, in holding them to account to find solutions, but if I may say in this case he is pushing too hard on trying to find a solution to the suspension issues. The States Employment Board perhaps needs to review their decision in relation to chief officers, but if there is a view ... I am nervous about the States Members and ourselves as an Assembly effectively doing the job of an employer, but if Members want to insist - and they have every right to insist and to instruct the Council of Ministers - let us try to find an appropriate way of dealing with the issue of suspensions, not effectively shackling the Council of Ministers, instructing the States Employment Board into doing something that is not advisable and, if Members think about it, is not really

reasonable in terms of dealing with the sensitivity of suspensions. I give as a Member of the S.E.B. (States Employment Board) an undertaking to the Assembly that members of the S.E.B. will look at this, will work to try to find a solution, be alert to the public concern and Members' concern, but not vote in favour of the Deputy of St. Martin's proposition. I would ask him if he would be willing to withdraw his amendment in order that we can have discussions, take advice and find a solution to this issue as opposed to pushing it to a vote.

### **6.13 Deputy M. Tadier:**

Earlier on today we went inquorate because a certain number of Members declared an interest so they had to leave, and I think that contributed to the lack of Members. I think recently they have obviously left for a different reason, which is a lack of interest. Fortunately, we seem to have just about the right number so we can carry on. I think this is an important debate that we are having here and it is only right that as many Members as possible should be here. It has been alluded to yesterday that the Bailiff in his speech talked about the power of persuasion to turn an argument, and I think it is appropriate at this moment to say that the Bailiff's speech yesterday, he seemed to find exactly the right words for the right occasion, something which he has become respected for. However, I would suggest that it is not strictly true in the context of this Chamber. It is not so much giving a convincing argument or persuasive case that will win you the day. It is, rather, the person who is giving that speech. So I want you to shut your eyes for a moment and pretend that it is not I who is speaking but, rather, it is one of the more distinguished Constables, because I think there certainly have been occasions when it is they who have been able to turn the mood of the House. Certainly, it is not going to be a humble Back-Bencher like myself, even though technically they are Back-Benchers. The point I want to make here is that it seems very obvious to me, whether it is human rights compliant or not, that we should be looking at the underlying spirit of human rights. I believe that is what the Deputy of St. Martin is alluding to. Whether technically you can argue the toss whether it is relevant in this case - and we have been told by the Solicitor General that it is probably not applicable - but the point is whether it is a tribunal or whatever you want to call it, one would hope that the people that are judging you would both be seen to be impartial and impartial. I find it very difficult to know how appointing chief officers who presumably would not be allowed to sit in judgment over somebody they had been involved in suspending but, nonetheless, the whole system surely is open to the charge of being incestuous insofar as people do talk to each other. Chief officers, I am sure, socialise with each other. So it seems like an eminently sensible proposition which we have before us to take away this power from a somewhat closed shop and diversify it somewhat. We could debate, I guess, the actual number of employees and where they should be drawn from and there is a certain attraction in what Deputy Le Hérissier said earlier. The point is this is what we have in front of us and it is largely better than what has been put forward by the Council of Ministers. It should also be noted that the amendment was withdrawn on the last proposition from the Council of Ministers saying that the States Employment Board should be the ones acting as a tribunal, and this was done I believe in good faith. It seems now that this is just a cynical act to basically get the next best thing in, something which is not independent, and I think we should thoroughly reject this. So, I will be asking Members to back what is on the surface a very good proposition and I will leave it there. You can open your eyes now, by the way.

### **6.14 Deputy M.R. Higgins:**

The Council of Ministers, in my opinion, is acting like an army in retreat using fire and manoeuvre. When faced with an attack and in danger of losing ground, you put up a smokescreen. You withdraw, you regroup and you use deception to mislead the enemy, then perhaps counterattacking at the flanks rather than head on. The whole idea is to draw out the whole affair, just make it last as long as possible before you give ground. Because of other events, I have little or no confidence in the Council of Ministers and some of the chief officers, not least because much of the working in the case of the chief officer group is clouded in secrecy with the minutes not initially being

published and then only in a skeleton worthless form. I believe we are dealing with something that is fundamental to what we are here for, and that is looking after the interests of workers working in the public sector. Now, so far today we have done rather poorly I think looking after the interests of public sector workers, but I do believe that the way that we treat our employees is vitally important. I do not believe and I have no confidence that any suspension board manned by chief officers will provide a just and fair system and, therefore, I will be supporting the proposal.

#### **6.15 Deputy I.J. Gorst:**

Suspensions are a very emotive issue and I think probably this Assembly ought to pay some tribute to the now Connétable of St. Lawrence who initially probably around 3 years ago started to raise the profile of how we as an employer were dealing with our suspended employees. It may have been a slow progress to get to where we are today. The Deputy of St. Martin has picked up that cudgel and is moving us forward. We I believe are all concerned about the length of time that some of our employees are suspended, are unable to find resolution, and why are we concerned? We are concerned because of some of the issues that Deputy Fox outlined. So, it is appropriate that we do move forward, we do once and for all, perhaps, get to grips with why we suspend, perhaps, in the first place, but how we deal with suspended employees. Some of those issues are not necessarily related to what we are discussing today. They are, perhaps, how we treat, how we deal with suspended employees in relation to can we move them from the department in which they are working now to other work, and they are issues that I believe and hope that the States Employment Board as well are going to take on board and consider alongside this new streamlined process. The Deputy of St. Martin is concerned with the Council of Ministers' proposals because to his mind he does not believe that the Corporate Management Board is going to be independent. If one accepts that argument, I believe that one can translate that to say it is then going to be very difficult to see that 9 other States employees who fall within the management structure and the working environment of the States are going to be any more independent. At least one can say that the Corporate Management Board have experience of suspensions; they are involved in other suspensions. We perhaps have come to an impasse. If it is independence that we want to incorporate into that process, and I believe that it is, listening to the arguments today I think that is a very strong argument. Deputy Le Hérissier is often accused of sitting on the fence, but it must be said of him that he does very regularly make strong arguments and strong points in debate, he just is not always then able to decide which of those 2 strong points he is going to go with. But I think that his suggestion today, which we have also heard Senator Ozouf reply to on behalf of the States Employment Board, that if independence is an issue that we are concerned about - and as I have said I believe it is - then perhaps what we should be looking at here is inserting into this process some board of independence rather than just another layer of States employees which, to be fair to the Minister for Transport and Technical Services, would add costs because what we would be doing by accepting this amendment would be adding a layer of States employees and we would then still expect the Corporate Management Board to review them because that is part of their management task, and we would also be expecting the States Employment Board to review them because they are proper checks and balances. So, what we are trying to do ... and I believe that this Assembly is rightly concerned with independence, and I believe that we ought to reject this proposal before us today, take up the offer of the States Employment Board and look at how we can inject some true independence into this process and hopefully help us with the processes of suspension of our employees.

#### **6.16 Deputy A.E. Jeune:**

The Deputy of St. Martin is aware of my concerns in relation to I feel the proposition as it stands before us remains closed shop. I have a problem with that and I do feel, like others, we do need external, independent involvement in this. Further, the proposition is about suspension of States employees. It is not talking about the excluded or those people who were told to stay at home. So I

think it could have been broader. I would welcome the Deputy of St. Martin taking up Senator Ozouf's offer and taking it forward because I share his concerns about the current situation.

**The Greffier of the States (in the Chair):**

Does any other Member wish to speak? I call on the Deputy of St. Martin to reply.

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

We had 14 speakers and I thank them all, even if I do not agree with what some of them have said. I think one of the annoying things I do find about being a States Member is having been used to going to a court situation where you give your evidence before a jury and a jury remains in the room and hears all the evidence so they can make a justified decision at the end of the day, the one thing I do find here is that you make a speech and people are out and they come in and they have not heard half of it, yet they come back again and make a decision. I find it really, really ... the amount of time and amount of effort one puts into getting it ... I am one of these meticulous people that take a lot of trouble in giving all the facts and figures, and here we have people coming in and out and then they make a speech and you think: "Hang on, they are contradicting what I have said because they have not heard what I have said." I do not know where Deputy Gorst was, but it is rather strange because ...

**Deputy I.J. Gorst:**

I have been present all the time. I am not sure what the Deputy is alluding to.

**The Deputy of St. Martin:**

The difficulty is you were the one Minister who supported me last time, the one Minister. I do not know what has happened now, where you have been, but anyway ... Again, there are a few points I want to make and it is the mindset issue from what Deputy Le Hérissier was saying about this outside body. Can I assure Members that I gave serious consideration from the outset. That is how I started off, complaints board, because again I am somewhat familiar with the workings of the complaints board. But again, as a result of my discussions with the senior staff representatives and, indeed, a member of the senior management team of the Chief Minister's Department, I was persuaded not to because I was told the best way forward is to go and have a panel from the general working staff within the public service. Indeed, I did not allude to it here but I remember in my speech that I gave the Chief Minister a certain amount of praise because I thought wonderful inspiration because how it was suggested was that we would have a panel drawn from across the whole of the public service and they would hear what the chief officer had to say and to justify why the continuation of that suspension should be and then that panel would then make its recommendation - this is what the Chief Minister said - to the States Employment Board. That is how it was supposed to work, and I still think that is the way it should work. What we will have then is the States Employment Board, which would be the Chief Minister's Department, would then speak to all the Ministers concerned. Indeed, we know where the big troubles are. We have heard from the Chief Minister saying the delays at the moment are all with the police. Well, it may well be if that is the case why is the Chief Minister not reminding the Minister for Home Affairs to say: "Look, what is going on with your chaps? Why are you taking so long?" We could be asking: "Why is the Chief Police Officer suspended? What are the Wiltshire Police doing? Their report should be here now, yet nothing has happened about that so what is the Minister for Home Affairs doing?" We could go back to the Minister for Health and Social Services. We have someone 2 and a half years suspended, so why is the Chief Minister not on to the Minister for Health and Social Services saying: "What is going on?" That is the purpose of this board, is to make sure that the suspensions are justified and if they are not they report to the States Employment Board and it will be for that body, with the Chief Minister and the Deputy Chief Minister, to be speaking to their Ministers and saying: "Look, we are concerned about this. These people have been suspended for so long. Why? If they are not going to go back ... there is every possibility that the board or the

panel will recommend that they go back, and what are we going to do about that?" That is the problem. All I am asking for is that when we have this panel they are truly representative of the people they are there to deal with. It seemed to be it is quite all right for a chief officer to sit up there, but what about if it is a junior ranking person walks in the room and you have a chief officer giving evidence before all chief officers? Does that give the feeling of impartiality? Does that give the feeling of independence? That is what I am saying, but what we are having is the chief officers or the Chief Minister saying: "Yes, that is what we want." Well, I remind Members that Deputy Maçon and Deputy De Sousa and a number of others said: "When we voted for this in April, that is what we voted for" and we are here again having to undo something which ... I am not going to use the word of Deputy Tadier, but at the same time one wonders really is there no trust for the people who work for the States? Wisdom is not just with the chief officers. This is not a slur on the integrity of any of the management board. It is purely a practical independence. All I want is a board that can be seen to be impartial and independent. Members, I would ask that you give me your support and you support the proposition. Could I just say that at no time have I ever been asked to go and meet the Council of Ministers to discuss my proposition. It is all very well on the floor of the House coming here and saying: "Come and speak to me." I know Senator Ozouf is going to say: "Yes, I asked you last week by email" but it is a bit late. This was lodged a month ago. So, at the last minute we have a plea to come and meet ... not a plea, if it was convenient to come and speak to them, and here on the floor of the House I have been asked again. Well, if that is the way you want to treat Back-Benchers, so be it, but I am very sincere in what I am doing. I know that the House was with me last time. I ask the House to be with me this time. I ask for the appel.

**Deputy A.E. Jeune:**

Sir, can I just ask for a point of clarity?

**The Greffier of the States (in the Chair):**

Briefly, Deputy.

**Deputy A.E. Jeune:**

Did Senator Ozouf assure us that he would go about including an independent person on the panel?

**The Greffier of the States (in the Chair):**

The Senator is nodding, so I assume the answer is yes. Very well, if Members are in their designated seats, the vote is for or against the proposition of the Deputy of St. Martin.

<b>POUR: 23</b>		<b>CONTRE: 21</b>		<b>ABSTAIN: 0</b>
Senator B.E. Shenton		Senator T.A. Le Sueur		
Senator A. Breckon		Senator P.F. Routier		
Connétable of St. Helier		Senator P.F.C. Ozouf		
Connétable of St. Martin		Senator T.J. Le Main		
Connétable of St. Lawrence		Senator J.L. Perchard		
Deputy R.C. Duhamel (S)		Senator S.C. Ferguson		
Deputy of St. Martin		Senator A.J.D. Maclean		
Deputy R.G. Le Hérissier (S)		Senator B.I. Le Marquand		
Deputy J.B. Fox (H)		Connétable of St. Brelade		
Deputy J.A. Martin (H)		Connétable of St. John		



Deputy G.P. Southern (H)		Connétable of St. Saviour		
Deputy of Grouville		Connétable of St. Clement		
Deputy P.V.F. Le Claire (H)		Connétable of St. Peter		
Deputy S.S.P.A. Power (B)		Connétable of St. Mary		
Deputy S. Pitman (H)		Deputy of St. Ouen		
Deputy of St. John		Deputy of St. Peter		
Deputy M. Tadier (B)		Deputy of Trinity		
Deputy of St. Mary		Deputy I.J. Gorst (C)		
Deputy T.M. Pitman (H)		Deputy A.E. Jeune (B)		
Deputy T.A. Vallois (S)		Deputy A.T. Dupré (C)		
Deputy M.R. Higgins (H)		Deputy E.J. Noel (L)		
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

## **7. Draft Court of Appeal (Amendment No. 8) (Jersey) Law 2008 (Appointed Day) Act 200-(P.99/2009)**

### **The Greffier of the States (in the Chair):**

Very well. We come finally in Public Business to the Draft Court of Appeal (Amendment No. 8) (Appointed Day) Act. I ask the Greffier to read the citation of the Act.

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

Draft Court of Appeal (Amendment No. 8) (Jersey) Law 2008 (Appointed Day) Act 200-. The States, in pursuance of Article 31(2) of the Court of Appeal (Amendment No. 8) (Jersey) Law 2008, have made the following Act.

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

This was a law which we had lodged in 2007 and we adopted in January 2008 and made a number of tidying up provisions to a number of appeal provisions within various laws. They are now all ready to go forward with an Appointed Day of 3rd August, and I propose that day as the Appointed Day and propose the Act.

### **The Greffier of the States (in the Chair):**

Is the Act seconded? [**Seconded**] Does any Member wish to speak on the Act? I put the Act. Those Members in favour of adopting it kindly show? Against? The Act is adopted.

## **STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

### **The Greffier of the States (in the Chair):**

As indicated earlier, the Minister for Treasury and Resources has given notice he wishes to make a statement on the Esplanade Quarter, which has been circulated. Minister?

### **8.1 Senator P.F.C. Ozouf (The Minister for Treasury and Resources):**

As Members will be aware, W.E.B. (Waterfront Enterprise Board) entered into heads of terms with Harcourt Developments Limited in July 2007. Those heads of terms require the negotiation and entering into of a development agreement between Harcourt and W.E.B. in relation to the Esplanade Quarter development. The heads of terms provide that the development agreement will require the approval of the Minister for Treasury and Resources. Further, I have committed not to give such approval until the States Assembly has considered and given its approval to the terms of the transaction. That notwithstanding, W.E.B. has been progressing negotiations with Harcourt in good faith in accordance with the heads of terms. As I have previously explained, it is a fundamental requirement of the heads of terms and the development agreement that a bank or insurance company bond be issued in the sum of at least £95 million. It is intended that the bond can be called upon in the event that the developer breaches a material term of the development agreement. W.E.B. have been seeking appropriate confirmations from Harcourt and its funders that such bond can and will be provided. I have been advised by W.E.B. that as yet such confirmation has not been received in satisfactory terms. I have been kept informed by W.E.B. throughout as to the progress of negotiations with Harcourt. I have every confidence as to the manner in which the board of W.E.B. have been dealing with these negotiations. Members should, however, be aware that these negotiations are commercially sensitive and must be conducted by W.E.B. within the framework of the heads of terms. I think it is important to remind Members that the Esplanade Quarter development is a mixed use scheme including the provision of residential units. There continues to be a strong demand for residential accommodation on the waterfront. There also remains a requirement for modern office accommodation built to meet the needs of the on-Island financial services institutions. It is particularly important that we can meet the requirements of such institutions as this is a material factor in seeking to persuade them to retain or expand their operations in Jersey at this difficult time. It may be helpful for me to inform Members that under the terms of the draft development agreement, the development of the Esplanade Quarter would not commence until agreements have been entered into for the letting of at least 200,000 square feet of office accommodation. I undertake to update Members as and when the situation changes.

**The Greffier of the States (in the Chair):**

There is 10 minutes of questioning to the Minister. Senator Breckon?

**8.2 Senator A. Breckon:**

Could the Minister confirm that we gave Harcourt a deadline of 30th June and they have not come up with the money? **[Approbation]**

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

It is quite correct that W.E.B. did give Harcourt the deadline of 30th June, not really to come up with the money but, of course, to find and put in place the appropriate bonds and guarantees. That is correct.

**8.3 Deputy T.A. Vallois:**

Would the Minister advise, with regards to the part of his statement that there also remains a requirement for modern office accommodation built to meet the needs of the on-Island financial services institutions, whether he or W.E.B. have done an up-to-date cost benefit analysis of this due to the current economic climate and whether that industry does require the additional accommodation?

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

Certainly, there has been a number of investigations ongoing. Obviously they are commercially sensitive, but I am aware certainly - and Members will be aware - of some institutions which are consolidating and certainly there is demand. Just as we expect the financial services industry to return to profit in the medium to longer term, I have every confidence that this space is going to be required. But we do have to work very hard in sending out the signals to the financial industry that

we are positive about the future, not least of which is, for example, adopting depositor compensation schemes and others to give the confidence that investors in the Island need in order to make those important decisions. But yes, certainly there is demand but it may not have been as strong as it was 12 months ago.

#### **8.4 Deputy G.P. Southern:**

Having failed to meet the deadline set by the Minister, does this mark the end of Harcourt's involvement in this scheme?

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

W.E.B. I think with, if I may say, the addition of the new States-appointed directors on the board, are dealing with this negotiation entirely properly. It must be to W.E.B. that we look to conclude the arrangements with Harcourt. Harcourt entered heads of terms. There were stipulations in it and W.E.B. I hope will bring to a conclusion those negotiations so this Assembly can consider that development agreement and opine on it on that day. Certainly, W.E.B. need to be persuaded by Harcourt. They have missed the deadline. As I understand it, there are further questions being asked of Harcourt and W.E.B. needs to conclude this pretty quickly.

#### **8.5 The Connétable of St. Helier:**

I will ask the question I think several Members have been trying to get out of the Minister in a very opaque statement. What, please, is the new deadline that the developer has to meet?

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

I am being I hope as straight with Members as I can, but these are sensitive commercial negotiations which, of course, could with a misplaced remark put the States, or at least its wholly owned subsidiary W.E.B., into a difficult situation. The deadline has expired. I am aware that there has been a further exchange of correspondence and I will undertake to update Members as soon as I am advised of the outcome of that correspondence. But the deadline has certainly been missed and I am disappointed about that.

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

If I was to say that 2 weeks is the new deadline, would I be correct or not, Minister? In saying that, could the Minister also inform the Assembly of the 200,000-odd square feet who the new tenant could be and could it be a States department and, if so, could it be Planning? Also ...

#### **The Greffier of the States (in the Chair):**

Let us just have one question at a time, Deputy.

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

I am just trying to follow it all through because as the Member who has brought a report and proposition on this ...

#### **The Greffier of the States (in the Chair):**

There are other Members waiting to ask questions, so please be brief.

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

Yes, I will be brief. So, who the new tenants could be; will they be paying rent or will they be wholly owned by the Island? Further to this, could he give us the size of a 200,000-odd square foot building? Is it the size of the hospital? Is it the same size as the Cyril Le Marquand Building?

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

The Deputy well knows that I could not inform the Assembly who the counterparties for any space are. That would be a breach of confidentiality. I can confirm, however, that I do not support the

moving of States offices on the waterfront and that would take my sanction as far as Property Holdings are concerned. It has to be private sector led. As far as the deadline is concerned, it is clear that the deadline has passed, but W.E.B. are taking legal advice, as they must, in order to complete and to demand of Harcourt and to ensure that the arrangements with Harcourt are followed through. Harcourt must be treated reasonably and fairly.

**The Deputy of St. John:**

On a point of clarification, given that the Minister cannot give us the date of the extension given, that means I cannot withdraw my report and proposition at this stage or ask for it to be delayed because the Minister is not being fair with the Members.

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

I would say that the Minister is trying to safeguard the public interest and ensure that the public interest and W.E.B. are not put in any inappropriate position in their negotiations with Harcourt.

**8.7 Deputy D.J. De Sousa:**

If this was a States department, I am sure they would have sanctions and penalties for failing to meet deadlines. Are there any sanctions or penalties going to be incurred by Harcourt?

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

The sanction is very clear. It is the falling away of the ability to develop the waterfront and to deliver on our hopes and aspirations to deliver a new financial quarter for Jersey. That is the penalty. That should be clear.

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

In view of the fact the total value of this scheme is around £350 million, I just want the Minister to explain where the figure of £95 million comes from - I may have missed something - and what exactly is meant by insurance bond.

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

I am not going to use the 10 precious minutes to go through effectively what the £95 million is. I am happy to give a note to the Deputy and circulate it to all Members. Effectively, it is the amount of money required in order to deliver the infrastructure areas for the underground car park, the road, et cetera, to ensure that the States' position is safeguarded so that it would not be in a position that the developer could walk away without having completed the development without any money. That is the guaranteed bond which the States were given. It is very difficult to explain very quickly. I am happy to circulate a detailed note on that.

**8.9 Senator B.E. Shenton:**

Given that a number of other office projects in town have been pulled through lack of demand, including the Dandara office project on the Esplanade, is it not about time that the Minister stopped wasting taxpayers' time and money and admitted that the waterfront idea is dead in the water?  
**[Approbation]**

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

I am not the Minister for Planning and Environment. I am doing the job of the States' instruction; that is to bring a deal to the States and to safeguard the public interest in terms of financial matters. I maintain my support, not wearing a Treasury hat, for the Esplanade Quarter development. What I would ask Senator Shenton and others is to allow W.E.B. to bring it to a conclusion so that this Assembly can decide whether or not it wants to go ahead with the deal or not, not to try to interfere in the negotiations en route. Let us bring this matter to the Assembly for approval with all the necessary documentation in place and encourage W.E.B. to bring Harcourt to account and bring those bonds and guarantees.

### **8.10 Senator B.I. Le Marquand:**

Is the Minister satisfied in the light of the failure of Harcourt to provide the necessary guarantees within the period and the failure of Harcourt to meet its liabilities to various States departments that Harcourt is still a credible party with whom W.E.B. can properly contract?

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

I am very disappointed to hear from W.E.B. that Harcourt have not delivered on their obligations in the heads of terms, and I think that W.E.B. are acting absolutely correctly in now seeking urgent clarification of the situation with Harcourt and that I can report then to the Assembly of that situation. Certainly, there has to be a question mark over Harcourt in its inability to have yet delivered on the guarantee and insurance bond.

### **8.11 Deputy S. Power:**

I do appreciate that the Minister has to be very careful with his words. Indeed, I fell foul of that situation a few weeks ago myself. It appears that there are variations in the terms of the development agreement in that there is an extension from 30th June. Can the Minister confirm - is he in a position to confirm - that Harcourt have applied to reduce the size of the bond?

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

I am not in detail aware of all of the negotiations that have happened with Harcourt and W.E.B. Frankly, I am not interested in any compromise at all in relation to the bond and guarantee. Harcourt signed heads of terms with £95 million. That is the figure that is required in order to safeguard the public interest and that is the amount of bond and guarantee which Harcourt must provide.

### **The Greffier of the States (in the Chair):**

It is nearly time. Briefly, Deputy Martin.

### **8.12 Deputy J.A. Martin:**

Yes, very briefly, the last paragraph, helpful to Members, it would be helpful, could the Minister tell me what percentage is 200,000 square feet of office space? What is the actual overall?

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

About 50 per cent, I think.

### **The Greffier of the States (in the Chair):**

Final question, Deputy Higgins.

### **8.13 Deputy M.R. Higgins:**

I get the impression that under the head of terms agreement Harcourt can spin this out almost infinitum. Can the Minister inform us what Harcourt would have to do to be in breach of the agreement and enable any development to be put out for open tender?

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

The Deputy purports to have much experience in a lot of matters and I think he must know that it is difficult for me to comment on complex legal matters and certainly to say inappropriate words and to say what the view upon legal advice is of breaching the contract. He would not expect me to make inappropriate remarks in order to assist any counterparty that would wish to take action against the States. So I am being guarded in my remarks, and I would ask that he and the rest of the Deputies and Constables and senatorial benches give a vote of support to the directors of W.E.B., to the board of W.E.B., to bring this matter to a satisfactory conclusion and not to compromise the public interest in terms of exposing us to risk unnecessarily.

**The Deputy of St. John:**

On a point of order, the Minister never answered my question about the size of the buildings that would be going on the site. Can he tell the Members, please, how big 200,000-odd square feet is? Does it look like the hospital or does it look like Cyril Le Marquand House? Give us a description, please.

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

I do not know where the Deputy of St. John was. Was he not in the Assembly when we debated the master plan? My memory is failing me. Perhaps he was not. What I will do is I will get a copy of the approved master plan and show him. I am sure that as Chairman of the Scrutiny Panel he will take a keen interest. The matter has been approved by this Assembly.

**The Deputy of St. John:**

That is not the answer I expected. I asked that it be explained to the Members how big 200,000-odd square feet is.

**The Greffier of the States (in the Chair):**

The Senator will get back to you in due course. Very well, that concludes the question period.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Greffier of the States (in the Chair):**

We come finally to the arrangement of public business for future meetings. I call the Chairman of P.P.C. (Privileges and Procedures Committee).

**Connétable J. Gallichan of St. Mary (The Chairman of the Privileges and Procedures Committee):**

I will try to do this as logically as possible. The arrangements for public business are as per the lavender Consolidated Order Paper with the following changes. For 13th July I propose to take P.107, which is the Senator Stuart Syvret vote of censure, as the first item of business. P.58 would be deferred to 20th October. That is Draft Sea Fisheries (Bag Limits) (Jersey) Regulations lodged by the Minister for Economic Development. Then P.106, the Sea Fisheries: Sale of Fish Without Licence and Licensing of Ormer Fishing, lodged by Deputy Green, is also deferred to 20th October. The addition of P.109/2009, Composition and Election of the States: Single Election Day Each Year, lodged in the name of Deputy Le Fondré. The 8th September Order Paper will have the ... I would like to note that the lavender does not include the Deputy of St. Martin's amendment to P.72, which was inadvertently missed off. That is that Order Paper. Then, moving to 22nd September, the Child Abuse Compensation Claims: Freedom of Expression for Survivors, lodged by Senator Syvret, P.49; the addition of P.110, Pension Schemes: Dealing with the Past Service Liability, in the name of Senator Shenton; and P.111, the Draft Shops (Regulation of Opening and Deliveries) (Jersey) Law, lodged by the Minister for Economic Development. So, that is as per the Order Paper and, of course, as I have said, 20th October sittings would have P.58 and P.106.

**The Greffier of the States (in the Chair):**

Thank you, Chairman. Are there any matters to raise? Deputy Gorst.

**Deputy I.J. Gorst:**

Sorry, the Chairman has just given so much information there. I wonder if she could just clarify where she had Deputy Le Fondré's P.109, whether it was for 8th September. I did not quite hear that.

**The Connétable of St. Mary:**

At the moment I have it listed as the last item of business on the 13th July sitting.

**Deputy I.J. Gorst:**

Deputy Le Fondré unfortunately has had to leave. He would be satisfied with that. However, it might be better taken the first item on 8th September prior to a similar proposition on behalf of the Privileges and Procedures Committee.

**Deputy M. Tadier:**

Can I just add to that; it is relevant. I would agree that it also be taken on the 8th but I would suggest that it is logical to take it after proposition P.72 because if P.72 is adopted then it would render P.109 redundant because this is part of the proposition of P.72. So we could be in a situation where we spend 3 hours or a day debating P.109, pass it and then actually pass it anyway by default with P.72. So, if Members would agree, I would ask that it be put to the vote if necessary, even though Deputy Le Fondré is not here.

**Deputy I.J. Gorst:**

Perhaps I could comment slightly on that, and I do not want to ... having a little bit of experience of these matters, it might be more advantageous to take what might be a slightly less controversial reform proposition first and then move on to the second one, which I believe would be P.109 first.

**The Greffier of the States (in the Chair):**

Can I just take this in 2 parts? Are Members content firstly to take the item on 8th September? Very well. Now, Deputy Tadier has made a formal proposition that it be taken after P.72. Is that proposition seconded? **[Seconded]** Deputy Gorst has already commented briefly. Does any other Member wish to comment?

**The Deputy of St. Mary:**

There is another proposition on this matter, too, is there not? So where is that going? Sorry, I do find it all a little bit ... Would the Deputy of St. Martin comment?

**The Deputy of St. Martin:**

Well, I was hoping this was going to be debated on 8th September. In fact, having been present at many of these before, as Deputy Le Hérissier knows, it probably will be better if they all come in at the same tranche so at least we will go through one and I am sure the Greffier will arrange the order of play.

**The Greffier of the States (in the Chair):**

Yes. There are 2 matters for debate. There is the proposition of the Privileges and Procedures Committee, P.72, with the amendment of the Deputy of St. Martin, and then there is a separate proposition of Deputy Le Fondré. The issue as raised by Deputy Tadier is the order in which they should be taken and he has proposed that the proposition of Deputy Le Fondré should be taken after the substantive debate on the proposition of P.P.C.

**Deputy M. Tadier:**

Can I just say I still maintain that it would be logical to have it after, firstly because it would be a waste of time if the actual second part is adopted, and also because it has consequences for States Members. I believe that Members may be willing to adopt a single election day but they may not be willing to do it until they are assured whether there is going to be no longer a distinction between Deputies and Senators, because I believe that is the sticking point for many people. It would just be easier to do it the other way round.

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

Could I suggest that perhaps we put this until the 15th and decide when Deputy Le Fondré is here and other amendments might have come? It does not need to be decided right now.

**The Greffier of the States (in the Chair):**

The Privileges and Procedures Committee can perhaps consider the matter before the next meeting and if we list the matter for 8th September and hold over the decision on whether it should be taken first or second.

**The Connétable of St. Mary:**

Thank you, Sir, that seems very sensible.

**Deputy J.A. Martin:**

Having been to a briefing on the North of Town Master Plan, it is still not quite ready and the Constable wants to meet with all the Deputies. So, can I move it to the first sitting in September, the 8th, please?

**The Greffier of the States (in the Chair):**

That is P.43 on Anne Court. Very well, are Members content to move that item? Are there any further comments on the arrangements for the next sitting? Senator Ozouf.

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

The statement that I made in relation to Esplanade Quarter, I am not going to test the mood of the Assembly and push the Deputy of St. John in a place that he does not want to go. It is a matter for Members but I just give notice that based upon the advice that I would get from W.E.B. I may well on the day seek to defer the debate on Esplanade if there is an issue which the States' interest would be compromised by such a decision in the midst of a negotiation. I will not push that matter now, but I think it is only polite that I do ... the Deputy of St. John knows my position on this and I hope that he will forgive me if I am put in that position.

**The Deputy of St. John:**

On that particular point, I believe Back-Benchers are permitted to have their report and proposition heard. The Senator, in fact, on an earlier occasion had my report and proposition delayed from today and at this moment in time I am not prepared to take any more delays on my report and proposition. I will decide when I want to, along with the House, not the Senator. **[Approbation]**

**The Greffier of the States (in the Chair):**

I think you were correct in the second part of the statement when you said: "along with the Assembly", because it will be a matter for the States to decide if there is a proposition to defer at the next meeting. Are there any further comments in the arrangements of future business?

**Deputy I.J. Gorst:**

There is just one and I hesitate to raise it because I was absent from the Assembly at the last sitting when Members decided, I believe, to allow P.100, which is Deputy Tadier's television licences for over 75s, to be put in advance of my own proposition, P.64. I am not sure why that was the case because, as Members will be aware, even if the Deputy is successful with that proposition, it will not be able to come into force until he makes the case again at the Business Plan debate. We will still require the regulations in order to carry on giving the current provision on a means tested basis to the over-75s, so I am just a bit uncertain about the order there.

**The Greffier of the States (in the Chair):**

I do not think it was intended to supersede your proposition, Minister, it was simply to get the principle agreed on the future direction of free television licences, I think. Are Members content to leave the propositions in the order agreed at the last meeting? Very well, the meeting ...



**Deputy R.G. Le Hérissier:**

No, I think the Minister has raised a good point. It seems a bit superfluous to have to go through the debate essentially twice given we have gone many times through it before.

**The Greffier of the States (in the Chair):**

I do not think, with respect, it will be the same debate. The issues are quite separate, I think as Deputy Tadier and the Minister will ... there are 2 quite separate issues.

**The Deputy of St. John:**

On another issue on the Order Paper, given that there is even talk about delaying my Esplanade Quarter P.77 yet again, how many times can a Member have his proposition delayed in the House?

**The Greffier of the States (in the Chair):**

Three times.

**The Deputy of St. John:**

That being the case, could I ask that my item be put first on the agenda for that date and then we will know by that morning what is happening within the Esplanade Quarter.

**The Greffier of the States (in the Chair):**

That is a matter for the Assembly. The Chairman of P.P.C. did suggest in accordance with the convention that the vote of censure was taken as the very first item.

**The Deputy of St. John:**

Second item.

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

Could I assist the Deputy? I really do not wish to be difficult with him. Could I suggest that what I will do is I will undertake to inform Members ahead of the start of the meeting on the 13th, if necessary by a further statement, in order that then Members can have certainty of where we may be heading. If he pushes me for first item of business, we may well be in a difficult situation with new news just arriving. It may well be that we are meeting on the 14th or 15th and it may well be at that stage that his debate can go ahead because matters would have been concluded one way or the other. I urge him to maintain the list on the Order Paper.

**The Deputy of St. John:**

I must take issue with this. Yesterday we were told we were getting this statement from the Minister and it arrived this afternoon. We cannot rely on what the Minister tells us. He makes one statement that he is going to give us the information 24, 48 hours ahead and it does not happen. I maintain that I will be second on the Order Paper if I may.

**The Greffier of the States (in the Chair):**

It is a matter for the Assembly. I put the proposition of the Deputy of St. John that this matter be listed second on the Order Paper. Those Members in favour kindly show?

**Deputy M. Tadier:**

I think we should have the appel probably. I am surprised the Deputy did not call for it.

**The Connétable of St. Mary:**

Are we not able to speak on this because, very briefly, I fail to see the difference if we are going to debate it. We are not being asked at this moment in time to move it from that agenda. What is the difference if we debate it second item of business or where it stands? I do not see how that alters

the Deputy of St. John's position. In fact, it takes away the possibility we will have the additional information in advance of the debate.

**Deputy E.J. Noel:**

Can I just comment on that? Without wanting to put myself in a position where I am breaching my role as director of W.E.B. but our next board meeting is scheduled for the date after the 13th. **[Interruption] [Laughter]** No, we are due to sit on the 13th, not the 14th.

**The Greffier of the States (in the Chair):**

The appel is called for on the proposition of the Deputy of St. John that this be taken as the second item of business. The Greffier will open the voting.

<b>POUR: 12</b>		<b>CONTRE: 27</b>		<b>ABSTAIN: 1</b>
Senator J.L. Perchard		Senator T.A. Le Sueur		Deputy M.R. Higgins (H)
Senator A. Breckon		Senator P.F. Routier		
Connétable of St. John		Senator P.F.C. Ozouf		
Deputy R.C. Duhamel (S)		Senator S.C. Ferguson		
Deputy of St. Martin		Senator A.J.D. Maclean		
Deputy R.G. Le Hérisier (S)		Connétable of St. Helier		
Deputy G.P. Southern (H)		Connétable of St. Brelade		
Deputy of St. John		Connétable of St. Martin		
Deputy M. Tadier (B)		Connétable of St. Saviour		
Deputy T.M. Pitman (H)		Connétable of St. Clement		
Deputy D. De Sousa (H)		Connétable of St. Peter		
Deputy J.M. Maçon (S)		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy J.B. Fox (H)		
		Deputy J.A. Martin (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy P.V.F. Le Claire (H)		
		Deputy of Trinity		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy A.E. Jeune (B)		
		Deputy of St. Mary		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		

**The Greffier of the States (in the Chair):**

Very well, if there are no further comments on the arrangements for future business the meeting is closed and we will reconvene at 9.30 a.m. on Monday, 13th July 2009.

**ADJOURNMENT**