

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 20th JANUARY 2009

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

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

The Bailiff:

The first matter is the unelected members of the Public Accounts Committee.

1. Senator B.E. Shenton:

I would like to propose the following unelected members: Mr. Martin Magee - who was a member of the previous Public Accounts Committee, Mr. Patrick Ryan and Mr. Kevin Keen. Short C.V.s (curriculum vitae) of these individuals would have been forwarded to all members a couple of weeks ago. I should add that we are currently interviewing for one more position as an unelected member and we have had a number of applicants for that post.

The Bailiff:

Thank you, Senator. The procedural position is that no alternative names were proposed within the 2 day working deadline that the Standing Orders lay down and I can therefore declare that Mr. Magee, Mr. Ryan and Mr. Keen have been duly elected to the Public Accounts Committee. Do you wish to propose, Senator, a further elected member?

Senator B.E. Shenton:

Yes, Sir, I am very pleased to propose the Constable of St. Helier to fill another position on the committee.

The Bailiff:

Are there any further nominations for membership of the Public Accounts Committee? I declare that the Connétable of St. Helier has been duly elected to the Public Accounts Committee.

QUESTIONS

2. Written Questions

2.1 THE CONNÉTABLE OF ST. LAWRENCE OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE COST OF WITHDRAWING FROM HIGHER EDUCATION COURSES:

Question

For the years 2003 to 2008 inclusive, would the Minister inform members –

- (a) the total cost of higher education courses to the Department for each year?

Answer

The total cost of higher education courses to the Department for each year 2003 – 2008 is detailed below

Year	Cost
2003	£7,26M*
2004	£8.83M*
2005	£9.58M*

2006	£9.45M*
2007	£9.08M
2008	Year end accounts not yet available

* Please note until towards the end of 2006 student grants included payments to low-income students following courses of study at Highlands College. Funding for this was transferred to Social Security as an aspect of Low Income Support.

Question

- (b) the number of undergraduate withdrawals, if any?
(c) the cost to the Department for those undergraduate withdrawals?

Answer

(b) & (c) the number of undergraduate withdrawals, the cost to the Department for those undergraduate withdrawals and the sums recovered from those who did not withdraw due to ill-health is detailed below.

Students not completing Higher Education Programmes

Reasons for leaving

Year	Ill Health	Amount paid	Withdrawn	Amount paid	Amount refunded
2003/2004			17	£104,625	£17,759
2004/2005	2	£20,139	18	£121,879	£25,718
2005/2006	3	£60,741	23	£183,857	£32,268
2006/2007	13	£139,934	28	£152,333	£28,195
2007/2008	6	£97,115	42	£303,725	£51,773

Question

- (d) what the current policy is for reclaiming monies owed by those undergraduates?

Answer

Under the Current arrangements for the financial support of students, those who withdraw from a course due to ill health are not required to reimburse grants paid to them if satisfactory evidence is provided from both the institute and a doctor.

If a student fails or withdraws for non-health reasons however, there is a financial penalty. A student in receipt of a maintenance award will have to repay the unexpended portion of the award for the term in which he/she left. The Department will also require a repayment of the tuition fees for the previous term that had been paid by the Department.

In accordance with the signed declaration on the application form, the contributors and the student are jointly liable to repay an award in the event of a repayment being requested by the Department.

When considering the above figures it is important to bear in mind, that middle and high earning families obtain little by way of financial support for university study as financial assistance is designed to help those who would otherwise be unable to access higher education. In many instances therefore, students and their families who may be asked to refund grants are liable to experience the greatest difficulty in making repayments.

Question

(e) whether that policy will be reviewed?

Answer

Expenditure on student grants has to be reviewed on a regular basis to ensure value for money from the UK and a fair distribution of a limited resource among local students, I am pleased that the overall student drop-out rate for Jersey students is below ten percent, compared to about 15% in the UK and I have no plans to review the overall policy for student grants at this time. I will however, be seeking further information on the reasons behind the apparent recent increase in withdrawals and into the effectiveness of our mechanisms for recovering States investment in students who do not complete their programmes of study.

2.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING FREE GP ACCESS:

Question

Will the Minister provide an accurate and comprehensive statement for members regarding the cost of extending free GP access to an additional 4,000 households, including those with high medical needs, lone parents, couples with children and pensioners, as I suggested in my amendment to the 2009 Business Plan ('Annual Business Plan 2009 (P.113/2008) Sixth Amendment')?

Answer

The Income Support scheme provides a number of ways in which low income households can receive financial support with GP bills and other medical costs. In particular, additional assistance is now available to any individual in a low income household who has a long term medical condition and needs regular GP check ups. In the case of a sudden bout of illness, requiring a number of GP visits, any income support claimant may receive help through a one-off payment to meet this cost.

I would be reluctant to provide an accurate and comprehensive statement on the proposal suggested by the Deputy as I am not convinced at this time that providing free GP access to all the categories of household suggested (regardless of their medical needs) would be a prudent and well targeted use of public funds.

I will however review the evidence in this area to determine if any changes are needed to the existing system. The funding of primary care in general is also being considered by Health & Social Services at present as part of a wider review of primary care services and any changes to Income Support would need to be carefully co-ordinated with Health & Social Services policies.

2.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING A REVIEW OF THE INCOME SUPPORT SYSTEM:

Question

In the light of the critical report recently delivered on the effectiveness and efficiency of the Income Support system, will the Minister now agree to a full and comprehensive review of the 'fitness for purpose' of Income Support this year, as previously proposed, paying particular attention to incentives to work and save; access to GP's; prompt access and greater flexibility over special payments, and the issue of community visitors to protect the vulnerable, and if not, why?

Answer

The income support system is still very new and procedures and guidelines are kept under close review on an ongoing basis. For example, I will be reviewing and reissuing the main Income Support policy guidelines within the next few weeks.

Following the leaking of the draft Parish of St. Helier report to the local media, I have asked to meet the Constable of St Helier to discuss any concerns he may have in more detail. My Assistant Minister has already undertaken several visits to other parishes to gauge their experiences of Income Support.

There are ongoing issues of the provision of community care to vulnerable residents in Jersey. This situation is not directly related to Income Support and resources in this area have been stretched for several years. I will be working with the Health & Social Services and Housing Ministers and the Chairman of the Constables' Committee to ensure that vulnerable residents are identified and provided with appropriate support.

Undertaking a full and comprehensive review of Income Support in 2009 would divert resources from the work to be undertaken on community support and, as highlighted in the debate on P.113/7, a review at this early stage runs the danger of being an unsatisfactory exercise, in that it is very difficult to review the impact of any new system until it has been running in a finished state for some time.

I will review all the evidence provided by the Parish of St. Helier or from any other source, and if changes need to be made to the Income Support system, then I will not hesitate to make these changes. It is however equally as important that the system is allowed to bed down and that extra efforts are made to ensure that all vulnerable people are made aware of their entitlement to the current Income Support benefit.

2.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING SUPPORT FOR THE STAFF MADE REDUNDANT BY THE CLOSURE OF WOOLWORTH'S:

Question

(a) In the light of the Woolworth's insolvency, and consequent redundancies, will the Chief Minister inform members what consideration, if any, the Council of Ministers has given to supporting the workers already affected by these redundancies in the short term?

Answer

Since mid December, the Social Security and Economic Development Departments and the Jersey Advisory and Conciliations Service have been working proactively to provide as much assistance as possible to the staff of Woolworth's; dealing with the UK Administrators and advising staff on their employment rights, as well dealing with re-employment, welfare and support issues.

Workshops were held at the store to provide Woolworth's staff with information on Income Support as well as careers and employment services available, and measures were put in place to deal with any arising Income Support claims. A number of Social Security staff were assigned as points of contact for the people affected, and are in regular touch with them.

Specific courses were held to help these people re-enter the job market with confidence, as well as offering workshops on interview skills, CV writing and providing self help tools for both emotional and skills issues. The courses were well received and support for the workers is on-going.

Last week, Economic Development hosted assessment centres over three days at which a prospective new tenant of the ex-Woolworths store, interviewed over 60 former Woolworths employees with the intention of offering future employment. At this stage a final outcome has not yet been confirmed, however it is understood that potential offers of employment were made to a significant number of those affected by the closure of Woolworths.

Question

(b) Would the Chief Minister advise what steps, if any, have been, or are to be taken to establish proper protection for Jersey employees in similar circumstances in the long term; in what timescale does he see these measures being in place, and what intermediate measures, if any, does he envisage being put in place during 2009?

Answer

An amendment to the Employment (Jersey) Law 2003 was drafted in 2008 which, if adopted by the States, will give employees a statutory right to a redundancy payment. As recommended by the Employment Forum, that amendment was also intended to protect employees whose employer transfers their business to a new owner.

However, due to difficulties in finalising that aspect of the law, the Social Security Minister requested in December that the two provisions should be separated in order to ensure that the proposed statutory redundancy payments may be debated by the States without further delay.

The redundancy legalisation has now been separated from the business transfers legislation and the Minister will lodge a draft in February for States debate in April 2009. If the draft is approved, the Minister will seek rapid progression through Privy Council.

While the redundancy law progresses, the Minister intends that priority will be given in 2009 to the establishment and administration of a central insolvency fund, so that statutory redundancy and notice payments can be provided to protect and compensate staff whose employers are unable to meet their obligations.

Question

(c) What research and information, if any, does the Council of Ministers have on the scale of recession in Jersey and potential insolvencies and redundancies in 2009 and beyond?

Answer

The International Economic situation is changing very rapidly and here in Jersey conditions have changed markedly during the last month. We are all aware of job losses and have heard rumours of more to come. However, as a responsible Government we must not be driven by rumours or individual cases. We have limited resources at our disposal and we must use them at the right time targeted to deliver the greatest benefit for all of our local people.

I am very pleased that we had the forethought to set aside almost £140m in the Stabilisation Fund to use to counter the effects of recession. I am steadfast in my view, which reflects that of the Fiscal Policy Panel, that we must only use this for short term investments aimed at assisting local people and businesses to weather the recession; it must not be used to fund new and ongoing things we would like to do in any event.

Members will remember that I invited the Fiscal Policy Panel (FPP) to review their economic assessment and come and explain their work to States Members and I was very pleased that on 6th of January 2009 35 of us attended. Unfortunately the questioner was not present at that review. The Council of Ministers subsequently had a detailed discussion with them about the research that we have commissioned and the plans we are developing. I am pleased to report that this panel of 3 internationally renowned economists confirmed that they support our proposals and I would like to outline them very briefly.

We have tasked the Economic Adviser and Economic Development Department to report their assessment of likely trends in the economy in 2009. This will include economic analysis of external and internal factors leading to a broad assessment of likely trends in GVA; and also the latest assessment of how the key business sectors are performing in the Island, driven by detailed local information from the business community. This work started some time ago and will therefore be discussed by the Council of Ministers during February and then shared with all States Members.

In parallel with the research we are also developing a package of economic stimulus measures that will be implemented to support local people and businesses to weather the recession. We will have all of this completed and considered by the Council of Ministers during the first week of March. We will discuss it with Scrutiny and States Members and ask the FPP to advise us whether it would be right to release funds from the Stabilisation Fund and whether the economic stimulus package is robust and sensible. The final decision will be for the States as to whether it is right to withdraw funds from the stabilisation fund and whether the investment package is acceptable. I hope States Members will work with me and the Council of Ministers to ensure our decisions are timely.

We are of course already using our existing resources to help people and businesses. The Skills Executive is researching and planning appropriate actions. We are all aware of the help that Social Security is giving to people who are looking for work. The Economic Development department is working with businesses and there is more we can and will do with existing resources.

Overall I believe this is a well judged and timely response to economic conditions. We are acting now to help people experiencing problems and are planning a package to provide some stimulus and support to help people and the economy weather the recession and return to sustainable balanced growth.

2.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE NEW STRATEGIC PLAN:

Question

“Will the Chief Minister inform members whether the Council of Ministers intends to address the following issues which were central to the recent Senatorial elections in the Strategic Plan - :

- Fair taxation - GST, 20 means 20 and Social Security contributions(including dealing with Supplementation);
- Government and electoral reform;
- Population and migration issues - to include immigration control and a proper investigation into the issues raised by ‘Imagine Jersey 2035’?”

In consultation towards a new Strategic Plan will the Chief Minister commit himself to devising a plan which contains SMART (Specific, Measurable, Achievable, Relevant and Time-limited) objectives with, in particular, measurable and timed outcomes?

Will he further undertake to ensure that the Strategic Plan should indicate the mechanisms by which such outcomes will be achieved?”

Answer

The new Strategic Plan will set out the priorities for the Council of Ministers and the States for the next three years. I have already gone on record to state that the Council of Ministers will engage and involve all States Members in the planning process so that their views can be taken into account when the Council of Ministers develop the plan. I would encourage the Deputy to participate in this process.

The development of the new Strategic Plan is at a very early stage. However, in its work on the Plan to date, the Council has clearly been mindful of issues raised during significant consultation processes undertaken in 2008 (such as Imagine Jersey and the Island plan review) in addition to those issues raised during the Senatorial and Deputies elections. Initial work on the priorities and financial framework for the plan has indeed included consideration of taxation (including Supplementation), Government reform, and population and migration issues.

As recommended by the previous Privileges and Procedures Committee, it is my intention that the new Strategic Plan will be a broader policy statement setting out the overall policy direction without excessive detail on initiatives. These should appear within the Annual Business Plan approved by the States Assembly. The mechanisms by which the new Strategic Plan achieves such outcomes will include performance indicators and clear links to business plan objectives and performance criteria that will be SMART-based.

2.6 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING CONTAINERS AT LA COLLETTE:

Question

Will the Minister advise whether the large stack containers at La Collette, which have prompted letters of complaint to me from the residents of properties in the Havre des Pas, Greve d’Azette and St. Clement’s Coast Road area, are a permanent feature and if so, was planning permission given for their placement in this location?

Answer

The containers referred to are utilised to store asbestos which has been removed from many of the Island's buildings. They have been on site since 1995, although the number has gradually increased over time as more asbestos has been removed from local buildings.

The original planning permission for La Collette grants permission for activities associated with the management of waste including asbestos reception.

The site is operated within the Waste Management (Jersey) Law 2005 under a working plan and licence application submitted to the waste regulator.

The Department is seeking funding for the long term disposal/storage of the containerised asbestos and pre-feasibility investigations have taken place to facilitate their removal.

2.7 DEPUTY R.G. LE HÉRISSEUR OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE MANAGEMENT OF PUBLIC CAR PARKING AT RUE DES PRÉS TRADING ESTATE:

Question

What issues, if any, arise in managing public car parking on the Rue des Pres Trading Estate and how are these issues being resolved?

Answer

Background

The land which currently forms the 42 space car park was originally acquired as part of the Rue des Pres Trading Estate Development and was retained by the Public (former Planning Committee) together with the Estate roads and verges. The original concept was for the car park to provide free parking to all users at Rue des Pres and it was historically policed by the Planning Enforcement Officers.

Current Situation

The current parking arrangements are not satisfactory for two reasons

- 1) Areas adjacent to each industrial unit originally intended for parking have been developed as building extensions.
- 2) The public car park is usually full with staff cars and or cars awaiting repair by a local business.

Visitors are therefore parking illegally outside units and causing obstructions

Thus the key issue may be summarised as a shortage of parking spaces for staff, business use and visitors leading to illegal parking and traffic congestion

To address this situation Property Holdings is considering the following options. However, each has a significant cost implication for which funding is not presently available.

- 1) Employ the services of a wheel clamping company to police the car park and effectively make it for short stay parking only;
- 2) Erect a parking barrier and employ the services of a managing agent to let the spaces;

- 3) Designate the car park under the Road Traffic (Public Parking Places) (Jersey) Order 1985, which would enable it to be policed by T&TS. (This option has been considered in the past, however, T&TS was unwilling to take on the responsibility of an additional car park);
- 4) Transfer the ownership of the car park to the Parish of St Saviour by means of a conveyance passed before the Royal Court. The Parish would then be responsible for policing the car park pursuant to the 1985 Order. (Discussions have previously occurred with the Parish, however, the Planning Committee at the time did not wish to dispose of the car park);
- 5) Dispose of the car park on the open market with a restriction that it be used only for parking.
- 6) Investigate development of the car park site as a multi-storey car-park.
- 7) Retain the car-park land, but lease it as private parking.

The Transport and Technical services department is currently working on plans to reconfigure the current site landscaping in order to make further parking spaces available adjacent to each unit.

To significantly improve on site parking at Rue des Pres a combination of these initiatives may be necessary including safeguards to ensure that the viability of the trading estate is not compromised.

I have asked the Property Services Department to work with the Parish of St Saviour to establish the best way forward.

2.8 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE MAINTENANCE OF ST. JAMES' CENTRE:

Question

What actions, if any, will the Minister be taking to resolve the long standing maintenance issues at St. James' Centre?

Answer

The funding required to repair the decorative features of the front towers and associated pinnacles of the former 1829 church was estimated at £270,000 in November 2006. Whilst these elements of the building were considered to pose the greatest risk of unstable masonry, there are other areas of decorative tracery work on the towers which should be repaired in conjunction with the pinnacles. The total cost of this has not yet been estimated, but could be double the 2006 figure.

This level of funding cannot be found from Property Holdings' maintenance budget, or from the operators of the Centre, the Jersey Arts Centre Association and the Jersey Arts Trust, which receive annual operating grants from the Education, Sport and Culture Department.

Unfortunately, Property Holdings cannot defer maintenance on other properties within its portfolio in order to redirect funding to St James, as the majority of its maintenance budget is given over to essential statutory compliance work. Furthermore, Property Holdings receives no income from St James to put towards maintenance, and it has not been possible to agree terms for a lease between the States and the occupiers.

Property Holdings has applied to the Planning Department on two occasions for consent to deal with the defective pinnacles using lower cost alternatives to complete repair. The first application was to record and take down the pinnacles, estimated to cost £88,000 in November 2006. The

second application was to encase the pinnacles. Both applications were rejected as the proposals were considered inappropriate for this Registered Building, which was then a proposed Site of Special Interest. It should be noted that the property has recently been formally designated as a Site of Special Interest.

Property Holdings has also considered the disposal of St James, but will only pursue this within the context of an approved property strategy for arts, culture and heritage related property. The possibility of increasing the range of uses that St James is put to has also been considered as a means of generating income.

For 2009, it is envisaged that the scaffold will remain in-situ at the front of St James for safety reasons.

2.9 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE BUDGET ALLOCATION FOR CULTURAL MATTERS:

Question

Is the Minister satisfied with the current budget allocation to Culture and with the manner in which the funds are disbursed?

Answer

The States Cultural Strategy, approved in 2005, sets out a vision for expanding cultural provision on the basis of the many benefits which such expansion would bring the Island. To that end, it clearly identifies the need for increased resources to support the Island's funded cultural organisations and to encourage some of the wider benefits which the strategy sets out.

No such resources have been made available; in fact, the value of support to the cultural sector has diminished rather than increased since the States adopted the strategy. The Department is unable to provide such funding without cutting core services elsewhere. I do not regard this as a satisfactory state of affairs. It presents serious difficulties in a number of areas: the revenue grants on which the principal organisations depend to deliver the services which the Island expects and deserves are not currently adequate; there is insufficient funding to maintain the cultural estate; and there is no local equivalent of the National Lottery Fund upon which UK organisations depend to secure much of their capital investment.

Although some aspects of our cultural life are not dependent on financial support, to the extent that I am asked about the budget allocation to culture, I am not satisfied that the current level of support is consistent with the ambitions the States set out in its strategy. I shall, therefore, be seeking ways to address what I regard as an important issue during my term of office. It will also be important to review the Cultural Strategy, with the involvement of the cultural organisations, to focus efforts as effectively as possible.

The disbursement of funding is governed by partnership agreements between Education, Sport and Culture and the organisations concerned. A small amount of funding, less than 2% of the budget, is spent on the recommendation of the Council for Culture core group members to encourage joint-working and to address specific projects within the Cultural Strategy. The Department is exploring a mechanism to devolve some of this funding to the group under criteria agreed with the Department.

The partnership agreements which govern the majority of the budget, have been the subject of much work by the Department and the cultural organisations to ensure that they comply with States Financial Directions. It is important that these organisations provide a strong foundation for achieving the wider success of the Cultural Strategy. However, this is also dependent to a large degree on providing those organisations with the necessary resources, for without those resources, these organisations will struggle to deliver their objectives.

2.10 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE INDEPENDENT COMPLAINTS PROCEDURE:

Question

How many people have utilised the Independent Complaints Procedure and is the Minister content with the manner in which it is working?

Answer

The Health and Social Services Department has a well established and robust complaints procedure based upon best practice in the NHS. The procedure has two aims. The first is to provide arrangements for the prompt, fair, and confidential resolution of complaints from aggrieved patients and clients. The second is to identify areas for improvement and for learning, in large part to prevent similar failings or deficiencies arising in the future.

In December 2007, the Minister agreed to arrangements which established an independent ‘second stage’ Complaints Procedure. The ‘independent’ component is provided through a reciprocal agreement with the Guernsey Health and Social Services Department by the use of an Independent Review board which has lay representation. The Guernsey Health and Social Services Department ratified this reciprocal arrangement in October of last year.

From December 2007 no complaint has been lodged as requiring a second stage review. There have been two occasions in this period when the local Complaints Procedure was not appropriate, but rather than have recourse to a second stage complaints process, independent experts from the mainland came to adjudicate on the grievances raised by the relatives of two deceased patients. In other words, whilst Guernsey did not ratify the reciprocal arrangements until October last year, this has not meant that aggrieved patients, clients or their representatives have not had recourse to expressly independent adjudication.

It is not expected that there will be a large number of second stage complaints. If there were then this would mean that the Complaints Procedure itself was failing. In 2008 the Health and Social Services Department received 172 formal complaints, 95% of these were acknowledged within two working days and over 80% resolved within 22 working days which complies with the onerous standard required.

2.11 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING A REVIEW OF THE MANAGEMENT STRUCTURE WITHIN THE DEPARTMENT:

Question

Given the Minister's commitment to public service reform, will he outline his plans, if any, for reforming the management of the Health and Social Services Department?

Answer

It is important that the management of the Health and Social Services Department is seen to provide a high quality and efficient service – in exactly the same way as front line health and social care practitioners must demonstrate their effectiveness. This is readily understood by the Senior Management Team of the Department. In this context, there are three significant factors which will influence the reform of the management of my Department.

The first is the Williamson Implementation Plan which will be considered by the Council of Ministers on 29th January 2009. The Deputy will recall that a key component of the Andrew Williamson Inquiry was the proposal for the Children's Executive and the Corporate Parent to be restructured as the current arrangements lack clear lines of managerial and political accountability. If the Council of Ministers and, indeed, the States Assembly accepts this important recommendation, then a Children's Directorate will be formed which will have the effect of restructuring many elements of the Department's managerial and clinical arrangements.

The second is that in partnership with the Controller Auditor General, the corporate functions of my Department (general management, governance, estates, and financial management) will be reviewed by PricewaterhouseCoopers to ensure that the arrangements are effective and efficient. The Chief Officer and his colleagues are pleased to co-operate with this review. The review of front line clinical and social care activities takes place as a matter of course and the senior managers of my Department see themselves as being no different in the sense that their activities should be subject to the same level of review. The PwC review will commence on Monday 26 January.

The third is that all senior managers are subject to performance review and appraisal and all members of the Senior Management Team have been appraised within the last twelve months, as per the States of Jersey Codes of Practice. Many members of the Senior Management Team are participating in appropriate professional training and development opportunities. The Deputy will readily appreciate, I am sure, the need for management to remain timely and well trained and thus able to fulfil their responsibilities.

Notwithstanding these important factors, I will have to keep the management arrangements under review if New Directions is accepted by the States of Jersey in due course. I shall seek advice from the Chief Officer of my Department, from the Chief Executive of the States, and from my Assistant Ministers in doing so. Whilst the main emphasis of current planning in support of New Directions is focusing on the range of services and changes which will be required if New Directions is accepted, the focus must then turn to how best the investment is managed and senior people are held accountable in this regard.

2.12 SENATOR B.E. SHENTON OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE RESCINDMENT OF THE LOI (1894) SUR LA COUPE ET LA PECHE DES VRAICS:

Question

“Can the Minister explain why he has not taken any action to remove the ancient seaweed law ‘Loi (1894) sur la Coupe et la Peche des Vraics’ which is preventing the development of Ormer farming in Jersey on a commercial basis, despite requests from the industry?”

Answer

The Minister is aware that the legislation regarding the cropping of seaweed needs updating in order to support the Fisheries Industries. Formal application for law drafting time had been requested for 2007 and 2008 but did not gain sufficient priority over other legislation. A request for drafting time in 2009 has been made and is at the moment third in line behind two other important pieces of legislation.

2.13 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING CONTAINERS AT LA COLLETTE:

Question

Will the Minister advise whether planning permission was given for the placement of the large stack containers at La Collette, which have prompted letters of complaint to me from the residents of properties in the Havre des Pas, Greve d'Azette and St. Clement's Coast Road area, and if so, would he inform members when this was given and whether the planning application was advertised in the usual manner?

Answer

No planning application was received, or required, for the stacked containers because they are permitted under applications approved in the early and mid 1990s.

Planning Permit 17742 (18th October 1991) granted planning permission for the formation of a breakwater that created the La Collette II reclamation project. The aim of the project was to form a new area for development but also to provide a solution to the disposal of non-organic waste for the Island. Planning Permit 17742/B (12th September 1995) gave permission for infilling of the area created by the breakwater and in particular allowed for superfilling over and above the height of the breakwater where the site was to be used for the disposal of ash from the incinerator at Bellozanne. This was located on the north-eastern area of the site and allowed for superfilling up to 8m above the level of the top of the breakwater.

Subsequently Planning Permit 17742/C (18th October 1996) granted permission for landscape tipping along the north eastern edge of the La Collette site – again over the ash pit areas - up to a maximum height of some 10m above the level of the top of the new sea wall.

All of the above applications were publicized in accordance with the relevant procedures at the time.

The placing of the containers at La Collette is for the storage of asbestos – an arising from the waste disposal process – which raises particular problems when dealing with its disposal. A solution for its final disposal is still to be finalised and my Ministerial colleague for Transport and Technical Services is better placed to advise on the timetable for that final disposal.

2.14 DEPUTY A.E. JEUNE OF ST. BRELADE OF THE CHIEF MINISTER REGARDING UPDATING THE INHERITANCE LAWS:

Question

Following a States decision on 11th November 2003 on inheritance laws (a vote of 40-0 to abolish discrimination of illegitimate offspring) and in light of the response given to Deputy K.C. Lewis of St. Saviour on 1st July 2008, will the Chief Minister be progressing legislation to update inheritance laws to ensure fairness and equity for illegitimate persons and bring Jersey's laws on this matter in line with the European Convention of Human Rights and other international obligations and, if so, will he undertake to lodge this for debate by the end of February 2009?

Answer

The Legislation Advisory Panel has been looking into the Inheritance Laws throughout 2008. On 29th July 2008, the Panel recommended that the Chief Minister proceed to lodge 'au Greffe' the draft Wills and Succession (Amendment) (Jersey) Law 200- and the draft Inheritance (Provision for Family and Dependants) (Jersey) Law 200-, subject to the following –

- (a) the inclusion of a suitably amended report to accompany the draft Inheritance (Provision for Family and Dependants) (Jersey) Law 200- Law;
- (b) provision of legal advice from the Law Officers' Department in connexion with the position of creditors under the draft Inheritance (Provision for Family and Dependants) (Jersey) Law 200-; and
- (c) the satisfactory conclusion of consultation with the Royal Court.

At its meeting on 25th November 2008 the Legislation Advisory Panel noted that consultation with the Royal Court had taken place. The Panel also discussed a letter received from the Bailiff (as President of the Royal Court) which raised some issues regarding technical aspects of the draft legislation.

The Panel agreed that the best course of action would be to adjourn this matter and allow its successor Advisory Panel, once appointed, to discuss the matter with the Bailiff and a delegation of Jurats early in the New Year.

I am currently in the process of appointing the members of the new Legislation Advisory Panel, and this issue will be on the Panel's Agenda at its first meeting in February 2009. Given the timescale it will not be possible for the Assembly to debate the draft Inheritance Law by the end of February 2009. It will be for the new Panel to decide whether it is minded to recommend that the draft legislation is presented to the Assembly for approval in due course.

2.15 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING ACCESS TO THE ENERGY FROM WASTE CONTRACT:

Question

Given that the Chief Minister has promised inclusive and transparent government, is the Minister aware that elected States Members have recently been denied access to view the new Energy from Waste plant/incinerator contract, and if so, does he support this and under what justification?

Answer

It is incorrect to state that any States Member has been denied access to view the new Energy from Waste Contract.

The contract is based upon the Institute of Chemical Engineers Red Book Standard Form of Contract for design and build projects. This document has been provided immediately to States Members upon request.

It is the case that the final contract for the Energy from Waste Engineering and Procurement Contract which is a combination of the above Red Book with amendments is subject to a commercial confidentiality agreement between the contractor - CSBC (Jersey) Limited and the Minister for Transport and Technical Services.

A confidentiality agreement is necessary because the contract contains modifications to the standard form of contract as well as the contractor's own proposals. To release these conditions without the consent might prejudice the competitive position of the contractor.

Under clause 20 of the contract, either party can give permission to release confidential information within the contract to a third party and the Department formally requested this from the Contractor on 22nd December 2008.

The Contractor has acknowledged the request and has agreed to its release. A copy has been provided to the Member.

2.16 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE ILL HEALTH OF STAFF WORKING AT LA COLLETTE:

Question

Given that many St. Helier No. 1 district residents within the La Collette/Havre Des Pas area continue to complain of health problems that they attribute to air-borne pollutions from the composting facility, would the Minister outline how many man hours have been lost over the past twelve months due to ill health among workers directly employed at the site?

Answer

Over the past 12 months no man hours have been lost relating to air-borne pollutants.

During the period in question, two members of staff have been on sick leave. One member of staff was off work from 28/1/08 until 15/8/08 and was medically retired. The second member of staff was on sick leave from 28/05/08 until 08/10/08 and has since returned to work. Neither illness was related to air-borne pollutants.

2.17 SENATOR P.F. ROUTIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE EMPLOYMENT OF SOCIAL WORKERS:

Question

Will the Minister inform Members how many agreed Social Worker posts there have been, there are currently and there will be across all of the Social Services network and their allocation across the Children's Service, the Adult Social Work Team and the Special Needs Team for each of the years 2007, 2008 and 2009 ?

Would the Minister detail for each of the above years -

- (a) the number of vacancies in each of the three teams and the length of time they remained vacant?
- (b) the number of long term absences amongst staff in each of the three teams and the length of time staff have been off work?

Answer

The details requested by the Senator are provided in the following tabulated format. It should be noted that the data relates to full time equivalent (fte) Registered Social Worker posts.

Number of agreed registered social worker posts:

	2007	2008	2009
Children's Service	20	24	24
Children's Executive	8.5	8.5	8.5
Special Needs – Children	2	2	3
Special Needs - Adults	2	2	2
Adult Services	10	11	11
Totals	42.5	47.5	48.5

Registered social worker vacancies:

	2007	2008	2009
Children's Service	7	8	5
Children's Executive	0	2	0
Special Needs Service – Ch	0	0	1
Special Needs Service - Ad	0	0	0
Adult Services	2	2	0
Totals	9	12	6

Note: The Children's Service in particular continues to carry a high level of vacancies. Detailed data relating to the length of time individual posts have remained vacant is not currently available.

It is often necessary to advertise on the mainland in order to recruit suitably qualified and experienced workers in the relevant specialist fields and there is then the inevitable inertia of appointing the appropriate members of staff and then deploying them (often with their families, of course) to the Island. For this reason, a post will be vacant for between four to six months. This may appear to be a very long period of inertia but it is getting increasingly difficult to attract social workers to Jersey and therefore regrettably, in a number of very specific professional domains it can take between eight to twelve months to fill a substantive registered Social Worker post.

Number and length of long term absences (over 20 working days per episode):

	2007	2008	2009
Children's Service	2 staff (51 days)	3 staff (195 days)	0
Children's Executive	1 staff (23 days)	0	0

Special Needs Service – Ch	0	1 staff (27 days)	1 staff (11 days)
Special Needs Service - Ad	0	2 staff (250 days)*	2 staff (14 days)
Adult Services	2 staff (87 days)	2 staff (115 days)	1 staff (11 days)
Totals	5 staff (161 days)	6 staff (587 days)	4 staff (36 days)

* Within Adult Special Needs Social Work one member of staff's absence accounts for 221 of the 250 days of absence indicated. The member of staff cited here is working in another department fulfilling a different role).

As to Maternity Leave (which of course, is a form of absence), three members of staff from Children's Service were absent for periods of twelve months throughout 2007 and 2008 - and an additional member of staff was absent for six months in 2007.

2.18 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE IMPLICATIONS OF CANCELLING THE ENERGY FROM WASTE CONTRACT:

Question

Given that any cancellation costs would be contested and determined at arbitration, would the Minister advise the Assembly what the Transport and Technical Services Department estimates the cost to the Island would be if the contract for the new Energy from Waste Plant at La Collette was cancelled, set out and justified under as many clear headings as are necessary for the estimate to be verifiable by peer review, and outline the variations in potential liability to the States, if any, should the date of cancellation be taken to be 16th February 2009, or an earlier or later date?

Answer

In the absence of a default or Insolvency of the Contractor, the Engineering Procurement and Construction Contract allows for termination for convenience by the Purchaser.

Where the Contract has been terminated for convenience the following sums are payable:

- (a) the amount (if any) due to the Contractor under the Contract for the Works carried out prior to the receipt by the Contractor of the Termination Order;
- (b) the amount due to any third party in respect of which the Contractor has (prior to the receipt by him of the Termination Order) properly and irrevocably entered into a commitment relating directly to the Contract; and
- (c) the amount of any additional Cost properly incurred by the Contractor for any work in connection with the termination authorised by the Project Manager, plus Profit thereon;

less any sums that have already been paid to the Contractor.

The sums referred to in (a) - (c) are assessed by the appointed Project Manager following receipt from the Contractor of any supporting information required by the Project Manager. If the Contractor disputes the Project Manager's assessment then the dispute is referred to the disputes mechanism under the contract. This sets out the following mechanism for this type of dispute:

- (a) in the first instance disputes are referred to the Project Manager;

- (b) if the parties have failed to resolve the dispute through negotiation they can agree to refer the dispute to mediation;
- (c) if the parties have failed to negotiate and either do not agree to mediate or are unhappy with the mediator's decision, then the dispute is referred to the Technology and Construction Courts in England (which have exclusive jurisdiction in relation to this type of dispute).

The estimated cost of terminating the Engineering Procurement and Construction Contract prior to 16 February 2009 is £45.9 Million. The cost already expended under the Contract would be included in this sum.

It should be noted that if terminated, the Contractor would have delivered almost nothing of any value to Jersey, so this amount would have to be written off.

Details of the Technical adviser's calculation of this sum are available if required for peer review but are subject to commercial confidentiality under the contract.

In addition to costs for termination of the EPC Contract, TTSD would also incur termination costs for the termination of the Technical Consultants Appointment, Enabling Works contracts and the JEC Agreement.

In the event of a challenge by the Contractor of the evaluation of the termination costs (which is considered to be very likely) there would also be additional management, project manager and legal costs in dealing with the dispute. From previous major contractual disputes, this form of dispute resolution can take months or years to resolve. Whilst it is not possible to put a price on this work, it is likely that the total cost for termination would be in excess of £50 million

This sum does not consider the cost in terms of having to redevelop the solid waste strategy and procure another plant to replace the Bellozanne incinerator.

It is likely that the State of Jersey's reputation would be seriously damaged by any appearance in the Technology and Construction Courts in England.

Any termination at this stage will push subsequent tender prices up, or may simply restrict the number of organisations willing to engage in major contracts, and not just for waste. On this basis it is likely to be difficult or very expensive to procure an alternative waste management facility - irrespective of the technology selected.

Termination of the contract now will result in having to keep the existing Bellozanne incinerator running for several years as a new waste strategy will have to be developed and debated by the States. This would then have to be followed by a technology selection and tender process before any construction commenced.

The impact of keeping the existing plant operating will result in further untreated emissions and the significant risk of failures of the plant that will put the Island in a vulnerable position in terms of treating its putrescible waste.

2.19 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ADVICE RECEIVED IN RELATION TO THE EURO COST ELEMENT OF THE ENERGY FROM WASTE PLANT:

Question

Would the Minister, advise the Assembly whether his predecessor was given any advice regarding the hedging of the euro cost element of the Energy for Waste plant and, if so, from which organisation such advice was received and was it accepted?

Would the Minister outline the benefits or losses, if any, incurred on the staged payments made under the contract to date?

Answer

In view of concerns about the management of exchange rate risks arising from the acquisition of the new incinerator, I have asked the States Chief Executive to invite the Comptroller and Auditor

General to undertake a review of these issues. Mr Swinson has published his terms of reference and has already commenced work on the review, which is being progressed as a matter of urgency and will be published in line with the Comptroller and Auditor General's normal procedure.

The review will present the Comptroller and Auditor General's findings in line with his terms of reference; I believe this will address the Deputy's questions. I will, of course, consider all the findings of the report in detail when it is published.

2.20 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE COST OF CONSULTANCY FEES IN RELATION TO THE ENERGY FROM WASTE PLANT:

Question

Would the Minister provide the Assembly with a year on year breakdown of the consultancy costs to date in relation to the Solid Waste Strategy and the new Energy from Waste plant?

Would the Minister advise members of the costs of the following consultants' reports –

- (a) the Babtie Fichtner Technology Review 2005

Answer

The cost of preparation of the initial Babtie Fichtner Technology Review Report was in October 2005 was £20,459.

Question

- (b) the Babtie Fichtner Technology Review 2008

Answer

The cost of preparation of the updated Babtie Fichtner Technology Review Report in May 2008 was £4,495.

Question

- (c) the report by Ambios Environmental Consultants, entitled: 'Baseline Ecological Assessment: land at La Collette Reclamation Site, Havre des Pas, Jersey'.

Answer

The work carried out by Ambios Environmental Consultants entitled on the Baseline Ecological Assessment: land at La Collette Reclamation Site, Havre des Pas, Jersey'. 2006 included walkover survey of the La Collette site at a cost £1,175.

Question

- (d) the work done by Deloitte and Touche in their role as financial advisers on the incinerator project team.

Answer

The cost for work done by Deloitte and Touche LLP as financial advisers on the Energy from Waste project is £81,267.70.

3. Oral Questions

3.1 Deputy C.F. Labey of Grouville of the Chairman of the Comité des Connétables regarding a criteria for admitting people onto the waiting lists for homes built on rezoned land:

Given that on 2nd April this Assembly agreed by 40 votes to 6 that a consistent criteria was to be developed for admitting people on to the waiting lists for homes built on rezoned land, could the Chairman confirm if such a criteria has been developed for sheltered housing and, if so, what that criteria is?

Connétable K.P. Vibert of St. Ouen (Chairman, Comité des Connétables):

I commend the Deputy of Grouville on raising this issue again, but would point out that the proposition adopted by the Assembly in April 2008 was P.33 of 2008 and was, I quote: "To request the Minister for Housing in co-operation with the 12 Connétables and any other stakeholders to develop and establish as a policy a rational and consistent criteria for determining admissibility to waiting lists for housing on rezoned land." This question should, therefore, have been put to the Minister for Housing.

3.1.1 The Deputy of Grouville:

The Constables have responsibility for the waiting lists in their parish. I would like the Chairman to confirm if the Constables have a criteria for admitting people on to their waiting lists?

The Connétable of St. Ouen:

Although the Connétable may have overall responsibility, I very much doubt whether any of the Connétables have ultimate responsibility for waiting lists in their Parishes. Certainly I can answer for my own Parish where there is a committee of 8 persons elected by the Parish Assembly who do that work.

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

Will the Constable inform Members whether any meetings have been held with the Housing Minister in the intervening period to discuss this particular issue, and if so, how many?

The Connétable of St. Ouen:

No meetings have been held with the Housing Minister on this particular point, but the Connétables remain open to receive an approach from the Minister and are prepared to discuss it at any time.

3.1.3 Deputy G.P. Southern:

Will the Constable consider being more proactive and request a meeting with the Minister for Housing himself?

The Connétable of St. Ouen:

The Comité des Connétables have already invited a number of Ministers to attend their meetings, and I will ensure that this particular issue is on the agenda when the Minister for Housing comes to us.

3.1.4 The Deputy of Grouville:

Could the Constable confirm if the numbers of the people on the waiting lists were used during the debate to imply there was an urgent, desperate need for sheltered housing, even though urgent, desperate or needy was not a requirement to admitting names on the list?

The Connétable of St. Ouen:

As I personally did not have a site involved in that particular proposition, I did not take part in that debate, and therefore I cannot really comment on the comments that are made. Those comments should be directed at other Connétables.

3.1.5 The Deputy of Grouville:

It is my belief that in order to ask the Constables questions, we are meant to address our questions to the Chair of the Comité des Connétables. I presume they had their usual meeting yesterday and could have discussed it then. So, he would have known whether other Constables had a criteria or these were used in the debate.

The Connétable of St. Ouen:

The Comité des Connétables met a fortnight ago and are due to meet again next Monday, and so have not had occasion to discuss this question since it was lodged.

3.2 Senator S. Syvret of the Minister for Home Affairs regarding the involvement of UK Police Forces in the Historic Child Abuse investigation:

Will the Minister list each of those U.K. (United Kingdom) Police Forces which have been, remain, or are likely to be involved in investigating any aspect of the management of the Historic Child Abuse investigation, and will he state the costs to date of employing each force, and the projected costs of any continuing work?

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

I take a very broad approach to that question. The answer is 4 Metropolitan Police with no costs invoiced to date, but expected costs of £62,446; Wiltshire Constabulary £4,000 to date, expected costs of £222,000; Sussex Constabulary cost to date £1,514, expected costs of £5,914; South Yorkshire Constabulary cost to date £9,709, expected costs £19,709.

3.3 Deputy F.J. Hill of St. Martin of the Minister for Home Affairs regarding the Police Procedures and Criminal Evidence (Jersey) Law 2003:

Will the Minister inform Members why no Appointed Day Act has been lodged for approval to bring into force Articles 30 to 32 and 34 to 48 of the Police Procedures and Criminal Evidence (Jersey) Law 2003, which relate to bail and detention, and how many suspects since 2003 have been released pending further inquiries but have failed to return on the prescribed date?

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

The development section of the law was passed by the States and it was not realised at the time it was passed that there were significant financial implications. Unfortunately it was passed on the basis of there being no financial implications whatsoever. The problem was that when it came close to asking the House to bring the relevant part into effect, it was realised that it would require a magistrate to be prepared to sit 24 hours a day, 7 days a week, or at least be available, in order to deal with certain matters in his court, with a full court convened. In addition to that, the Saturday courts would be necessary. The cost of covering this would have been very high, and there were also serious problems in relation to the willingness of magistrates to attend, and advocates and other parties. Therefore it was realised that there would need to be another look at this. What then happened was that the officers in consultation with the magistrate at the time, who happened to be myself, came up with some alternative proposals which would have been much cheaper and more practical. However, there were technical points in relation to those, and there has been a long period of consultation with the Home Office in the U.K. to ensure that those alternative proposals

were human rights compliant, a matter which I am sure the Deputy of St. Martin will be very keen to know about. However, after that there has been further consultation because there are now different magistrates, and we are awaiting the end of that consultation process. What will eventually happen is not that an Appointed Day Act will be sought for the relevant part of the law, but rather that an amendment will be brought to the House in relation to that. Now, in relation to the question of the Deputy of St. Martin in relation to numbers of people, the strict answer is none, because people who are released by police not having been charged are not released to a date. But I do not want to give him that answer, because I understand the spirit of what he intends is to know how many people have been released and have absconded who otherwise would have been on bail. I assume that is the true meaning of his question.

The Bailiff:

Wind up the answer, please. Your time has expired.

Senator B.I. Le Marquand:

The only meaningful figures I can give him are of serious offences. Pre-2003, 9 people were in the locate/trace category. 2003-2009, 15 people in a locate/trace category, and 2003-2009, one in the wanted category. That is of serious offences. There are huge numbers of less serious matters, but most of those are technical.

3.3.1 The Deputy of St. Martin:

I thank the Minister for going round the houses, really, with greatest respect. I fully understand that there has been a difficulty about the Magistrates Court, but really this is a 2-part question, and the second part has hardly been answered. Can I ask the Minister, why has the law not been brought up-to-date to ensure that the law in Jersey is compatible with that in the U.K.? Our Jersey law is very much based on the U.K. 1984 law which allows police to give bail to suspects. Why has that law not been brought into Jersey?

Senator B.I. Le Marquand:

I thought I had given the answer to that, because it would seem to be part of a part which had other problems. Other than perhaps myself yesterday when I was preparing for this, nobody appears to have considered the possibility of seeking to bring in one article alone, namely the bail matters, without other matters. Although my recollection even on that was that there were certain technical difficulties because, although bail conditions could be given, there is no effective way of enforcing them. I would need to check on that.

3.3.2 Deputy G.P. Southern:

Will the new Minister assure the House that he will draw the attention of his officers to the need for brevity in composing answers to questions?

Senator B.I. Le Marquand:

No, I will give appropriate answers. If a complex answer is required I will give a complex answer.
[Approbation]

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

As he has raised the issue that a very large number of other offences have been given to him in relation to this question, could I ask the Minister that he circulate that list after this morning's session if possible, please?

Senator B.I. Le Marquand:

Sorry. I am not sure I understood the question.

Deputy P.V.F. Le Claire:

In answering the question to the Deputy of St. Martin, the Minister read out a number of offences that he said were serious, and then he made the comment that there were a great deal more that were less serious, and I understand that he has those numbers and those offences, and I wondered if he would circulate them?

Senator B.I. Le Marquand:

Am I being asked to provide details of the less serious matters? I can do that now, if that is being asked.

The Bailiff:

I think the Deputy is asking whether, if you have a convenient list of these different offences, whether they could be circulated to the Assembly.

Senator B.I. Le Marquand:

I do not have a list of offences. No. I could not ever be providing him with a list of potential offenders. That would be a gross breach of data protection.

The Bailiff:

A final supplementary, Deputy, please.

3.3.4 The Deputy of St. Martin:

I think the Minister will probably agree there are human rights implications here, and I would also ask that he would agree that it is possible to bring the law up-to-date to ensure that people are not allowed to leave the Island without coming back without having bail. Quite clearly there are a number of people in Jersey who are being denied justice simply because we have not the powers in place. I would ask the Minister to give the House some reassurance that the matter will be addressed with urgency, and possibly give us some indication when this law will come back to the House for approval.

Senator B.I. Le Marquand:

Having been accused of giving a complex answer, I am now facing a complex question. There are 4 parts to that question. I am very keen to get on with this, I can assure you and the Deputy of St. Martin, but consultation process must take place first. I am also willing to look at the possibility of seeking opinion on the second article on its own. It is important that we do not have a situation of people facing serious charges and being investigated, but who cannot yet be charged on not leaving the Island and evading their criminal liabilities.

3.4 Deputy T.M. Pitman of St. Helier of the Assistant Minister for Housing regarding the purchase by 1(1)(k) residents of properties in the Island as investments:

I will be very happy to accept a “Yes” answer. Given that 1(1)(k) residents can be accepted into the Island having negotiated individual tax deals, would the Minister agree to bring forward legislation to provide that, even after such residents have been registered for the obligatory 10-year period, they should be prevented from making multiple investments in (a) to (h) housing market and potentially impacting upon others seeking to get on to the housing ladder?

Deputy S. Power of St. Brelade (Assistant Minister for Housing - rapporteur):

I will respond to that question representing the Housing Department and the Housing Minister, having crossed the Rubicon from one side of Scrutiny to the Executive. In the short lodging period of the question, the Housing Department is unable to establish the impact of any 1(1)(k) or 1(1)(k)s for that matter, investing in multiple investments in the (a) to (h) housing market. However, the policy in respect of 1(1)(k) residents is consistently applied. All 1(1)(k) residents are approved on the same basis following background checks and an assessment of their financial position, and in particular subject to the Comptroller of Income Tax being satisfied that they meet the minimum

income tax liability of £100,000 per year; 3 States departments are involved in that process: Economic Development, Treasury and the Housing Department. Once these residents have lived in Jersey for 12 years they are treated the same as any other locally qualified person. The Island does need a healthy rental market in (a) to (h) sector, and for a number of reasons the Deputy will understand, investment in the local housing market by residentially qualified people is to be encouraged, as it provides additional liquidity in the market and homes to rent by other locally qualified people. As such, at the current time there is little evidence to change Article 135(a) of the 2005 Income Tax law, the section that deals with this area.

3.4.1 Deputy T.M. Pitman:

Would the Minister not accept that it must have a negative impact on those ordinary working people trying to get on to the housing market?

Deputy S. Power:

The Population Office is prepared to review any evidence the Deputy may have. In that regard, he may or may not know that the previous Health, Social Security and Housing Panel under Deputy Breckon, now Senator Breckon, was reminded at one time to look at the Jersey rental market including the 1(1)(k) area, to see if it were possible to establish that in the end. But in the end it decided not to proceed because of pressure on officer time and the demands on the panel at that time caused by review of New Directions and the work recently completed at the end of last year into the long-term care of the elderly.

3.4.2 Deputy P.J. Rondel of St. John:

Would the Assistant Minister be able to inform the Members if, after 12 years, do the 1(1)(k)s pay local tax at the rate of 20 per cent or thereabouts, or do they stay on the £100,000 as he quoted them in paying tax?

Deputy S. Power:

After 12 years all 1(1)(k)s are treated as ordinary Jersey taxpayers for all Jersey-sourced income, including Schedule A. They are taxed at 20 per cent on all of it, and they get the same deductions and the same reliefs as any ordinary Jersey taxpayer against such income. They get no special deductions or reliefs against any Jersey income just because they are a (k). So, they have no advantage at all over any other Jersey resident as regards local income, whether rental or otherwise.

3.4.3 Deputy J.A. Martin of St. Helier:

The question is investment in the housing market. Could the Assistant Minister confirm there is nothing under Jersey housing laws stopping anyone investing in the Jersey housing market either on Island or off Island? The law is stopping them from preventing living in said property. I really think this needs to be cleared up.

Deputy S. Power:

I think the market in Jersey is that anyone can buy into the Jersey residential market irrespective of their residential status, and we have plenty of evidence of that. The question that Deputy Pitman asked was relating specifically to 1(1)(k)s, and that is what I answered.

3.4.4 Deputy G.P. Southern:

Given the Assistant Minister's crossing of the Rubicon that he drew attention to, and given his previous expressed interest in the area of multiple purchases for rental, i.e. buy to rent in the market, and its impact upon the purchaser market, will he undertake to do the investigation into any such impact and the size of that impact that his previous panel could not do for lack of officer time? Will he now do so as Assistant Minister?

Deputy S. Power:

I have to point out to the Deputy that I am the Assistant Minister and not the Minister, and I am unable to commit the Minister or the department at this time to an investigation in that area, but I promise to bring it up within the department as soon as it is practical.

3.4.5 Deputy P.V.F. Le Claire:

Is there any possibility that the Assistant Minister can investigate whether people that are given 1(1)(k) resident status can also, as soon as they have been given that, extend purchasing rights to their siblings and family members that may have an impact upon the local market?

Deputy S. Power:

I cannot answer that question, but I am prepared to come back to the Deputy with the information from the department and the Population Office.

3.4.6 Senator B.E. Shenton:

Given that the Minister for Housing is away at the moment and the Assistant Minister has been able to answer a number of the questions or has the power to make any commitments, could I just ask who the designated Minister for Housing is at the present time, and whether he should have in fact been answering the questions?

Deputy S. Power:

I can answer that. The designated Minister who has replaced Senator Le Main is Senator Ozouf, but I had a number of discussions with Senator Ozouf and he delegated the responsibility to answer the questions to me.

Senator B.E. Shenton:

May I put it to the House that the House should have the opportunity to put questions to the designated Minister if the Minister is away if they wish to do so.

The Bailiff:

That is a matter for the Minister concerned.

3.5 The Deputy of Grouville of the Minister for Planning and Environment regarding a social housing needs planning policy:

Given that on 2nd April 2008, the Assembly agreed that the Minister should bring forward a policy that requires planning applications over a certain size to provide a percentage of their build for social need, whether that be for social rented, first-time buyer, retirement, sheltered housing or a mix, whichever is the most appropriate to the site, could the Minister confirm when such a policy is likely to be published?

Senator F.E. Cohen (The Minister for Planning and Environment):

I have on numerous occasions stated my view that an element of affordable housing should be delivered on most large housing sites, not just on rezoned sites. As a result of the States decision in April and my earlier comments on this matter, I commissioned Kelvin MacDonald Associates to investigate the local housing market and make recommendations to me on how best to deliver affordable housing in Jersey. Mr. MacDonald is a specialist in the area of affordable housing mechanisms. As Members will be aware, there have been recently significant changes in the housing and mortgage markets. Mr. MacDonald is now finalising his report to take these changes into account, and I expect to receive his report within 6 weeks. If any Member wishes to see the terms of reference for Mr. MacDonald's appointment I am happy to provide this. Once I have the report I will be able to recommend the best option to deliver this most key objective.

3.5.1 The Deputy of Grouville:

I believe it most certainly is a key objective and it is a very, very urgent one. There are applications in Planning at the moment for which that could be a requirement, just as there is in the U.K. Section 106; the template is there, so it is not rocket science. Could he please ensure that this policy that his department was charged 9 months ago to bring forward, is in place in the next 2 months?

Senator F.E. Cohen:

I would love to be able to give that commitment, but unfortunately the matter is quite complex. It could be a case that we need to consider the legislation and changes to the legislation. While I appreciate the Deputy is genuine and most enthusiastic in this area, as I am, I would urge her just to wait a little. We will get the report within 6 weeks. As soon as I get it I will share it with her in confidence and I will then bring forward the best mechanism to ensure that we deliver this robustly.

3.5.2 Deputy R.G. Le Hérisier of St. Saviour:

Notwithstanding the report that is imminent, could the Minister identify how he comes to the view that there is, for example, insufficient or sufficient over-55s housing? Is he finding that by default he is having to take housing decisions?

Senator F.E. Cohen:

Naturally I take advice in a number of areas from the Housing Department and the Housing Minister, but the Deputy will remember that there was an extensive report produced last year, and a very significant sample size with a very high return rate was used to enable my department and other States Departments to assess the likely need both for over-55s and other forms of affordable housing.

3.5.3 Deputy J.A. Martin:

If the Planning Minister cannot do this very quickly, could he at least assure the House that any rezone sites will not be passed, and also, going back to the previous question to the Deputy of Grouville, will not be passed until there is a consistent area for people who are on the waiting list for these homes? How long does he think this will be?

Senator F.E. Cohen:

The issue is not rezone sites. We do not have the problem with rezoned sites because, of course, they are rezoned on the basis of an affordability criteria. The issue the Deputy of Grouville has raised quite properly is how we deliver affordable housing on other sites that are not rezone sites - brown field sites, white zone sites and other sites. My intention is to do whatever I can to find a mechanism to ensure we deliver affordable housing on these sites. But it is not an easy thing, and you are significantly affecting the value of these sites, so you have to make sure you do it properly. If you do it in haste, I would suggest we could end up in a very difficult position with legal actions, and I want to do it properly and carefully. I think a few weeks' delay is well worthwhile if we get it right in the end.

3.5.4 Senator A. Breckon:

I wonder if the Minister could tell the House why he brought forward rezoning plans ahead of the 2009 Island Plan and now is seeking some experts' report on how this should be done and how it should be affordable?

Senator F.E. Cohen:

The Senator, with respect, is confusing different issues. The reason we brought forward the retirement rezoning proposition was because we were advised that there was an urgent need to provide retirement housing for many Islanders. As Members will see, the time between rezoning and actual delivery of units on the ground takes some time. So, I am afraid that the view was that

we could not wait for the Island Plan review and that there was a case to consider retirement rezoning as a discreet measure, and the House supported that.

Deputy J.A. Martin:

Sir, could I ask a supplementary?

The Bailiff:

No. We are moving on, Deputy. Sorry.

3.6 The Deputy of St. John of the Minister for Economic Development regarding the numbers of travellers by air and sea to Jersey in 2008:

Would the Minister advise whether the number of travellers by air and sea to Jersey in 2008 has increased, whether this translates to an increase in bed-occupancy figures, and outline what measures, if any, he plans to put in place to reverse the decline in tourism?

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

Staying leisure visitors' statistics for 2008 show a modest 0.4 per cent fall compared to 2007. Those are the January to October figures. In this period, bed-occupancy also fell from 66 per cent to 62 per cent, but this mainly reflects the trend towards shorter breaks. The full year sea-arrivals figures were down 6.1 percent, but air arrivals were up 2.8 per cent. That is for the whole year and represents a remarkable achievement when compared to most U.K. regional airports, many of whom have seen significant reductions during the course of the year. My department and the tourism industry are working together to meet the enormous challenge of maintaining a successful market sector during what will be a very difficult year ahead. A joint government and industry taskforce was established last November to work together on a range of initiatives which include, but are not limited to, continued support for air and sea carriers to maintain an increased route and their performance, and additional funding of up to £500,000 for increased marketing to boost and extend current programmes. This will be augmented by further industry funding from joint initiatives.

3.6.1 The Deputy of St. John:

Given the Heathrow route is to close, is the Minister still confident that he can grow the visitor numbers, and would he confirm that the 90,000 plus people who came through Heathrow last year, in fact created a problem within his Department? Also, first of all, will the £500,000 that they are putting aside for the additional advertising be sufficient; and secondly, will the impact of the C.A.A. (Civil Aviation Authority) Director who I understand has resigned, have any impact on this?

Senator A.J.H. Maclean:

I think there are about 5 questions there, but I will attempt to find my way through them. In reverse order, the D.C.A. (Director of Civil Aviation) reports directly to the Chief Minister's Department, so questions should really be directed to the Chief Minister's Department in that regard. But no, in short, we do not see it as causing any issues with regard to developing air routes. A point worth bearing in mind is that the London market has grown with the advent of the Heathrow route. We were delighted with the performance of Heathrow and we saw the whole of the London market grow over the last 2 years. There is a great deal more work to be done to maintain the routes. During the course of 2009, I think our main aim is going to be maintaining routes rather than seeing, or hoping to see, any significant growth. As the Deputy will have appreciated, the market conditions have deteriorated significantly over recent times.

3.6.2 Deputy G.P. Southern:

Will the Minister inform Members when he first learnt that the Heathrow route was to be abandoned, and could he further say how much subsidy was paid to maintain this route over the 2 years?

Senator A.J.H. Maclean:

The department learned of the withdrawal of the route approximately a week before it was publicly announced. The decision by the airline not to announce sooner was in order to advise staff who were directly involved as to what was going on and some had been away, and that is why it was kept quiet for a week. As far as the subsidy, this particular subject has been aired on many occasions, as the Deputy well knows. It is not a figure that I am prepared to release. It was an arrangement that was met in commercial confidence and I believe that it should remain that way in order that we can deliver the best value possible for taxpayers in the future with further development of routes' network.

3.6.3 Connétable A.S. Crowcroft of St. Helier:

There was recently a presentation to members of the tourism industry. I understand the Minister was unable to be there because of Council of Ministers' commitments. However, could he inform the Assembly what the reception was by the industry to the advertising proposals by his department, and in particular could he tell us what the split is between web-based and television-based advertising?

Senator A.J.H. Maclean:

The response to the launch of the campaign for 2009 was very positive in the industry. I was delighted by the feedback that I have had, and I am sure Members will have seen the article that appeared in the *Jersey Evening Post* where industry leaders were impressed by the launch of the new T.V. (television) imprest advertisement. There is a list of high profile members of the industry who were included in that particular article, and I have spoken to a number of them myself. So, I think all in all we can be very pleased with what we have seen so far with regard to the campaign that has been put forward. I cannot give an exact split to the Constable with regard to web versus T.V. advertising. The campaign that is coming out now is approximately £1.2 million. We have put aside a further £500,000 for additional advertising in press, T.V., radio and so on, and that will be utilised as and when appropriate, depending on market conditions as issues unfold.

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

Deputy Southern has asked the second part of my question, but the first part was, could the Minister tell us when he or his department were first notified that Thomsonfly and easyJet were withdrawing their services in 2008 from the Island?

Senator A.J.H. Maclean:

I cannot give an exact date. I am not quite sure what the Deputy is driving at here, if he would like to expand on his question?

Deputy M.R. Higgins:

I am just trying to clarify whether you were aware during the election of their withdrawing from the Island at a time when you were telling the electorate ...

The Bailiff:

Through the chair, please, Deputy.

Deputy M.R. Higgins:

Sorry, Sir. Again, I am just trying to clarify when the department and when the Minister knew, whether it was before the end of the Senatorial election.

Senator A.J.H. Maclean:

We knew briefly before the announcement was made. There was no pre-announcement. I have mentioned a moment ago about the Heathrow route. We knew approximately a week in advance of that. One of the problems that we have with regard to routes and development and maintenance of routes, is the fact that quite often we do not get to hear. We are working hard with airlines to try and develop better relationships so that we get to hear in advance, rather than picking up the details at the last minute. That is how we are going to help to maintain routes through the future, by having better relationships with the airlines.

3.7 Deputy D.J.A. Wimberley of St. Mary of the Minister for Planning and Environment regarding the impact of the Energy from Waste plant on the Ramsar designation of the Havre des Pas area:

Would the Minister advise when the United Kingdom was officially informed of the Island's intention to construct an incinerator adjacent to a designated Ramsar site, in accordance with Article 3.2 of the Ramsar Convention, whether the Ramsar Secretariat was officially informed, and what studies, if any, there have been on the anticipated impacts of airborne pollutants from the incinerator on marine habitats and life forms within the Ramsar site?

Senator F.E. Cohen (The Minister for Planning and Environment):

Article 3.2 of the Ramsar Convention stipulates that the Ramsar Secretariat should be informed if the ecological character of any wetland has changed, is changing or is likely to change as a result of technological developments, pollution or other human interface. Importantly, however, the Defra (Department for Environment, Food and Rural Affairs) have confirmed in writing that the administration of Ramsar policy in the U.K. Crown dependencies rests with the appropriate authority in each Crown dependency, albeit, obviously, we clearly have to administer the policy appropriately. During the E.I.A. (Environment Impact Assessment) process, no issues were identified in relation to the impact of the proposed energy for waste plant on the ecological character of the Ramsar site. A rigorous environmental impact assessment investigating the potential impact of airborne pollutants on the marine habitat was commissioned by Transport and Technical services. The Environment Department team, in consultation with internal and external advisers, including the National Trust and the Société, scoped the issues to be addressed in the E.I.A. E.I.A. concluded that airborne emissions would not represent a threat to the Ramsar site. Furthermore, no representations were received challenging the methodology of the E.I.A. or its conclusions.

3.7.1 The Deputy of St. Mary:

My reading of Article 3.2 of the Convention stipulates that each contracting party shall arrange to be informed. It is not a matter of delegated power that Jersey is responsible for administering, but it has a duty under Article 3.2 to notify, and I wondered if the Minister was aware of that? In addition, the Minister's answer says that airborne pollutants would not affect the site. I would like the Minister to comment on the widespread suspicion that the reason that the Ramsar Secretariat was not made aware formally of the proposal to build an incinerator on the windward side of the Ramsar site was to avoid entering into discussion with the Ramsar Secretariat as to how any E.I.A. should be done on a sensitive wetland.

Senator F.E. Cohen:

I am afraid I am neither a lawyer nor a scientist. I am simply advised by my department that the method of E.I.A. assessment was appropriate. I can assure the Deputy that there was no cover-up or intention to deceive the Ramsar Secretariat, and it is my department's belief - and it is a genuine belief - that the appropriate way that this matter should be dealt with as one of the Crown

dependencies is by dealing with the matter internally in a proper way, ensuring that obligations are appropriately served.

The Bailiff:

May I interject just to ask Members and Ministers respectfully to be as succinct as they can, in accordance with Standing Orders? Otherwise, numbers of Members are going to be disappointed that they cannot ask supplementary questions.

3.7.2 The Connétable of St. Helier:

The Minister used the word “importantly” in his answer, and then went on to say that we do not have to comply. How does this square with his desire that the Island is seen as a place where best practice environmental matters are carried out? Does he not agree that with hindsight it would have been better if we consulted Ramsar before we gave approval?

Senator F.E. Cohen:

No, I cannot say that. What I said is that the important caveat is that we are responsible for administering this ourselves.

3.7.3 Deputy T.M. Pitman:

My question follows on from the previous, really. Would the Minister clarify whether he believes the Ramsar agreement has any teeth to be enforced, and if not, does the Minister think it likely that the agreement may come to be ignored?

Senator F.E. Cohen:

I do think the Ramsar designation has teeth, and I think the Environment Department can show that we take it extremely seriously. You only have to look at the emphasis we placed upon it in the integrated coastal zone management policy to see that.

Deputy T. Pitman:

I just asked the Minister what teeth he thought he had to enforce that.

Senator F.E. Cohen:

The teeth we have is that as the Environment Department we control the necessary administration of the appropriate legislation and we will do so. But the fact is that the department does not believe that airborne pollutants are a problem in relation to the energy from waste plant, and that is a matter of the department’s opinion.

3.7.4 Senator S. Syvret:

I was somewhat surprised by the Minister’s earlier answer in which he seemed to imply that the matters of enforcing or complying with Ramsar were a matter for the domestic authorities. Is it not the case that we are signatories to Ramsar via the United Kingdom, and that technically any breach of those Ramsar conventions would place the United Kingdom in breach? I know that that is certainly the case with the OSPAR Convention (Convention for the Protection of the Marine Environment of the North-East Atlantic) in respect of pollution to the marine environment from land-based sources which Jersey has plainly broken.

Senator F.E. Cohen:

Broadly, the Senator is correct. The principle is that we are obligated to administer Ramsar as the Secretariat would expect us to, but we administer it ourselves, and we effectively report via Defra. As I said earlier, the position is that we do not believe as a department that airborne pollutants are a problem in relation to the energy from waste plant.

3.7.5 The Deputy of St. Mary:

Does the Minister know that no member or member organisation of the local Ramsar steering group was consulted at any time in this process?

Senator F.E. Cohen:

There are statutory processes and there are administrative processes, and I am perfectly satisfied that the correct processes were followed in relation to the E.I.A. and all aspects of potential pollution from the energy from waste plant.

3.8 Deputy G.P. Southern of the Minister for Social Security regarding a review of the Income Support system:

In the light of the criticism of the income support system made within the recent draft report commissioned by the Connétable of St. Helier, will the Minister now consider an urgent review of the operation of the Household Medical Account component of income support which was the subject of particular attention within the said report?

Deputy I.J. Gorst of St. Clement (The Minister for Social Security):

I would like to thank the Deputy for asking this question, because it gives me the opportunity to reassure all Members, and in particular all income support claimants, that the income support system remains fully operational and is providing weekly benefits for over 8,000 local households. The income support system does provide appropriate assistance in the form of a regular savings scheme for household medical accounts to help low income families budget for doctors' bills as well as one-off payments to deal with the cost of a bout of illness. The draft report from the Parish of St. Helier covers a number of topics, but provides little evidence on which I could base a decision as to which area needs to be reviewed urgently. I have already written to the Connétable and look forward to meeting him as soon as possible to discuss the concerns of his officers in more detail. I can, however, reassure the Deputy that I am committed to reviewing all the evidence, not only from the Parish of St. Helier, but from any other source including himself, and if changes need to be made to the income support system, then I will not hesitate to make them.

3.8.1 Deputy G.P. Southern:

I thank the Minister for his answer and look forward to the changes this year rather than next. Is the Minister aware that, notwithstanding his answer that additional medical cost will be picked up as extra payments, that in one particular case, a person who had been quite ill and received additional visits from her G.P. (general practitioner) phoned the department to be informed that her H.M.A. (Household Medical Account) was £260 in the red, and how was she going to propose to pay this sum back? That response was received from officers in his department.

The Bailiff:

Let us come to the supplementary question, please, Deputy.

Deputy G.P. Southern:

Is the Minister aware that such practice is going on in his department?

Deputy I.J. Gorst:

As I said in my answer, I am absolutely 100 per cent committed to reviewing all the evidence - the evidence which perhaps forms the base of the Deputy's question. As the Deputy is aware, people who are I.S. (income support) claimants or in contact with my department will, in the first instance go to, probably, the customer service desk of the income support team. If they do not get satisfaction then they will request that that decision is reviewed, so it goes up the chain. Ultimately, then the responsibility rests with myself. I ask the Deputy, as I suggested in my answer, that perhaps we need to sit down and go over this evidence to see if changes are required. I

am perfectly open. My door is open and I look forward to meeting with him to discuss these cases which, hopefully, will be evidence based.

3.8.2 Deputy R.G. Le Hérissier:

Will the Minister be pushing for reform of a system which abrogates the situation where people get free prescriptions but often have to pay £30 plus to somebody to write that prescription? What gaineth a man if he gaineth a free prescription at a cost of £30? Thank you.

Deputy I.J. Gorst:

I am not sure if the Deputy was in the Assembly when I stood for this office. I gave an undertaking and I stand by that undertaking, that that will form part of my review of this particular area of medical provision, not only for those in need but the public in general. As I said, I do not like to revisit reviews but this is one area that I believe needs to be revisited, and I stand by that commitment.

3.8.3 Senator A. Breckon:

In reference to household medical accounts, I wonder if the Minister could confirm the monies deducted from the client's income support towards the household medical account and accumulated, are indeed a loss if they do not visit the doctor?

Deputy I.J. Gorst:

It certainly is not my understanding that the monies are lost. I am aware that this is a particular area which needs consideration and I have asked my officers to do that, because there are some I.T. (information technology) issues around that. But there needs to be a mechanism where people, if over a period of time they have not used that, they have enjoyed good health and the purpose for which the account was set up in the first place is perhaps not needed, those individuals can budget better than they might have imagined that they could at the start or they have not got the medical need, then that does need to be reviewed to enable them to access these funds. Thank you.

Deputy R.G. Le Hérissier:

If I may, on a point of order, Sir?

The Bailiff:

Yes

Deputy R.G. Le Hérissier:

You have just refused me a final supplementary, when it was my question. I thought the tradition was that usually the question did revert for a final supplementary to the original asker?

The Bailiff:

Well, if there is time, Deputy, that certainly is the tradition, but you had a supplementary question immediately after you put your question and I do not think ... Well, I am afraid you did, Deputy, I wrote your name down, so that if Members and Ministers could be more succinct I think we will have more supplementary questions. Senator Syvret?

3.9 Senator S. Syvret of the Attorney General regarding compensation claims against the insurers of the States by child abuse survivors:

Will H.M. Attorney General advise whether discussions have taken place between his department and those insurers of the States of Jersey who may be expected to fund compensation should any successful claims be made against the State by child abuse survivors, and if so, list the insurers

involved and state what role he, or officers of each department have played in any negotiations concerning compensation, including any putative redress board?

Mr. W.J. Bailhache Q.C., H.M. Attorney General:

The responsibility for insurance matters lies with the Minister for Treasury and Resources. If my department had had any discussions with insurers, they would have been undertaken on behalf of the Minister. For all the reasons debated in this Assembly last March, when considering the code of practice for Scrutiny Panels on accessing legal advice given to Ministers, I am not able to answer this question. I would suggest that questions on the extent of insurance cover should be put to the Minister for Treasury and Resources. Questions on any claims for compensation should be put to the Minister the Health and Social Services, and perhaps on any other related matters to the Chief Minister.

3.9.1 Senator S. Syvret:

This is a legal question as opposed to a financial one. Will the Attorney General, and I do not believe this is asking him to reveal any legal advice, simply state whether he or his department have played any role in discussions or advising on insurance matters? It is a yes or no question.

The Attorney General:

Perhaps the Senator would indicate what issue of law arises out of that?

Senator S. Syvret:

The liability of insurers, and for example whether, given that there are certainly possibly a variety of serious malfeasances by the States of Jersey over the decades, whether the insurers have been notified of those potentialities, and if not would that not in fact be fraudulent conduct on the part of the States of Jersey?

The Attorney General:

The liability of insurers will depend upon the extent of the cover which the States of Jersey have taken out, for which the Minister for Treasury and Resources is responsible. Whether the insurers are legally liable in relation to any particular claim will depend upon the terms of the policy and the nature of the claim, and whether the States themselves would be liable, whether insured or not. So, the answer to these questions will be fact specific and I am simply not able to help the Senator.

Senator S. Syvret:

Then perhaps, as a point of order, we could be advised how we ask questions and to who, in respect of questions whereby we simply wish to know whether legal advice has been taken and given, in respect of any matter. It seems to me that the appropriate person to ask is the Attorney General or Solicitor General.

The Bailiff:

I am not sure that it is, Senator. I think if you wish to ask whether a Minister has taken legal advice in relation to a particular matter, then you are perfectly entitled to do so, and it is up to the Minister to say whether or not he has taken legal advice. If we go further than that we get into more complicated matters.

Senator S. Syvret:

I know for a fact that the Attorney General's Department has, in fact, been involved in such discussions. It would have just been better if he had said so.

The Bailiff:

I do not think it is appropriate for questioners to make statements of that kind, but if there are no further supplementary questions, we come to the ...

The Attorney General:

I would like to say something. The Senator has unfortunately made a statement which is completely incorrect. I have had no discussions with insurers whatsoever. I did not wish to be driven to the point of saying so because there is a practice which Members ought to respect in relation to legal advice. It was the subject of debate in this Assembly last year, and the rules are absolutely straight forward, but what the Senator just said a moment ago was in effect to put my professional integrity into question, and therefore I feel obliged to say that in fact I have had no discussions with insurers whatsoever.

Senator S. Syvret:

I do not believe I put the Attorney General's professional integrity in question and if I did, that certainly was not my point. But I was not just referring to him, I was speaking of his department and I know that they have received draft terms for a putative redress from the Lavelle Coleman.

The Bailiff:

Do you wish to say anything further, Attorney?

The Attorney General:

I am grateful to the questioner for confirming that he intended no assault on integrity.

The Bailiff:

We come next to a question by the Deputy of St. John of the Attorney General.

3.10 The Deputy of St. John of the Attorney General regarding the investigation of members by the police within the States Building:

Following the recent events at Westminster, would the Attorney General advise whether Members have any protection from investigation by the police within the States Building, while carrying out their business as Ministers, Scrutiny Panel members or Back-Benchers, and if so, outline what protection exists and whether a warrant to search Members' possessions, lockers, desks and computers within the States building could be issued, by whom and on what grounds?

The Attorney General:

I would like to congratulate the Deputy of St. John on a question which is far too difficult to answer at 3 days' notice also. There is no special protection ... and I would ask Members to take my response in light of that opening statement. There is no special protection for any Member from investigation by the police, whether within or without the States building, other than through the ordinary parliamentary privileges which might be claimed. A warrant to search Members' possessions, lockers, desks and computers could be issued under relevant provisions in the Police Procedures and Criminal Evidence (Jersey) Law 2003. Such warrants can only be obtained where there are reasonable grounds for believing a serious offence has been committed, of which there is evidence on the premises, and where the evidence is relevant, not legally privileged, and does not consist of excluded or special procedure material. Under the Police Procedures and Criminal Evidence law, warrants can be issued by the Bailiff, the Deputy Bailiff, or in the case of many statutory provisions, by Jurat. It may well be that the Privileges and Procedures Committee, in consultation with the Bailiff will want to consider what guidance ought to be given to Members in relation to parliamentary privilege.

3.10.1 The Deputy of St. John:

Could the Attorney General then come back at a future meeting with a more detailed response, given only 3 days' notice, and therefore would allow him to research the matter further, if he thinks that it is worth it? But while I am on my feet ...

The Bailiff:

Deputy, I think the Attorney General has answered that question. He had suggested it is a matter for the P.P.C. to take up with the presiding officer.

The Deputy of St. John:

Yes, Sir. Well, while on my feet then, would he also answer the following supplementary if it is appropriate? In the event of that particular type of action that I described in my original question, is there any written procedure for the Bailiff or the Greffier to advise Members on when they join the States of Jersey?

The Bailiff:

I am not sure that that is a matter for the Attorney General, Deputy. Again, that really is a matter for the President of the Privileges and Procedures Committee, I think.

3.10.2 Senator S. Syvret:

Given that it is absolutely rock-solidly established in British case law that the administration of justice needs to be free of all taint and suspicion of bias, how would the Attorney General suggest it would be feasible for example, for any member of the Jersey judiciary, the Bailiff, Deputy Bailiff or Jurats, to be remotely considered objective agents in any case, for example, concerning me; and how would he suggest that we in fact put in place a system that complies with our obligations under the European Convention on Human Rights concerning the absolute right to a fair trial?

The Bailiff:

Senator, I am not sure that that question is in order, in the sense that it impugns the integrity both of the Bailiff and of the Deputy Bailiff.

Senator S. Syvret:

I have to say that it does not impugn the integrity. I would refer you to the Lord Hoffmann situation in the *Pinochet* case in the House of Lords. There was no question in that case of actual bias on the part of Lord Hoffmann when it was revealed he had a connection with a charity that made donations to Amnesty International. Now, that mere possibility of the suspicion of a conflict of interest was grounds sufficient to have that judgment by the House of Lords set aside. The question of the appearance of the objectivity of the administration of justice is well established, and even if you yourself and the Deputy Bailiff were absolute models of judicial perfection, you still could not meet the test of the appearance of objectivity.

The Bailiff:

Senator, I am sorry. That is a very interesting speech and it is an interesting matter for debate, but it is not a matter for which the Attorney General has responsibility in terms of questioning in this Assembly. Are there any other supplementary questions for the Attorney General? Then we move on to the question of Deputy Tadier.

The Deputy of St. John:

If I could thank the Attorney General, if I may?

Deputy M. Tadier of St. Brelade:

I should like to withdraw this question. It turns out that the answer has been given elsewhere. There was some confusion between Transport and Technical and the Planning department, but I am happy that it has been answered satisfactorily.

The Bailiff:

Very well, that question is withdrawn. We come next to a question by Senator Routier of the Minister for Health and Social Services.

3.11 Senator P.F. Routier of the Minister for Health and Social Services regarding the enhancement of the Social Worker provision available to children and adults with special needs:

Does the Minister consider that there is a need to enhance the social worker provision available to children and adults with special needs, together with their families and carers? If not, would he explain why and if the answer is yes, would he explain how he would address this matter?

Senator J.L. Perchard (The Minister for Health and Social Services):

The social work service for people with special needs comprises of 2 registered social worker posts for adults and 2 for children. One of the adult workers has been absent from work for an extended period due to ill health, which has unfortunately resulted in a significantly reduced service. To help meet the increased pressure which has been created, a temporary post for the further part-time qualified social worker has been created from within existing resources. In 2009 an additional post will be created, again from existing resources. I want to say that there are 3 problems which I need to advise the Senator and the House of. Firstly, social workers generally are in very short supply. Consequently, recruitment is extremely difficult as today's answer to the Senator's written question makes plain. This inevitably impacts on the Social Services Department, on our ability to always be responsive to clients, which of course includes special needs clients. Secondly, the Social Services Department is subject to considerable stress, given the intensiveness of the risk environment in which social workers and practitioners undertake their work. Members will not be surprised to hear that the intensity of the stress and risk has been exaggerated massively of late. Thirdly, it is clear that the existing social work provision for special needs is overstretched and this means that the needs of individual clients and families have to be prioritised regularly. It would be easy, for me to make a gesture and wave a magic wand that somehow solved these problems. However, as a guardian and the needs of patients and clients across the entire spectrum of Health and Social Services, I have to prioritise the use of our resources available. Having said that, there are plans for future investment in Social Services, in the Children's Services, which are currently being considered by the Council of Ministers.

3.11.1 Senator P.F. Routier:

I do not know if the Minister is aware that a question in the House of Commons to the Secretary of State for Health was recently asked about how many social workers per head of population (a) there were in 2007 and (b) there are in 2008. The answer that was given was that the most recently published figures for the number of fulltime equivalent social workers per 100,000 head of population was 86 in 2007. Does the Minister accept that if Jersey was to reflect the same level of social worker support, we would have approximately 80 fulltime equivalents, as opposed to the 48.5 given in the answer to the written question this morning, and does he accept that there should be a re-prioritisation of his department's resources to enable a more appropriate service to vulnerable clients?

Senator J.L. Perchard:

Taking the last point first, no, I do not accept there should be a re-prioritisation of our department's resources. Our department is extremely stretched with regards to resources. Double figure drug and blood project inflation, coupled with the high cost of new cancer drugs will cost my department in excess of £2 million extra in 2009, so if Members will be aware ... indeed my commitment and promise to bring the Williamson Implementation Plan to this House for consideration. The plan includes 2 fundamentally important proposals that are relevant to the special needs service. Firstly, the plan proposes to restructure the whole of the Children's Services to create a single Children's Directorate and that is where the Special Needs Service for children will sit. Secondly, the plan includes proposals for extra child social workers to be employed, along with the necessary

resources, and taking specifically the point raised in the question by the Minister, the plan would be Lord Laming compliant. Lord Laming produced a report after the Victoria Climbié tragedy where he indeed specified the minimum number of social workers that should be engaged per case load, and the Williamson Implementation Plan which will include, as I say, all children's services, special needs services as well, proposes to be Laming compliant.

3.11.2 Senator P.F. Routier:

The Minister mentioned about the sickness and absences in the service of his department. Does he consider that there are any human resource policies which could be reviewed so that a satisfactory service could be given to vulnerable people within our Island?

Senator J.L. Perchard:

On a small service like the Special Needs Service where just 4 people are engaged in social work, if one is off on long term health, that is a reduction in service of 25 per cent. I cannot unilaterally rewrite the States employment regulations and rules with regards to sickness and absenteeism. I agree the impact on a service like the Special Needs Service is massive when one person is off ill and I wish we could do something about it, but independently it is not within my gift.

3.12. Deputy M. Tadier of the Minister for Economic Development regarding the ability of any creditors or ex-employees to ensure that the assets of Woolworth's in Jersey remain in the Island for distribution:

Will the Minister inform Members whether any creditors or ex-employees of Woolworths in Jersey are debarred from making an application for assistance, in accordance with Jersey law and practice, in order to ensure that any assets of failed business remain within the jurisdiction of Jersey Courts, until their proper disposition might be determined?

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

The simple answer to the Deputy's question is "no", therefore no creditor or ex-employee of Woolworths in Jersey should be debarred from making an application for assistance. Whether any application to ensure assets of the failed business remain within Jersey would be a matter for the Jersey Courts. I should further add, Economic Development, Social Security and J.A.C.S. (Jersey Advisory and Conciliation Service) are closely involved in supporting and advising both employees and suppliers of Woolworths in Jersey. It should be noted that as well as the ex-employees, there are a number of local Jersey companies who are also jointly owed a considerable sum of money for products supplied to the St. Helier's store immediately prior to its closure. The Office of the Viscount continues to monitor the situation extremely closely and will continue its efforts to support both creditors and ex-employees alike. It is understood the failed business still retains assets in Jersey and every effort will be made to ensure their retention under the jurisdiction of the Jersey Courts, until a fair and just settlement can be achieved for all parties concerned. Thank you.

3.12.1 Deputy M. Tadier:

Is the Minister satisfied that the Administrator was appointed following the correct procedure under Jersey Law?

Senator A.J.H. Maclean:

Yes, I believe that was appropriate and indeed local legal advice was taken on the matter, I understand.

3.12.2 Deputy R.G. le Hérissier:

On the basis of the advice received by the Minister, could he confirm whether he has been advised that claims upon Woolworths Jersey from local suppliers, local employees, take precedence from claims from other sources?

Senator A.J.H. Maclean:

No, is the answer to that question.

3.12.3 Senator A. Breckon:

I wonder if the Minister could say where the U.K. Administrator gets his power from to act in the Island?

Senator A.J.H. Maclean:

The U.K. Administrator is administrating the Woolworths plc of which Jersey is one branch, or one part of, I think, 800 or so stores. They are carrying out their duties which have been verified legally. It is appropriate, I understand, the duties which they are undertaking. Of course, the Viscount has an important role to play as well in determining any local issues regarding staff or creditors.

3.12.4 Deputy P.V.F. Le Claire:

Is it not true that the administrators are appointed through the Royal Court of Jersey and therefore, as these administrators are - if that is the case, which I believe it is, as they are appointed through the Royal Court, surely the States or the Royal Courts of Jersey have the ability to make certain that these administrators are heeding Jersey Law?

Senator A.J.H. Maclean:

As this is a legal matter, can I ask the Attorney General if he would perhaps like to weigh in here with some advice?

The Attorney General:

Yes, I confirm it is appropriate for the administrators appointed by order of a foreign court, which for these purposes the English court is, to apply to the Royal Court in Jersey to have their appointment registered in the public records of the Royal Court, and it is that registration that gives them their authority to act in the Island.

Deputy P.V.F. Le Claire:

Maybe with that information the Minister may attempt to answer my question now.

Senator A.J.H. Maclean:

Sorry, could the Deputy repeat his question please?

Deputy P.V.F. Le Claire:

Given that the authority to appoint an administrator has been legalised through the Royal Court, is it not the ability of the Minister through the States of Jersey, to request the Royal Court that any administrator assigned or appointed heeds Jersey Law?

Senator A.J.H. Maclean:

I understand that there is no suggestion that the administrator is not heeding Jersey Law.

Deputy P.V.F. Le Claire:

In his own report this morning, in answers, the Council of Ministers, and he is a member of the Council of Ministers, have said in the Council's comments this morning received by Members, that the statutory notice was not given.

Senator A.J.H. Maclean:

I accept that point.

3.12.5 Deputy D.J. De Sousa of St. Helier:

I wonder if the Minister could enlighten the House as to why the members of Woolworths were held and bound by an employment contract by England, but they are not covered by their redundancy laws?

Senator A.J.H. Maclean:

The Deputy again raises a good point that gets to the heart of the issue. The employment contracts that the staff had, we would certainly expect the administrators to, or would hope that the administrators would honour the terms of those particular contracts and we would hope that the employees would get their just returns.

3.12.6 Senator A. Breckon:

I wonder, in light of the comments of the Attorney General, if the Minister could say where the U.K. administrator gets the *vires* to discriminate in different jurisdictions?

Senator A.J.H. Maclean:

Could the Senator elaborate on the discrimination that he is referring to?

Senator A. Breckon:

I know that the administrator is able to accept a different precedent in the Isle of Man, for example. I wonder if the Minister would explain why a similar thing could not happen here.

Senator A.J.H. Maclean:

As far as I understand, the differences in the Isle of Man have not been clarified. I believe the Senator is referring to the payouts that were made. They were made from the Manx insurance fund.

3.13 Deputy G.P. Southern of the Minister for Social Security regarding the progression of TUPE (Transfer of Undertakings (Protection of Employment) Regulations) and redundancy legislation:

Will the Minister inform Members when he expects to be able to bring to the Assembly the 2 items of legislation relating to T.U.P.E. (Transfer of Undertakings (Protection of Employment)) Regulations and Redundancy (Law and Regulations) listed on the 2009 law drafting programme, and will he account for the delay since May 2008, in progressing the employment law amendments which have been drafted?

Deputy I.J. Gorst (The Minister for Social Security):

A draft amendment to the 2003 Employment Law (Amendment 5) has been prepared, which will give qualifying employees the right to a redundancy payment, as well as placing a duty upon employers to consult with employees where redundancies are proposed. I will lodge the draft legislation in February for States debate in April this year. Later in 2009, I will bring to the Assembly further legislation to protect employees whose employer transfers their business to a new owner, as soon as outstanding issues have been resolved with the assistance of the Law Officers Department. The business transfers part of the amendment was particularly complex and the definition of what constitutes a relevant transfer for the purpose of the law remains to be resolved, particularly in terms of the jurisdiction of the law. The delays in receiving advice on that aspect of the law persuaded me to split the original amendment into 2 parts. This will enable me to progress the statutory right to a redundancy payment more quickly, particularly as the legislation will require the approval of the Privy Council.

3.13.1 Deputy G.P. Southern:

The fact that the Minister has decided to hurry up and bring redundancy law to the States in such short order seems to indicate the importance that he places on such an issue. Will he support the proposition before the House to guarantee compensation for the current situation with Woolworths' workers?

Deputy I.J. Gorst:

My department is charged with bringing forward employment legislation and that is what I am doing now to the best of my ability, and I have endeavoured to do as speedily as possible, since I was placed in office. The Deputy will rightly be expecting me to give a reasonably long speech in response to his proposition, and that is what I will be doing at that time.

3.13.2 Deputy R.G. Le Hérissier:

Could the Minister comment on whether the legislation, which he is bringing forward with commendable speed, will it cover redundancy payments either by the employer, and in default of that, by the Government of Jersey?

Deputy I.J. Gorst:

The Deputy raises a pertinent point, one which we must not forget. The legislation that has been drafted, that was together, was for redundancy payments and T.U.P.E. which is business transfer. In that legislation there is not provision for an insolvency fund which is the second part of that legislation. If the Deputy has heard any of my comments in the media I have also given a commitment that while this particular legislation is laid for debate I will be reviewing again the provision of an insolvency fund and I propose also to bring that forward now in early course. However, one must remember that the Employment Forum themselves, their recommendation was made in a time when the economic climate was very different from what we find ourselves in today. Therefore, perhaps the model that they have proposed will not suffice for the conditions we find ourselves in today. They themselves recommended that further consultation was recommended. I give a commitment that that also must be brought forward as speedily as possible.

3.13.3 Senator A. Breckon:

Is the Minister aware that the Employment Forum had a consultation exercise and made recommendations about redundancy in August 2006 [**Approbation**] and the previous Minister presented a report to this House in April 2007 that said redundancy provisions would be in place in fairly short order following that, and it was contained within the strategic plan that indeed this would be done?

Deputy I.J. Gorst:

As politicians are fond of saying, we are where we are. I am the new Minister, I have given an undertaking in the Assembly today and I do not doubt that if I do not bring forward the legislation as I have given in the undertaking today, people will be calling for my head. I intend to keep to my undertaking.

The Bailiff:

Deputy Southern, final brief supplementary.

3.13.4 Deputy G.P. Southern:

Is the Minister aware that many of the Woolworths' workers are ineligible to claim income support and in dire need of some form of compensation to tide them over?

Deputy I.J. Gorst:

As the Deputy is aware, there are boundaries within which claimants of income support have to meet to qualify for those payments. Some of that is connected with household income. It is not for me to surmise about the personal circumstances of each ex-employee of Woollies.

3.14 Deputy T.M. Pitman of the Minister for Education, Sport and Culture regarding support for gay and lesbian young people:

Does the Minister believe enough has been done within both the formal and informal education systems to support vulnerable gay and lesbian young people? If not, what new initiatives, if any, is the Minister planning to improve the situation?

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

I believe the right education structures are in place to support all young people whatever their sexual orientation, although I am aware that there is always room for improvement. In secondary schools, sex and relationship education is firmly rooted in the personal, social and health education curriculum. This is designed to support pupils through their physical, emotional and moral development and help them to deal with difficult moral and social questions. In that context teachers are expected to be able to deal honestly and sensitively with sexual orientation, answer questions and offer support without directly promoting any particular orientation. The pastoral system in schools is structured to provide initial support to individual pupils who may disclose that they are of a particular sexual orientation and to offer guidance as to where they might access additional support. Outside of school, youth workers provide help and support in many different environments from youth clubs to street and outreach work, and through the youth inquiry service offer confidential counselling. They have a unique role in that they are able to develop an open relationship with young people within which very effective sex and relationship education and sexual health promotion can take place.

The Bailiff:

Thank you, Minister, your time has expired, I am afraid. Senator Syvret.

3.14.1 Senator S. Syvret:

The policies in practice in the department, as just described, do indeed sound, on the face of it, to be good and wise policies. I was just curious as to how the Minister reconciled those policies of his department with the rabid extraordinary homophobic speech he delivered in this Assembly when we were debating the age of consent issue?

The Deputy of St. Ouen:

I would like to disassociate myself with any idea that I have made any particular homophobic comments that would upset or offend various groups in our society. I fully expect and acknowledge that as Minister for the Education, Sport and Culture Department I have a duty of care for all young people and I aim to ensure that as a department we fulfil all of those obligations.

3.14.2 Deputy T.M. Pitman:

Like most other Members in the House I am sure, I very much welcome the news that the Minister will be standing up firm and erect on behalf of gay sexuality. I would just like him to clarify, does he plan any new initiatives and does he think they can be funded from within his present budget? Thank you.

The Deputy of St. Ouen:

There is one particular new initiative which has come out of the view of the youth service which I believe will help to improve and provide support for young people in general. This is what we are looking to further develop in the year ahead.

3.14.3 Deputy M. Tadier:

Does the Minister feel that enough is being done in particular to counter-prejudice young gay and lesbians in schools or in society?

The Deputy of St. Ouen:

It is early days obviously of my heading up this department but I believe, yes, we are.

3.14.4 Deputy J.M. Maçon of St. Saviour:

As I am aware, there is a great education programme as regards to sex in the P.S.H.E. (Personal, Social and Health Education) curriculum yet the Minister had described that there is relationship education. When was this brought in because I have not experienced it? Thank you. [Laughter]

The Deputy of St. Ouen:

I can only inform Deputy Maçon that this does take place and I am just sorry he did not experience it for himself. Thank you.

3.15 Deputy R.G. Le Hérissier of the Minister for Home Affairs regarding the Independent Citizens' Group:

Putting things on a more serious footing, would the Minister confirm whether he is satisfied with the workings of the independent citizens' group which was appointed to oversee the Haut de la Garenne investigation and, if so, will he be extending its role into the future?

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

I have 2 major problems. Though I have tried very hard to find a way, I cannot answer this question without going into camera. That is the first problem. The second problem I have got is even if we got into camera I am not going to be able to give a substantive answer. I can answer generally about what such parties do but I am afraid, Sir, I would need to go into camera other than that.

The Bailiff:

There are 3 ways forward. Either you can answer the question generally, Minister, which probably would be of benefit to Members, I think; or the questioner can withdraw his question; or the Assembly could consider going into camera, which seems to me highly undesirable in the context of question time.

Deputy R.G. Le Hérissier:

No, I will not withdraw the question. I do appreciate the problems the Minister is facing but this was a citizens' group set up on behalf of the community and the community surely is entitled to have feedback as to its effectiveness.

The Bailiff:

Minister, can you give a general answer?

Senator B.I. Le Marquand:

I cannot give an answer without going into camera, Sir. Other than explaining in general what these groups are. In general, such groups which are referred to in the question as independent citizen's groups are independent advisory groups and they are set up, or should be set up, not as representatives of the community but as representatives of communities. There are issues which I cannot express an opinion on as to whether or not the particular group was properly set up in the first place.

3.15.1 Deputy R.G. Le Hérissier:

Having reviewed its workings, would the Minister acknowledge whether or not such groups can play a viable role and if structured properly, if given proper terms of reference, they can indeed prove a very useful instrument in overseeing investigations? What move would he like to see in order to give it a proper and well regulated role? Thank you.

Senator B.I. Le Marquand:

My understanding is that in general such groups are not set up to oversee investigations. They are set up in order to provide advice to assist in making sure the investigations are sensitively conducted. Such groups are normally set up in order to have representatives of different communities - such as in Jersey, Portuguese or Polish or other such ethnic groups - so that if a matter comes up concerning such a group, advice can be given to the police so that they deal with matters sensitively.

3.15.2 Senator A. Breckon:

I wonder if the Minister could say how he envisages an independent citizen's group reporting, who would they report to if they are independent citizens and could, for example, they comment on perhaps how publicity in any particular case was handled?

Senator B.I. Le Marquand:

I have been drawn back into camera again, I am afraid, by the last question to try and find out the ambit of the particular inquiry and I cannot comment on that.

3.15.3 Senator S. Syvret:

The supplementary question I wish to ask does not require going into camera. The Minister himself, in one of his answers, suggested that there may be a question as to whether the current group was established correctly. I am simply asking him, in an effort to be helpful, will he give an undertaking to the Assembly to urgently complete the review of the existing group and consider, in fact, if alternative arrangements need to be put in place, and if indeed such a group was necessary?

Senator B.I. Le Marquand:

My understanding, which may be incorrect, is that the group originally set up is not currently functioning in relation to the Haut de la Garenne matters.

The Bailiff:

I think you are being asked whether you would review the matter, Minister.

Senator B.I. Le Marquand:

It is not a matter for me; it is a matter for the police. They set up such groups. It is not a matter for me in my opinion. It is an operational matter for them certainly.

3.15.4 Senator A. Breckon:

I wonder if I can press the Minister, what I asked him was a question of a general nature; that is who the citizen's group would report to and I do not think that is a matter for in camera. They must be reporting to somebody. The other thing was general, not specific to any case, would they comment on an issue say of how publicity was handled? I do not see that as been specific to anybody.

Senator B.I. Le Marquand:

I do not think they report to anybody. My understanding is that such groups' role is advisory to the police and therefore they would not report to anybody. If we are talking hypothetically here about the way in which the group ought to function, they would have an advisory role in relation to publicity.

3.16 The Deputy of St. Mary of the Minister for Transport and Technical Services regarding the waste arisings model used as a the basis for calculating the size of the incinerator needed by the Island:

Could the Minister advise the Assembly what assumptions about population were built into the waste arisings model which predicted the amount of residual waste requiring treatment in the years up to 2035, which was used as the basis for calculating the size of the incinerator the Island was thought to need? Also could he advise what assumptions about domestic recycling rates were built into the same model?

The Connétable of St. Brelade (The Minister for Transport and Technical Services):

In March 2008 the States Statistic Unit provided the department with updated net inward migration population figures for the Imagine Jersey scenarios. At the same time the Statistics Unit indicated the Housing Needs Survey 2007 data was being reviewed to determine the most accurate numbers of households that could be assumed to arise from the Imagine Jersey scenarios. As a result, the solid waste strategy model was revised to incorporate this latest information in 2000 in waste actual. The updated model, assuming a net inward migration of 250 people at a reduced number of households, 46,200 in 2035 to that assumed within the original solid waste strategy model; in subsequent annual revisions, 51,200 in 2035. The review of the updated solid waste strategy waste arising model in April 2008 confirmed that provided resources were made available a 36 per cent recycling target for non-inert waste from 2018 would be sustainable. The review of the model also indicated that a smaller capacity residual non-inert waste disposal facility of 105,000 tonnes per annum would be recommended. Thank you.

The Bailiff:

Thank you, Minister. I am afraid that concludes the time for oral questions.

The Deputy of St. Martin:

Sir, could I ask that the Standing Orders be suspended. There are 12-14 minutes to go until lunch and there are 3 questions unasked. I would ask, Sir, that the States agree that we have the full 3 questions and go on to lunch time with question time.

The Bailiff:

Are you making that proposition, Deputy, are you?

The Deputy of St. Martin:

Yes, sir.

The Bailiff:

Can I just be clear, what is the Standing Order with suspending? Deputy, Standing Order 63(1) says: "Up to 90 minutes shall be allowed a meeting for questions of which notice has been given to be asked and answered." Then Standing Order 63 goes on to consider a number of different matters. The Greffier tells me that the motion which you are proposing to put has been put in the past. Technically I am not sure that it is in order and I would ask perhaps the Privileges and Procedures Committee to consider the matter because it seems to me that if a Standing Order is going to be raised - that is Standing Order 63 is being raised - that would cause difficulties. But I will allow you to propose it on this occasion that Standing Order 63(1) be raised for the purpose of allowing ... that will, in fact, remove any time limit on questions and Members will be accepting that they go on into the afternoon if necessary to ask **[Interruption]** I am sorry, you either suspend the Standing Order or you do not suspend the Standing Order. So Members must make up their minds what they wish to do. The proposal of the Deputy of St. Martin is that Standing Order 63(1) be suspended. **[Seconded]** May I take a vote forthwith or does any Member wish to speak? Very

well, those Members in favour of the proposition, kindly show? Those against? Very well, the proposition is approved and we then go back to the question of the Deputy of St. Mary.

3.16.1 Deputy J.A. Martin:

The Minister implied or said in his answer that the model from Imagine Jersey 2035 was 250 people. I think that needs to be corrected. I think it was 250 heads of households plus accompanying spouses and maybe children. Could the Minister also remind the Assembly when this was passed, when this actual amount of inward migration was passed in this House?

The Connétable of St. Brelade:

In my note I have the assumed net inward migration of 250 people but clearly stand to be corrected. I have not got the date when that was passed but I am quite happy to pass that information on to the Deputy when I have it.

3.16.2 The Deputy of St. Mary:

The Minister referred to a reduced number of households, trying to confuse the issue I would suggest, but in fact the number of households is predicted to increase from 38,000 last year to 46,200 households in 2035. By any event that is a big increase. Is the Minister embarrassed the public opinion about growth and population was completely ignored in drawing up the model? Would he also like to comment, or does he agree that he and his department should work to increase recycling rates in line with jurisdictions elsewhere or is he going to allow Jersey to sink to the bottom of the league?

The Connétable of St. Brelade:

In my speech when I was elected Minister I alluded to the fact that I would like to increase the predicted recycling rate from the existing 31 per cent which we have at the moment to the proposed 36 per cent but above the 36 per cent proposed but to 40 per cent. That is my philosophy. I believe that in conjunction with the Parishes this can be achieved. There is no doubt about it that there is a willingness from the public to do this and my department must focus itself on doing this. In terms of my competence in the building of the energy from waste plant, which I understand is what the Deputy is alluding to, I am fully confident; I am not embarrassed in any way by the figures that are being put forward. They have been genuinely extracted from the statistics produced by the Statistics Unit and I have full confidence that those are true and correct.

3.16.3 Deputy G.P. Southern:

The Minister does not appear to be aware that the figure of 250 heads of household has never been discussed by this House, let alone passed by this House. Will he support any moves to finalising or bringing to the House a proper fully developed population and immigration policy which has some figures in it that this House can support?

The Connétable of St. Brelade:

I think a lot of this is supposition. The figures produced by the Statistics Unit I think are as accurate as we can hope to achieve. Changing these figures is almost clutching at straws and I think we have to base our judgments on the best information available on the day. Today we have a completely changed scenario than that which pertained when the 2035 Imagine Jersey scenarios were discussed. Once again, we had to take these factors into account. We are basing our judgments on the best information available today and I see no point in changing that decision making process.

3.16.4 Senator S. Syvret:

I accept that the world is a very much changed place since the Imagine Jersey 2035 was undertaken but nevertheless, using the Jersey 2035 figures, could the Minister inform the Assembly what the annual percentage growth in refuse production will be through the years, up to the year 2035? If he

does not have that figure at this precise moment perhaps he could inform the Assembly later this afternoon.

The Connétable of St. Brelade:

I have a spreadsheet with significant figures running through to 2035 and am happy to let Members have that later on today.

3.16.5 Deputy P.V.F. Le Claire:

I appreciate the Minister is new in the seat, having taken over from the previous Minister, however the Minister was in the Assembly when the States approved additional funds to his Ministry for recycling, increased recycling, which was needed in order to attain the functionality of this 105,000 tonne incinerator. Can the Minister update Members as to what has been done since this agreement was made in the States in relation to increasing recycling in Jersey and what initiatives are planned, please?

The Connétable of St. Brelade:

The department has a continual desire to increase the recycling rates as I alluded to before. In terms of funding Members will be aware that the value of recycled goods has much diminished of late with a result that it costs us more to take recycling through. The department has put through to the Council of Ministers a wish to increase funding levels in that vein and that application is being considered at present.

The Bailiff:

Final supplementary, Deputy Tadier.

3.16.6 Deputy M. Tadier:

It is widely believed that the consultative programme for Imagine Jersey was a sham in some circles. Does the Minister acknowledge that it may have been politically motivated and not objective and therefore will he take the relevant steps to see if any erroneous judgments have been made regarding waste for up to 2035?

The Connétable of St. Brelade:

First of all I would disagree with the Deputy's allegation that the 2035 exercise was a sham. That is not my opinion. In terms of monitoring the changing situation, the department regularly does this and will make any changes as it thinks necessary along the way.

3.17 The Deputy of St. Martin of the Minister for Education, Sport and Culture regarding the human rights compliancy of suspensions under the Education (Jersey) Law 1999:

Will the Minister advise Members whether the Education (Jersey) Law 1999 in respect of suspensions is human right compliant and, if so, is he satisfied that the current policy to address the causes of suspension and to cater for the needs of suspended children is operating successfully and, if not, what steps, if any, is the Minister proposing to address the matter?

The Deputy of St. Ouen (The Minister for Education, Sport and Culture):

In response to an issue raised by Deputy Hill with my department I have considered whether the Education (Jersey) Law 1999 is human rights compliant in this respect. It is my view that it is. In respect of policy, I am conscious that we need to protect the human rights of all children in our care, including those pupils who may face suspension. There are principally 3 areas which do concern me and I will be taking steps to ensure that these are dealt with. Firstly, the guidance provided to schools needs to be made clear so that they understand their responsibilities in administering a suspension, especially in terms of making alternative educational provision for

suspended pupils. Secondly, parents need to be explicitly informed at the outset of their right to appeal and the process for doing so. Thirdly, we need to monitor more closely how the suspensions policy is administered across all schools. Consequently, I have asked officers to review the guidance to schools through new arrangements we have introduced or are about to introduce this year to enhance governance. I have asked the schools' advisory team to monitor more closely the use of suspension. Thank you.

3.17.1 The Deputy of St. Martin:

The Minister will have read part 6 of the 1999 Education Law which covers suspensions. Will the Minister confirm that the law and policy does not allow for either the child or the parent to be informed of the nature and cause of the accusation against the pupil or the opportunity to defend themselves in person or the right of appeal, which the pupil is entitled to in line with Article 6 of the Humans Rights Law? Will he also confirm that he is aware of a pupil and parent who have just experienced such a denial of their rights? As the answer will be in the affirmative, what action is he taking?

The Deputy of St. Ouen:

Firstly, I do not support the Deputy's view that Article 6 is contrary to human rights compliance. Indeed we have a system not only that covers appeals but a procedure that covers how we deal with what I would call physical aggressive behaviour in schools. There are far wider issues than simply human rights compliance as the Deputy well knows. It is perhaps more important that we provide the right support for the individuals who find themselves in difficulties within the school environment. We cannot condone physical aggressive behaviour in our classroom at any age and it is not acceptable. It is clearly understood that the head teachers do have the authority to take appropriate action against pupils involving such actions. I am aware that there is far more that could be done. Indeed, I am firmly of the view that early intervention that helps to identify the issues that certain young people may face, and working closely with their parents or carers, is a much more appropriate method of addressing this particular form of behaviour.

3.17.2 Deputy G.P. Southern:

The Minister suggested that the relevant law does not contain an appeals mechanism and pointed to procedures which suggested there was an appeal. Can he point to any regulations or orders under which the appeal mechanism is clearly set out and, in particular, that the parents and student are informed of their rights and where is that in regulations or orders?

The Deputy of St. Ouen:

At this stage I cannot provide the detailed information that the Deputy requires. However, I will commit to ensuring that that information not only is provided to the Deputy but all States Members.

3.17.3 Connétable D.W. Mezbourian of St. Lawrence:

The Minister will know that a written question I lodged for today on suspensions required more work by his department and I agreed to its deferral. In the meantime, the Minister has referred to changes that he thinks should be made in the policy. I think it would be helpful for all concerned if he specified to us what the current policy is on suspensions.

The Deputy of St. Ouen:

I have some detailed information here if you will bear with me.

The Bailiff:

No, it must be done succinctly, Minister.

The Deputy of St. Ouen:

I will definitely try and do that, Sir.

Senator S. Syvret:

To be helpful, if the Minister has this information on paper would it not simply be easier for him to copy it and circulate to Members? **[Approbation]**

The Deputy of St. Ouen:

I have made that offer already.

The Bailiff:

Very well. I think that deals with that supplementary. I saw Deputy Le Hérissier.

3.17.4 Deputy R.G. Le Hérissier:

On the basis of that policy, could the Minister confirm whether or not suspensions roll over, and if they do roll over what explanation is given to parents by the school as to why it is simply being rolled over from one week to the next?

The Deputy of St. Ouen:

I hate to repeat myself but I have already offered to provide detailed information on all of these issues and I think that is the better way of managing it. Thank you.

3.17.5 Senator S. Syvret:

Does the Minister understand that Article 6 of the European Convention on Human Rights is, I believe, the Article which deals with the right to a fair trial? It is quite explicit and clear, Jersey is internationally bound to this convention, we are obliged to adhere to it via the United Kingdom, and if a States department such as his with its suspension policy or any other matter is not in fact acting in a way that is compliant with the Human Rights Convention and, indeed, its domestic legislation which now exists in Jersey, then the department is acting in an *ultra vires* manner. Will the Minister please undertake a review to ensure that all his departments' activities are convention compliant?

The Deputy of St. Ouen:

Absolutely.

3.17.6 The Deputy of St. Martin:

I would like to thank the Minister because I think he has been put in a difficult position because he has had a case to take on almost running on board. But also I should acknowledge the fact that he has accepted the fact that there are human rights implications in his answers because clearly he said he is going to arrange an appeal mechanism which was not there. So I do not know how he thinks the present law is human right compliant. But in my supplementary ...

The Deputy of St. Ouen:

I did not suggest that I was going to introduce an appeal mechanism; I suggested that there was an appeal mechanism already in place.

The Deputy of St. Martin:

I would be pleased if that was the case. Is the Minister satisfied the schools have adequate staff to ensure the suspended pupils receive education during the period of their suspension?

The Deputy of St. Ouen:

As I have already stated, there is a responsibility for the Education Department and the schools to provide education and the provision of education for those children that are suspended. It is quite clear that on occasions, perhaps, resources perhaps are not as good as they could be. I do believe that every effort is made.

The Bailiff:

That concludes the questioning on question 18. Do Members wish to move on or propose ...?

Senator S. Syvret:

I think the view is, just from speaking to a few colleagues here, that we should dispose of the oral questions before lunch and then move cleanly on to the questions without notice after lunch.

The Bailiff:

Very well, Deputy Le Claire, question of the Minister for Treasury and Resources.

3.18 Deputy P.V.F. Le Claire of the Minister for Treasury and Resources regarding the importation of electricity by the Jersey Electricity Company:

Can the Minister advise whether the Jersey Electricity Company is importing a source of high carbon electricity from Guernsey Electricity Limited?

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

I am advised by the J.E.C. (Jersey Electric Company) that they import around 95 per cent of the Island's power from France, which is low carbon as it comes predominantly from nuclear and hydro sources. The remainder is generated on Island at La Collette with a small proportion being from the Transport and Technical Services incinerator via Bellozanne. None is imported from Guernsey.

Deputy P.V.F. Le Claire:

Thank you.

3.19 Deputy R.G. Le Hérissier of the Chief Minister regarding the establishment of an independent office to consider representations from 'whistleblowers':

Will the Chief Minister be bringing proposals to the Assembly for the establishment of an independent office to consider representations from whistleblowers and, if so, when?

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

There is a current policy on serious concerns which has been in existence for a number of years. It allows employees to raise concerns about issues which they believe are contrary to the public interest and the normal route for raising concerns is through the line management chain. However, we are developing a new policy, a part of which should include a provision for a member of staff to be able to raise a concern with an independent person if they feel the need to do so. The policy has also been revised to give clearer time scales for addressing concerns and to designate a suitable independent person to ensure that the process is open and transparent. The revised draft policy is on the agenda for discussion at the next meeting of the States Employment Board, and once it has been agreed I can confirm it will be circulated to all States Members.

3.19.1 Senator S. Syvret:

It may be of interest to the Chief Minister and the Assembly to know that I have nearly completed a draft report and proposition which will be asking the Assembly to agree to the introduction of a Public Interest Disclosure Act - I am discussing this with the Greffier at the moment - which will cover the right to make public interest disclosures of all employees, not just public sector ones. Would the Chief Minister be minded to support this, given that the legislation has been in existence and working quite successfully in the United Kingdom for some years?

Senator T.A. Le Sueur:

I have no objection to the policy in principle but without seeing what proposition the Senator is lodging, I am not in a position to say whether I would support it or otherwise.

3.19.2 Senator A. Breckon:

I wonder if the Chief Minister is aware that the Comptroller and Auditor General does have an avenue for people who do wish to express such matters that might be in the public interest?

Senator T.A. Le Sueur:

I am, and I believe these arrangements should be put on a more formal basis and that is why the Employment Board will be considering that matter.

The Bailiff:

Very well, that concludes oral questions with notice.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment is proposed. If Members agree, we will adjourn until 2.15 p.m.

LUNCHEON ADJOURNMENT

4. Questions to Ministers Without Notice - The Minister for Economic Development

The Deputy Bailiff:

We come now to questions to Ministers without notice and the first period is to the Minister for Economic Development.

Deputy T.M. Pitman:

Point of order, Sir. Could I just ask for clarification from the Minister of when the press were briefed on this headline? It just seems a strange way of doing inclusive government.

The Deputy Bailiff:

I do not know what that is referring to but I think we will carry on at the moment. Questions without notice to the Minister for Economic Development.

4.1 The Deputy of St. John:

If I could pass this across, please, to the Minister. In December 2007, I along with others were at St. Helier Yacht Club and put a number of questions to the Minister on maintenance of St. Helier marina. He gave me an undertaking that he would look into this. On a number of occasions during 2008, I wrote to the Minister and asked what progress had been made. As Members can see, I will pass a couple of these around ... in fact these photographs were taken, Minister, this week. Could the Minister please explain why the serious defects are still in the public domain, and are a danger to the public, and why they have not been put right?

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

I would ask the Deputy who has written to the department - has written to me and I have referred it to the department to deal with - I understand he has had numerous discussions with the department and meetings. My understanding is that most of the issues that were raised - I think in the first letter the Deputy wrote there was something like 28 particular issues raised on matters pertaining the harbours - have been addressed in full. As far as the photographs are concerned, I am more

than happy to take them down to the department and seek clarification as to what they relate to in the context of the ongoing discussions that the Deputy has had over the past 2 years.

4.1.1 The Deputy of St. John:

A supplementary. If I could pass the Minister a copy of my original letter, he will see of those 20 plus faults reported a number of them, even on the front page which are underlined in a highlighter, have not been addressed. Will he give us an assurance that within the next 28 days they will be addressed?

Senator A.J.H. Maclean:

I am more than happy to give the Deputy an assurance that within the next 28 days they will be considered. As far as I am aware, these issues had been resolved and I have asked the Deputy personally as to whether there are any outstanding issues to which he did not give me an answer until this precise moment. Thank you.

4.2 Deputy M. Tadier:

Can the Minister confirm that further to the Attorney General's comments regarding foreign administrators acting in Jersey (1) that no application has yet been made by the administrator to the Jersey courts; (2) can he confirm under whose authority the administrators are therefore acting and (3) can he confirm whether he believes they are acting legally under Jersey laws?

Senator A.J.H. Maclean:

Yes. No application has been sought yet by the Royal Court. The administrators who were appointed by the English courts have to make an application to the Royal Court. That application, as far as I am aware, has not yet been made. Do I believe that they have been acting legally? I understand, and I made the point this morning, that the administrators had sought legal advice, the work that they have undertaken to date has been within the bounds of their legal advice that they received, so I am told. Thank you.

4.3 The Connétable of St. Lawrence:

Does the Minister consider members of the public who use the harbours and airport as clients of his department? If so, does he accord their needs and concerns the same consideration he gives to airline and ferry operators?

Senator A.J.H. Maclean:

There is a very quick answer to that and it is, yes. They are equally important to the airline and ferry operators; the customers are key to any business.

4.3.1 The Connétable of St. Lawrence:

Following that response, and I am pleased it was in the affirmative, and bearing in mind his department's policy of staunchly supporting competition, will the Minister undertake to give more prominence at our airport to Jersey Post's advert for transporting travellers excess baggage to and from Jersey at prices much cheaper than those charged by the airlines?

Senator A.J.H. Maclean:

It is a point well made by the Constable. That particular service has been advertised. If she feels that it is not being advertised clearly enough then I am more than happy to see what we can do with regards to Jersey Post to ensure that the service is properly advertised. It is a valuable service and, as far as I am aware, well used.

The Connétable of St. Lawrence:

I thank the Minister for his response. It is not clearly advertised at the airport and I think it needs looking at.

4.4 Deputy R.G. Le Hérissier:

Given the massive reconstruction of the United Kingdom banks, given the fact that many are moving into partial or full state ownership, would the Minister comment on how he thinks these moves will impact upon the finance sector in Jersey and what steps is his department taking to deal with the anticipated re-jigging of that sector?

Senator A.J.H. Maclean:

At this stage it is very difficult to anticipate exactly what the outcomes are going to be. We have been facing, I am sure Member will agree, quite unprecedented times. The speed and severity of the global financial crisis has caught most people completely unawares. As far as the potential impact on the Islands, we have been in discussions with Jersey Finance. Jersey Finance are undertaking or have appointed a company called McKinsey who are going to look at the risks, which I think the Deputy is alluding to, to the finance industry based on not just the reconstruction of the major clearing banks and others in the U.K. but any other impacts that the global financial crisis may indeed have on the Island.

4.4.1 Deputy R.G. Le Hérissier:

Would the Minister say that because these banks are now essentially going to be controlled by the United Kingdom Government this poses particular problems and issues?

Senator A.J.H. Maclean:

Not necessarily. It is too early to say if there is going to be any ongoing or potential collateral damage. At this stage I think we can be thankful that the U.K. Government is standing firmly behind its banks, it should give us a great deal of comfort to know that they are indeed providing that surety for all concerned.

4.5 Senator A. Breckon:

Along a similar line, is the Minister aware of a depositor protection scheme in existence in Guernsey which has been there since November 2008 that gives protection to all depositors - that is to say on and off Island - for £50,000. If he is, could he say when one will be in place in Jersey? These promises were made by others at the end of last year.

Senator A.J.H. Maclean:

Of course I am aware of the Guernsey depositor protection or compensation scheme. I think the Senator would be well aware that there are 2 reviews under way at the moment; one by the U.K. Government by Michael Foot. That particular review, the first stage of which is due by the end of March/beginning of April, is looking specifically at depositor compensation schemes. That information is going to be valuable to the Island. But not only that information, I would add that also a review is being undertaken by O.X.E.R.A. (Oxford Economic Research Associates) who are working with or gaining information from local banks, local institutions, and looking at depositor compensation schemes on a far wider basis around the world than nationally. That is a responsible position to take to ensure that we are properly in possession of facts before putting together a scheme which would be appropriate for Jersey. There was an undertaking given by the former Chief Minister, and I know the current Chief Minister also is offering the same undertaking in the Council of Ministers, that local depositors in the interim period are protected should any local bank default. I might also add that my predecessor at Economic Development, as part of the debate that occurred in December where this Assembly voted I think 33 to 0, gave an undertaking that a depositor compensation scheme would come forward by no later than July of this year, 2009. Thank you.

4.5.1 Senator A. Breckon:

Notwithstanding what the Minister has just said, can he give some comfort that he will act on what everybody appears to be saying? He said the former Minister said by July, but I would like to think

in the timely manner than Guernsey did it we could do it quicker than that. So the question is will he act on this rather than just talk about it?

Senator A.J.H. Maclean:

I will certainly act on the undertakings that have already been given.

4.6 Senator S.C. Ferguson:

The cost of oil has fallen significantly from 150 dollars a barrel to around about 50. Could the Minister tell the House what steps he is taking to establish why we do not see a similar reduction at the pumps?

Senator A.J.H. Maclean:

The Senator makes a very well made point. I was wondering myself when I last filled up why, in fact, the petrol pump price is not lower than I had imagined it would be. It is a matter that concerns me greatly. It is a matter that we are considering. We have had a discussion in only the last few days as to whether or not we need to seek the advice of the J.C.R.A. (Jersey Competition Regulatory Authority) on the matter, but I shall be looking much more closely to seek information from the distributors and the suppliers as to why we are not seeing the reduction that I would expect at this time.

4.7 Deputy G.P. Southern:

In the light of the visit that the Minister paid to the workers at Woolworths recently, and in the light of the comments of the Council of Ministers, will the Minister outline his position on the introduction of statutory redundancy pay for insolvency cases in the shortest possible term; the setting up of a central insolvency fund for the intermediate term; and whether he supports or not the payment of redundancy and statutory notice payments to the present Woolworth's staff to solve their urgent problem?

Senator A.J.H. Maclean:

That is 3 questions from the Deputy. Starting in reverse order, as far as the statutory notice period is concerned I, like I am sure most Members of this Assembly, are extremely disappointed that the statutory employment notice periods have not so far [**Approbation**] been met or we have not had the indication that they are going to be honoured. I would certainly expect the administrators and those responsible to do so in due course. I think the employees should expect that at the very least. As far as the other matters are concerned, with regard to redundancy legislation, insolvency schemes and so on, I think it was mentioned earlier by my colleague that there was, in fact, a scheme in draft form last year and he has undertaken - that is the Minister for Social Security - to bring this scheme forward in quick time. I think it is absolutely right that it should be brought forward. It is a significant disappointment and that is an understatement, certainly as far as the Woolworths' staff and other members of staff employed by companies in the Island, that such legislation has not been considered and brought forward before.

4.7.1 Deputy G.P. Southern:

Will he support the proposition P.2/2009 which will be before him, as amended, today or tomorrow?

Senator A.J.H. Maclean:

Would the Deputy just confirm that is the proposition of his that we are debating later today?

Deputy G.P. Southern:

Indeed it is.

Senator A.J.H. Maclean:

I think it is unlikely that I will support that particular proposition for the reasons stated. I will be speaking obviously on the matter later - I am well aware of the gallery, thank you, Deputy - there are significant precedents that we need to consider as far as this is concerned. What I would like to see is that the administrator, when and if appointed by the Royal Court, carries out diligently its duties and the assets that are in the Island and other mechanisms potentially are used to ensure that the staff of Woolworths get their correct recompense. **[Approbation]**

4.8 Deputy J.A. Hilton of St. Helier:

Senator Ferguson asked the question that I wanted to ask but as a follow on from that, can the Minister ... my understanding is that shipping companies dealing with freight shipments are still charging a surcharge so, in a similar theme, is the Minister prepared to look at this and, if he is, what does he feel that he can do about this?

Senator A.J.H. Maclean:

Currently we do not have any arrangements or regulation as far as commercial shipping is concerned. I am aware of the issue that the Deputy raises and it is a matter that I intend to raise at a meeting that is scheduled very shortly with the new owners of Condor, for example. It is a matter that does concern me and it is one that I cannot give any undertakings on at this stage because I do not know the full detail, but I will certainly be looking into it.

4.9 The Deputy of St. Martin:

I did not get much joy from the Minister when he was Assistant Minister, I hope I get a bit more now. As there is a free drop off area at the departure area at the Jersey Airport, when will there be a free pick up area for passengers, particularly disabled passengers at the arrivals area at the airport? **[Approbation]**

Senator A.J.H. Maclean:

As part of the reconstruction at the airport, part of the capital programme, the roadway system which is not ... and indeed the drop off and pick up areas I do accept are not as we would like them to be and they do need improvement. Unfortunately there is a time and cost issue that needs to be resolved, it is part of the capital programme. I cannot give an exact date to the Deputy but I am more than happy to discuss the matter with him at a later date.

The Deputy Bailiff:

I am afraid that brings questions ...

Senator S. Syvret:

On a point of order I suggest whoever is chairing needs to be a little more vigilant. I have had my light on and I have been attempting to ask a question for about 12 minutes in this session and other people have had several opportunities.

The Deputy Bailiff:

Senator Syvret, the chair gives the opportunity in the order in which it sees people's lights.

Senator A.J.H. Maclean:

Can I just say to the Senator if he has a question I am more than happy to answer it outside in the coffee room.

Senator S. Syvret:

I prefer open government.

5. Questions to Ministers Without Notice - The Chief Minister

The Deputy Bailiff:

Very well, we come now to questions of the Chief Minister. Deputy Le Claire.

5.1 Deputy P.V.F. Le Claire:

In comments tabled today in regards to the redundancy payment to Woolworths, the Council of Ministers acknowledge on page 2, in addition to being briefed by the Viscount, the Minister for Social Security has written to the joint administrators to express his disappointment and that of the Chief Minister in respect of the failure to meet their statutory obligations under Jersey employment law. In particular, regarding the failure to make payments in lieu of notice. Given that Deloitte, the administrator in Jersey, is an unregulated entity - since it has dropped its trust arm status it is no longer regulated by the Jersey Financial Services Commission - in the future, in this instance and in other instances, what pressure can be brought to bear upon administrators that are operating on behalf of U.K. companies by the Chief Minister in Jersey?

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

It is the obligation of any administrator, wherever they are based, to comply with the laws of the territory in which they are carrying out that administration, and to the extent that administration takes place in Jersey the administrator is obliged to comply with the laws of Jersey. Should they fail to do so that is a matter for the courts or the appropriate authority to take action and certainly from a physical point of view I would support any action to recover or redress any illegal or unlawful actions.

5.1.1 Deputy P.V.F. Le Claire:

I wonder if that would extend to the Chief Minister taking this up with the judiciary and seeking in the future, through the Regulation of Undertaking and Development Law, to make penalty to those companies that administer such funds through the Jersey courts for not adhering to Jersey Law?

Senator T.A. Le Sueur:

The Deputy raises a good point. I am well aware that we may well need to review the application of Regulation of Undertakings licences to companies incorporated outside the Island to ensure that they comply with the laws of this jurisdiction. It is a wider issue than simply that of redundancy or employment matters. It is something which I think is worthwhile taking up and I will endeavour to do so with the Economic Development Minister and the Financial Advisory Board.

5.2 Connétable G.J. Butcher of St. John:

Given the public interest in recycling and this sort of thing, would the Chief Minister be supportive of central government providing receptacles to the Parishes to thereby split the cost because the Parishes have the burden of the cost of collecting these things. Not only would it sort of spread the cost between ratepayer and taxpayer, it would also bring uniformity across the Island as to the way things are done.

Senator T.A. Le Sueur:

I happily endorse other Parishes to follow the lead of the Parish of St. John in recycling matters but as far as the particular situation of having central receptacles in Parishes provided by the States, I would point out that Transport and Technical Services already provide such facilities at numerous locations around the Island. It is not a question of one or the other, I think Transport and Technical Services are doing their part, it is up to the parishes to do their part as well.

5.2.1 The Connétable of St. John:

Could I ask some clarification on that? My point was more to provide the receptacles for doorstep collection as we do in St. John, not bins around various parts of the Parish.

Senator T.A. Le Sueur:

As I said, I think it is something where the Parishes can also play their part. The facility needs to be provided and I would have thought that this is something where other parishes might follow the example of St. John where a lot of that service was provided through sponsorship from other local commercial companies.

5.3 Deputy G.P. Southern:

In the light of the Chief Minister's strength and convictions on the introduction as soon as possible of statutory redundancy pay, particularly in the case of insolvency, his willingness to set up an intermediate contingency fund - central insolvency fund - to deal with what happens in the intervening period, why, despite general agreement in principle with the payment of redundancy payments by the States to the workers at Woolworths, has he not agreed in his comments to support my proposition P.2 and its amendments today?

Senator T.A. Le Sueur:

I think the Deputy is trying to have a rerun or a foretaste of the debate on his proposition which I think can well wait until that time. The reasons why I and the Council of Ministers in general oppose the proposals of the Deputy are clearly set out in our comments and I think when the time comes for that debate they can be amplified by the parties concerned.

5.3.1 Deputy G.P. Southern:

In the light of his determination to set up a central contingency fund to cope with this in the shortish term, why can he not support immediate payments now to Woolworths' staff? **[Approbation]**

Senator T.A. Le Sueur:

The nature of any contingency fund or fund for payment for redundancy through insolvency is a matter which has already been consulted upon and the difficulties of such a fund, and its actual funding, are well known. They were publicised when the previous Minister for Social Security brought his report to the States I think in 2007. It is still a matter of discussion as to how any such provision should be funded. So while the principle is one I can happily endorse, the actual mechanics of funding it are far more difficult.

5.4 Deputy S. Pitman of St. Helier:

In the interests of openness and transparency, would the Minister confirm during the election of a certain Minister did he receive a note from Deputy Noel asking him who he should vote for?

Senator T.A. Le Sueur:

I received numerous notes in the course of the last election asking all sorts of advice, most of which was fairly irrelevant to the actual discussion. I did receive a note from Deputy Noel, among dozens of other such notes.

Deputy S. Pitman:

Did he answer Deputy Noel's note?

Senator T.A. Le Sueur:

I hope I answered everybody's notes. **[Laughter]**

Deputy S. Pitman:

What was his answer?

5.5 The Deputy of St. John:

Having heard what Minister Maclean has said, can the Chief Minister give the people of Jersey an assurance that all funds were secure or are secure in local banks and in the event of a bank going

under the States will step in and honour the deposits? Can the new Chief Minister give the people of Jersey the same guarantee that the former Chief Minister gave us, and also will he explain to us how, if we do have a problem, and where the reserves are going to come from?

Senator T.A. Le Sueur:

I stand by the commitment made by my predecessor in respect of the depositor compensation scheme which is currently in place pending any new arrangements brought forward by the Economic Development Minister and approved by this House. We have analysed the risks and the commitments should such a scheme be required because no Chief Minister would make such a commitment lightly and without the ability to deliver. Having examined the risks and the financial implications, I am satisfied that there are sufficient funds within our existing reserves to meet such contingency in the extremely unlikely event that that should arise. As the Economic Development Minister said in an earlier question, the fact that the nations concerned are standing by their banks and it is those banks which are operating in this Island, I have no doubt that such a fund would not be required.

The Deputy Bailiff:

Deputy, did you want to ask a supplementary question?

5.5.1 The Deputy of St. John:

I did want to, yes. Could the Chief Minister please enlarge and tell us where these funds are coming from? He has told Members in private and I believe the public have a right to know how their money would be spent.

Senator T.A. Le Sueur:

Should the funds be required - and, as I say, it is in my view not at all likely that they would be required - the funds would come out of the Strategic Reserve or other cash funds available within States resources, full details of which are available in the States accounts.

5.6. Senator S. Syvret:

I am no expert on company law - no doubt I will be corrected - but I have been reliably informed that it is a requirement of that law for companies to keep a certain cash reserve necessary to meet their statutory obligations before repatriating it to shareholders. Woolworths in Jersey failed to do that and I am told by somebody who understands these things that, in fact, the directors of Woolworths Jersey, by acting in this manner, were engaging in fraudulent trading. Will the Chief Minister undertake to ask the police to investigate this matter? If nothing else, this possibly criminal activity ought to be investigated.

Senator T.A. Le Sueur:

Were we talking about a Jersey incorporated company that might well be the case where the funds are ring-fenced within that company. In the particular case the Senator is referring to, the company operating in Jersey was a branch of the U.K. company and the company law which applies to Woolworths plc is that of U.K. company law. I am not a legal expert and any matters of a legal nature need to be directed to the appropriate quarters.

5.6.1 Senator S. Syvret:

A supplementary question, if I may. What the Chief Minister has just said is quite extraordinary. He effectively is saying that Jersey incorporated companies operate to one set of rules and the law applies to them, yet U.K. incorporated companies do not have to obey the law that prevails in the Island. If he is correct in that assertion, then I think something has gone very badly wrong and I would urge him to address that matter. It would seem to me that there has to be a level playing field; if we have things like employment laws in the Island they must apply to all. **[Approbation]**

Senator T.A. Le Sueur:

If I have conveyed a wrong impression to the Senator I am sorry, I did not intend to mislead him. I said in the narrow case of company law a U.K. company operating in Jersey through a branch has to comply with U.K. company law for that company. Any activities of the company carried out in Jersey have to comply with all legal obligations in Jersey, whether they be employment laws or any other such laws. I hope that that clarifies the situation for the Senator.

Senator S. Syvret:

To clarify the point ...

The Deputy Bailiff:

I am sorry, Senator, everyone can only have 2 goes, otherwise it is not fair. The Deputy of Grouville.

5.7 The Deputy of Grouville:

During the meeting discussing the Strategic Plan yesterday 3 statements were made: adequately house the population; sustainable population levels; and return to sustainable growth by 2012. Does the Chief Minister not think we ought to put the horse before the cart and debate a migration policy? **[Approbation]**

Senator T.A. Le Sueur:

It is not a question of putting the horse before the cart. I think a migration policy ought to be an integral part of any Strategic Plan. I would hope that when the final plan is brought before the States the plan will, indeed, contain policies relating to population and migration.

5.7.1 The Deputy of Grouville:

Could I ask when we are going to discuss or when we are going to debate a migration policy that this Island urgently needs?

Senator T.A. Le Sueur:

As I have just said, it will be contained within the Strategic Plan. That Strategic Plan will be debated by the States in early June.

5.8 Deputy T.M. Pitman:

As one of those politicians who attended the meeting with the Chief Minister about supporting the Woolworths' staff, the Chief Minister was very broadly supportive. Now he tells Deputy Southern that support has gone. Does he accept that words without action are meaningless?

Senator T.A. Le Sueur:

No, I said I supported the need to help Woolworths' employees and I remain committed to supporting the needs of Woolworths' employees. I also said that there were difficulties which we ought to try to overcome in order to try to find a solution. Having failed to overcome those difficulties, I come to the conclusion which is set out in the comments of the Council of Ministers.

5.9 Deputy M.R. Higgins:

The Chief Minister a few moments ago mentioned that he would not have brought forward a depositor scheme unless he was convinced it could be delivered. He forgets, of course, that the scheme is a political scheme. There is no scheme in existence as such. For him to bring it into reality, he has to bring it to this House and the Members of this House have to vote for it. There is no guarantee that that would be forthcoming if it meant bankrupting the Island in the process.

The Deputy Bailiff:

What is the question, Deputy?

Deputy M.R. Higgins:

Would he not agree with that statement?

Senator T.A. Le Sueur:

I agree that any proposal to spend States resources, public resources, does need to come before this House and would do so. I would hope that in the event of a major bank collapse, which, as I say and keep on saying, is not on the horizon, in such a case I would hope that the Members of the States would be sympathetic to the plight of Island residents.

5.10 Deputy M. Tadier:

Is the Chief Minister still of the opinion that there is no recession in Jersey? If he is, will he acknowledge at least that there is a recession in the U.K. which may have serious implications for Jersey?

Senator T.A. Le Sueur:

I think it is a question now of when Jersey might go into recession, not if. I am not at the present time convinced that we are in recession now, but we are certainly going in that general direction. I do not think there is any magic date when suddenly one says: "Yes, today we are in recession; yesterday, we were not," but certainly the economic trends are downwards. We will need to take such action as needs be to counter such a situation. The Treasury Minister is already outlining some ways in which that might be achieved.

Deputy M. Tadier:

Supplementary, Sir?

The Deputy Bailiff:

No, I am afraid that brings questions to an end to the Chief Minister.

Senator S. Syvret:

Just as a point of procedure, we have quite a number of items on the Order Paper for public debate, some of which are plainly of much greater moment and urgency than others. I would just like to test the mood of the Assembly by suggesting that, for example, the Woolworths matters be taken as first item. [Approbation]

The Deputy Bailiff:

That is entirely for the Assembly.

Senator T.A. Le Sueur:

I think that is probably a matter on which the President of P.P.C. (Privileges and Procedures Committee) might want to comment, but for my part I would say that the first 6 items, those which are officially on the Order Paper, are relatively short and, I would rashly suggest, not controversial and could be dealt with quite rapidly. I think in this particular case there is little to be gained by reshuffling the pack. As a general principle, I think having made an agenda and agreed the agenda in advance, we should try to stick to it except in extremely unusual circumstances. I think in the present situation we can be content that we will get to all these matters today or tomorrow with no difficulty.

Senator S. Syvret:

I would like to formally propose that we do, in fact, take the Woolworths matters first. There are a significant number of former Woolworths' employees in the gallery. It is an important issue to

ordinary people and I really do not see that there would be any great harm done by taking the Woolworths items first. I formally propose that we agree to do that.

The Deputy Bailiff:

Is that proposition seconded? **[Seconded]** Very well. Chairman of P.P.C., do you wish to say anything?

Connétable J. Gallichan of St. Mary:

Obviously this is a matter for the Assembly, as you rightly said, but there is certainly no indication that we would not achieve all the business on the agenda within today and tomorrow. It is truly a matter for Members, I think. If there is any pressing reason - perhaps if anybody has anything they are awaiting confirmation of before that debate and bringing it forward might jeopardise that - that should be taken into consideration, I think.

Deputy I.J. Gorst:

It might be a helpful comment; it might not. I shall be asking the leave of the Assembly to withdraw my first item that is lodged for debate today, which is only a small item, which will then leave even fewer small items. It seems to me it is unlikely that we will finish the Woolworths debate this afternoon anyway, so it might be better to have it all on the same day. That is only an opinion.

The Deputy Bailiff:

Very well. The matter before the Assembly is Senator Syvret's proposition that P.2/2009 and the relevant amendment should be taken as the first item of business. The appel is called for, so I invite Members to return to their seats.

POUR: 26		CONTRE: 22		ABSTAIN: 0
Senator S. Syvret		Senator T.A. Le Sueur		
Senator F.E. Cohen		Senator P.F. Routier		
Senator J.L. Perchard		Senator P.F.C. Ozouf		
Senator A. Breckon		Senator A.J.D. Maclean		
Senator S.C. Ferguson		Senator B.I. Le Marquand		
Connétable of St. Ouen		Connétable of Trinity		
Connétable of St. Helier		Connétable of Grouville		
Connétable of St. Lawrence		Connétable of St. Brelade		
Deputy R.C. Duhamel (S)		Connétable of St. Martin		
Deputy of St. Martin		Connétable of St. John		
Deputy R.G. Le Hérisier (S)		Connétable of St. Saviour		
Deputy J.B. Fox (H)		Connétable of St. Peter		
Deputy J.A. Martin (H)		Connétable of St. Mary		
Deputy of St. Ouen		Deputy G.P. Southern (H)		

Deputy J.A. Hilton (H)		Deputy of Grouville		
Deputy P.V.F. Le Claire (H)		Deputy of St. Peter		
Deputy of Trinity		Deputy I.J. Gorst (C)		
Deputy S. Pitman (H)		Deputy A.E. Jeune (B)		
Deputy K.C. Lewis (S)		Deputy T.M. Pitman (H)		
Deputy of St. John		Deputy A.T. Dupré (C)		
Deputy M. Tadier (B)		Deputy E.J. Noel (L)		
Deputy of St. Mary		Deputy D.J. De Sousa (H)		
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Deputy of St. Ouen:

How does the decision fit in with Standing Order 87(1) in which we have to consider whether or not a number of items should be taken at this meeting?

The Deputy Bailiff:

Yes, you are absolutely right, Deputy. The vote that the Assembly has just taken is clearly conditional upon the Assembly agreeing to take these matters at this sitting. In fact, we have got a little ahead of ourselves because there are still 2 statements to be taken. I suggest we return to the Order Paper. We will deal with the statements and then I think, for the sake of good order, I should invite the Assembly to consider whether it wishes to take some or all of the matters under Standing Order 87(1).

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

The Deputy Bailiff:

We come to K, which is Statements on a Matter of Official Responsibility, and the Chief Minister will make a statement regarding public sector pay awards.

6. Statement by the Chief Minister regarding public sector pay awards

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

I should like to take this opportunity to inform the States of current developments on the matter of outstanding pay awards for the pay year 2008-2009 in the public sector. The policy this year, as in all years, is that pay awards should be linked directly to the increase in the Jersey Retail Price Index as at March 2008, a quarter historically used in pay negotiations in the public sector. Currently, 4 pay groups, representing some 3,000 public employees, have accepted an award of 3.2 per cent. They have civil servants, police officers, prison officers and head and deputy head teachers. Other groups such as manual workers, nurses, teachers, firemen and paramedics have yet to settle. The States Employment Board, the employer of virtually all employees in the state sector, has recently

decided to decline a request for arbitration on the pay award made by the trade union Unite on behalf of the States and parish manual workers. The reasons for this are as follows. Firstly, the offer of 3.2 per cent already made is equal to the relevant increase in the R.P.I. (Retail Price Index) and is consistent with States policy as set out in the States Business Plan. Secondly, other pay groups representing some 3,000 employees have accepted this award. Thirdly, there are other competing demands on States revenues at a time when the Council of Ministers is committed to cutting States spending. Fourthly, this is considered to be a very fair offer given the downturn in the economy and the impact that that has had on jobs and pay in the private sector. Finally, the employer is satisfied that on the basis of evidence it has received, the offer provides in the main very competitive pay and conditions of employment to its workforce, including manual workers. The employer is, therefore, maintaining its offer of 3.2 per cent to manual workers and all other pay groups yet to settle the 2008-2009 pay review.

6.1.1 Deputy G.P. Southern:

Does the Chief Minister then accept that the position of arbitration then is made redundant by the continued refusal of the States Employment Board to enter into arbitration? Surely the whole purpose of arbitration is then when an impasse is reached - and it certainly is because it is a year overdue - that is what it is there for. Why does the Minister support the States Employment Board in this action?

Senator T.A. Le Sueur:

The Board is unanimous that this is the right course of action. It has not been going on for over a year. The review is from June 2008 to May 2009 and the Board believes that a 3.2 per cent offer in the current circumstances is more than reasonable and should be maintained. On that basis, we do not believe that all avenues have been explored. We believe that it is the expectation that union members will want to consider that offer carefully in the light of current conditions.

6.1.2 Deputy G.P. Southern:

Can the Chief Minister outline what dangers he and the States Employment Board see in the possibility of going to arbitration? Why not?

Senator T.A. Le Sueur:

I do not think it is up to myself or the Board to explain its decisions in a situation where you might be subsequently in a negotiating position. You do not expose your hand in advance. My view, as set out in my statement, is there are clearly good and compelling reasons why the Board maintains its current position.

6.1.3 Deputy P.V.F. Le Claire:

Is it satisfactory that the States Employment Board can be the sole deciders in this request for arbitration? Should a decision to arbitrate not be taken by an independent body that the States employees can go to and request arbitration? Given that the Chief Minister has said he believes it is fair to offer 3.2 per cent in the current conditions and all avenues have not yet been explored, would he not acknowledge that the current condition is one where paramedics are currently on strike in the Island?

Senator T.A. Le Sueur:

Firstly, the dispute among ambulance workers is not germane to this particular situation and, anyway, they are not on strike, they are working to contract, which is rather different. I maintain that the offer of 3.2 per cent is a realistic one and we see no point in going to arbitration when the position is as clear cut as it is. I believe that it is up to all negotiating bodies to act responsibly and if we are unable to reach agreement then we will have to come back to the table. Clearly, that is not the current situation.

6.1.4 Deputy P.V.F. Le Claire:

A supplementary then: if they are not on strike and they are only working to rule, do the current conditions not indicate that sectors that have not reached agreement and have not settled are now starting to work to rule? Does that not give us some concern to sit down with these people and go to arbitration? Do we have to wait until they are all working to rule before that occurs?

Senator T.A. Le Sueur:

I think it is very rash to generalise on one particular group or another. The dispute with the ambulance workers has been going on for far longer than this question of the pay awards and has nothing to do with the pay awards, it is to do with comparability in terms of conditions. That issue has been gone into very thoroughly, not once but twice, and it happens that the results of those independent inquiries do not appear to have satisfied the parties concerned.

6.1.5 Deputy S. Pitman:

As a States Member would the Chief Minister accept a pay rise of 3.2 per cent?

Senator T.A. Le Sueur:

Yes.

The Deputy Bailiff:

Very well. We come next to a statement which the Minister for Treasury and Resources will make regarding the Stabilisation Fund.

7. Statement by the Minister for Treasury and Resources regarding the Stabilisation Fund

The Deputy of St. John:

On a point of order in reply to the Minister's statement, I think it is totally offensive to this House to have to read it in the *Evening Post* before the Minister makes that statement. **[Approbation]**

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

If I may say, the Deputy is quite right, the statements are made to this Assembly first. Statements are normally made before lunchtime before deadlines of the media. This did not happen on this occasion and I apologise for any slight to Members. Members will see in the statement there is a great deal more detail and quite a lot of substance in it that is not covered in that rather speculative story. I apologise to the Deputy and other Members.

Deputy G.P. Southern:

May I follow that up, please? Is it not the case that, in fact, rather than being in this Chamber this morning, the Minister was deciding what the wording should be on this statement and that it is an unfortunate precedent to set on a new term that the press gets information before this House does?

Senator P.F.C. Ozouf:

This Assembly gets the information. This is an important issue on which I wanted to ensure that Members were informed and the Island was informed of our latest thinking on economic matters. So I will get on with the statement, if I may. Members will be aware that the international economic situation is changing very rapidly. Recently, the I.M.F. (International Monetary Fund) has said that the world economy faces its worst conditions for 60 years. Today I want to set out to Members the work that is being undertaken to assess the implications for Jersey of the global economic difficulties and to explain how we intend to respond. Jersey is, of course, not immune to the global turmoil. It was and is only a question of when and to what extent, as the Chief Minister explained, our economy will be affected. The finance industry and the economy as a whole has remained remarkably resilient during the early stages of the credit crunch. However, it is fair to

say, as was to be expected, conditions are beginning to change. The latest data that we have points to a slowdown in economy activity in both the financial and non-financial service sectors of the economy, particularly in construction and retail. There have been the first cases of job losses and there is speculation that there may be more to come. As a responsible government, we must assess properly the extent and the length of any downturn in our Island economy. The previous Assembly supported the Council of Minister's proposition to establish a new fiscal framework. This set up a Stabilisation Fund to enable us to put money aside in the good times for use in stimulating the economy, and by that I mean support for local jobs and businesses in tougher times. We have also established the Fiscal Policy Panel, a team of 3 independent and leading international economists to advise the Treasury Minister and the Assembly on when the time is right to use the Stabilisation Fund and how best to maximise the economic benefits we get from it. Many countries, large and small, are having to take action to boost their economies. While I am not saying the next period is going to be easy, Jersey had the foresight to set aside almost £140 million in the Stabilisation Fund. Such prudent decisions put us in a much stronger position than many other economies which face equally challenging economic conditions without the cash in the bank to offset the prospect of mounting government debt. As I have said, we must not be complacent. We have limited resources at our disposal and we must put them at the right time to deliver the greatest benefit for all Islanders. The Fiscal Policy Panel has set out - and I have accepted - clear guidelines on how we should consider use of the Stabilisation Fund. Any consideration for withdrawals should pass 3 tests: timely, the impact must be at a time of the economic downturn, not before or after the event; targeted, the impact must be targeted on those individuals and businesses that will deliver the biggest impact; temporary, policy should be temporary and must not have a permanent impact on government spending or on tax revenue. These are known as the 3Ts and I intend to apply these principles whenever the Assembly is asked to consider use of the Stabilisation Fund. I agree with the Chief Minister that we must be disciplined and ensure that any proposals we bring forward focus on short-term investment aimed at helping local people and businesses to weather the storm, but they must not be used to fund new initiatives that we would like to do in any event. During the panel's last visit on 6th January 2009, the Council of Ministers and I had a detailed discussion with them about the research that we have commissioned and the plans we are developing. The panel was very supportive of this approach and I would like to outline to Members the work that is being undertaken. Firstly, in the face of a rapidly changing external economic environment, I have asked the Economic Adviser and the Economic Development Department to assess the likely trends in the economy in 2009 and continue to do this throughout the year. They will be analysing both local and worldwide economic development to anticipate changes in G.V.A. (gross value added) and to assess how key business sectors are performing using detailed information from the local business community. This work was started some time ago and will be discussed by the Council of Ministers during February and shared with Members. We will also ask the Fiscal Policy Panel to judge whether this evidence changes their assessment of the economic outlook in Jersey. Specifically, I will ask the panel to recommend whether or not we should withdraw money from the Stabilisation Fund to support the local economy. Secondly, the F.P.P. (Fiscal Policy Panel) suggested in the October update to their annual report that we should be drawing up contingency plans on what we should do if the economy deteriorated more rapidly than expected. So, in parallel with the research I have already outlined, we are developing a package of economic stimulus measures that we can implement at short notice to support local people and businesses if necessary. The past decision to put aside £140 million currently in the Stabilisation Fund means that if required we can put together an economic stimulus package of real benefit. Members will, of course, want to listen to the F.P.P. as to the level of stimulus necessary, but I do want to signal that given the severity of the global economic downturn the size of the fiscal stimulus appropriate is likely to be a package running into tens of millions of pounds. Our plans for an economic stimulus package will be completed and then considered by the Council of Ministers during the first week of March. We will discuss it with Scrutiny and States Members and very quickly ask the F.P.P. whether the economic stimulus package is robust and sensible and if the time is right to implement

it. Of course, the final decision as to what and when will rest with States Members, and I hope that we can work together to ensure that our decisions are timely and effective. While an economic stimulus package will be an important response to an economy under pressure, it is also important to bear in mind the other factors that will help support the economy this year. Firstly, existing resources are already working to help people and businesses. The Skills Executive is researching and planning appropriate actions. Social Security is supporting people who are looking for work, and Economic Development is working with businesses. Secondly, global economic policy, whether through a massive reduction in interest rates, fiscal stimulus or other direct support for the financial system, will also help mitigate some of the effects of the credit crunch on the Island. Overall, I believe that we are ready for a well-judged and timely response to changing economic conditions. We are acting now so we can offer further assistance to people and businesses experiencing difficulties. We must try to intervene in the most effective manner, in a way that will support our long-term economic objectives of economic growth, low inflation and employment opportunities for local people. It is often said that our economic prospects are determined by factors outside our control. This is not just the case of our Island economy but of many others in today's global economy. However, by planning and ultimately implementing policies funded by our Stabilisation Fund, I hope we can demonstrate that sensible economic management means that we have more to say in how our economy performs than has been the case in the past. This can only be encouraging for Islanders and businesses and show that the strong economic performance we have enjoyed in recent years has not been squandered and can help support us through difficult times ahead.

7.1.1 Deputy M.R. Higgins:

Is it not the case that the credit crunch has already affected the Island in that since September 2007 structured finance business involving structured investment vehicles has dried up and that funds being channelled into the London interbank market and the commercial paper market has reduced? Would the Minister just confirm that is the case, please?

Senator P.F.C. Ozouf:

The Island economy and our financial services industry has been affected in a variety of ways, of which that may well be one of the cases. What we are doing, working with Economic Development and Jersey Finance, is carrying out very detailed assessments on all our financial services sectors to understand the full implications of all of these pressures. These pressures are due to the global slowdown. They are due to rising commodity prices, due to a number of different effects. I am determined that working with colleagues on the Council of Ministers and other agencies that we have a full and detailed understanding in order for us to predict what action is necessary and what the effects on the local economy are going to be.

7.1.2 Deputy M.R. Higgins:

Just another question following on from the Minister's statement, he mentions under his 3Ts that withdrawals from the Stabilisation Fund must be timely and, in particular, the impact must be at the time of the economic downturn, not before and not after the event. Is it not true, though, that the statistics evidencing a recession are a lagging indicator and that we would already be in recession probably for at least 2 quarters, taking the official definition of a recession, and that, therefore, action may well be taken or should be taken well before the indicators are telling us we are in the recession which we have already been in for 9 months?

Senator P.F.C. Ozouf:

The words of the Chief Minister will no doubt be recalled by the Deputy when he said that we do not believe that the Jersey economy is in recession. We believe that there is a global recession which we will not be insulated for. The reason for making this statement today and saying to Members very clearly that we are carrying out detailed research on the economy is precisely to do

what the Deputy is asking, to forecast the likely impact on the economy and to take action before there are serious issues which emerge locally, which we can do with the Stabilisation Fund.

7.1.3 The Deputy of St. Mary:

Two questions in one, if I may. Firstly, you mentioned an economic stimulus package. Will the Minister confirm that the Council of Ministers will look at stimulating investment in order to save in the long term - for instance, home insulation - and not stimulating consumption, as has been shown to fail in the U.K. where you throw money at people and they refuse to spend it on domestic consumption. My second question is when you mentioned ...

The Deputy Bailiff:

One moment, Deputy, I think Standing Orders say one question at a time.

Senator P.F.C. Ozouf:

I want to be very clear to Members that the rules which the F.P.P. will be asked to look at in terms of the withdrawals are going to be very tough. This is not a blank chequebook for all sorts of spending sprees that Members may have or others may have. They are going to be incredibly tightly drawn, as they must be. In terms of insulation, there could be a good case for accelerating some investment in bringing forward maintenance to keep people in work. I draw to the Deputy's attention the fact that we are already spending £1 million. As to his points on investment, I want to ensure that Jersey is positioned in the best possible place for the upturn when it happens. We want a leaner, more efficient economy. Investment use of the Stabilisation Fund will mean that we are both fitter and in a better place in order to take as much of the next rising tide as possible. Investment is absolutely the right word.

The Deputy of St. Mary:

A supplementary, if I may. The Minister mentions rising tide. I am very troubled in this document. He talks about a one-year horizon. I would rather see a 10-year horizon.

Senator P.F.C. Ozouf:

The Deputy is right to be cautious and that is exactly the kind of econometric analysis that we are doing on the economy. We are doing 2 scenarios initially: a 2-year freeze and a 4-year freeze, a much more detailed, maybe fundamental change of the global economy which will impact on Jersey, and I want to assure Members that we are taking the longest term possible view. I want to ensure that any withdrawals from the Stabilisation Fund will be sufficient to take Jersey through whatever recession we are going to be seeing, whether it be a 2-year or 4-year cycle. If it is longer than that, then all bets are off and we are facing, not unlike other places, a fundamentally different world, but I am not expecting that.

7.1.4 The Connétable of St. Helier:

The silver lining, if there is one, of the current situation should be that the Island is more favourable as a tourist destination, both from France and the U.K. Could the Minister say if any of this targeted money is going to be going into improving our tourism offer?

Senator P.F.C. Ozouf:

I would expect advice from the Economic Development Minister in respect of all aspects of the economy. Clearly, there are some opportunities, but there are some threats in relation to tourism and the Economic Development Minister will be a key partner. We are setting up a subcommittee of the Council of Ministers on this issue, and he is a key partner in terms of advising what action is necessary in order to protect a number of sectors of the economy and, of course, tourism is absolutely important to that.

7.1.5 The Deputy of St. Mary:

I come to my second question now. The Minister mentioned the second “T” targeted. I would like to know what the Council of Ministers’ view is likely to be or what the Minister’s view is on the need and the desirability to support small and medium enterprises as a route to developing the resilience of this Island in case of a longer term downturn.

Senator P.F.C. Ozouf:

Support of small and medium-sized businesses is absolutely going to be at the heart, I imagine, of any fiscal stimulus package. We have already done a great deal in setting up Jersey Enterprise in assisting the small Jersey business venture in terms of giving business advice. It is absolutely right that small and medium-sized sectors will be receiving all the attention necessary and all the assistance necessary. I do not want to see and the Economic Development Minister and Council of Ministers colleagues do not want to see any businesses in Jersey failing because, for example, they do not have access to appropriate credit. So extending the small loans guarantee scheme, looking at ways that we can work with banks to ensure that there is appropriate credit; no good business must fail because they cannot get credit.

7.1.6 The Deputy of Grouville:

In 2007, we enjoyed 7 per cent economic growth. Could the Minister confirm how many (j) categories were brought in to support that growth and what protection local people are going to have now we are in recession?

Senator P.F.C. Ozouf:

I would need notice of that. I know that I am acting Housing Minister, but I will get that number for the Deputy if she wishes. There is some criticism that we had 7 per cent economic growth in the Island. The fact that we enjoyed 7 per cent economic growth and the tax revenue that followed meant that we were able to fortify our Stabilisation Fund, which has put us in a remarkable position compared to other places in order to take us through a much more difficult time. The Deputy does raise an important point of the multi-ministry approach needed to deal with the downturn. The Economic Development Minister is going to need to consider, with the Housing Minister, the approach to Regulations of Undertaking to ensure that local people are given first priority to local jobs. That is the work that is necessary and that is the work that will be carried out in accordance with the law and in accordance with the new emerging picture necessary to protect businesses and protect Islanders.

The Deputy of Grouville:

I did, in fact, say we enjoyed 7 per cent economic growth. However, the Strategic Plan was aiming at 2 per cent. Would the Minister say that this economic growth was sustainable?

Senator P.F.C. Ozouf:

It was not sustainable in terms of it not being able to be repeated, but the fact that we delivered 7 per cent of economic growth with low inflation, with limited numbers of population increases, meant that our economy became more productive and that was not only shared by the financial services industry. Other commentators would say that we have positioned ourselves extremely well. What I want to ensure is for the next rising tide that we are able to take as much of the economic growth as possible without growing our population. That is the aim: to have an economy which most Islanders or the greatest number of Islanders possible can share. Economic growth raises the standard of living of the community, and that is what we want to ensure.

7.1.7 Deputy T.A. Vallois of St. Saviour:

The Minister mentions the Fiscal Policy Panel. However, a recommendation of these independent economists has already been ignored with regard to the Annual Business Plan and the expenditure we are looking at doing. Could the Minister, therefore, assure the Assembly that all

recommendations with regard to the stimulus package will be looked at and considered very carefully going forward?

Senator P.F.C. Ozouf:

The Deputy is absolutely right to say that it is important that advice is listened to. I have to say that the F.P.P.'s approach in relation to the Stabilisation Fund arrangements has been quick and responsive. That information of the F.P.P. will be published to Members and to the Island and they will be able to reconcile the proposals brought by the Council of Ministers together with the F.P.P. and I expect the Deputy and other colleagues to ensure that we are held to account that that advice is stuck to. What I would say is that £10 million injected in the economy is, by coincidence, going to be helping. It is its own mini stimulus package in terms of taking the economy through difficult times. But I accept the general point that she makes.

The Deputy Bailiff:

That completes questions on the statement.

The Connétable of St. Brelade:

Would it be in order for me just to give the House some figures I promised this morning on household waste figures?

The Deputy Bailiff:

Very well, Connétable, yes.

The Connétable of St. Brelade:

Senator Syvret asked for the increase in volume of household refuse up to 2035. The difference between 2008 and 2035 in non-inert waste is 57,578 tonnes and the residual waste going to the E.f.W. (Energy from Waste) plant is 30,283 tonnes. That is assuming a change in recycling rates of 31.1 per cent in 2008 to 36.8 per cent in 2035.

Senator J.L. Perchard:

Could the Constable kindly agree to email that digitally so that we have a written copy of that?

The Connétable of St. Brelade:

Yes.

PUBLIC BUSINESS

The Deputy Bailiff:

Very well. Then we come to Public Business. The Assembly has already agreed in principle that P.2/2009, Woolworths Employees, will be taken first, but as has correctly been pointed out, that cannot be done until the proposer has sought leave for the Assembly to take the matter at this sitting. Deputy, do you ask leave under Standing Order 87(1)?

Deputy G.P. Southern:

Yes. I believe it was lodged on 5th January 2009 and has had a fortnight's perusal, so I would ask the House to take it as a matter of some urgency because the Woolworths' workers will be receiving their final cheque in 3 days' time.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Very well. All Members in favour of taking P.2/2009 at this sitting kindly show? Those against? The Assembly agrees.

8. Woolworths Employees: Redundancy Payments (P.2/2009)

The Deputy Bailiff:

The Assembly has already agreed that it will be the first type of business and accordingly I will ask the Greffier to read the proposition.

The Deputy of St. John:

Can I declare an interest, Sir?

The Deputy Bailiff:

Yes.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Treasury and Resources to allocate £139,500 to provide compensation equivalent to that provided under the United Kingdom Statutory Redundancy Scheme to employees of the Jersey branch of Woolworths made redundant following the collapse of the parent company and, if this sum cannot be identified through the reprioritisation of existing heads of expenditure or yearend balances, to request the Minister to bring forward a request under Article 11(8) of the Public Finances (Jersey) Law 2005 for the necessary additional funding to meet the cost of these payments.

8.1 Deputy G.P. Southern:

It occurs to me that often when we are debating in this Chamber with our plush shiny wood and our red leather seats in these surroundings that we are often somewhat isolated from the reality of what goes on out on the streets. Today, however, we can see and sense the effect of that which we are debating and its impact upon our society. We have 80 members of staff laid off with next to no notice whatsoever by the administrators, Deloitte. As I just mentioned earlier, Woolworths' workers work a fortnight in arrears and, having been informed in the first week of January that they were to be let go and that nothing was to be done with them, despite assurances to the contrary beforehand, they will receive their final pay cheque in 3 days' time, on 23rd January 2009. Some of them are already aware that they will be ineligible for any support from income support. Some of them have been on the Island for less than 5 years and are ineligible. Some of them have partners who will still be in work and, despite the reduction in their standards from 2 incomes to one income, may just be over the threshold to receive income support. Let there be no doubt that there will be hardship caused to these workers if this House does not do something about it. I was at a briefing only yesterday by the Chief Minister looking at the Strategic Plan. The Strategic Plan contains some wonderful sounding phrases and aims as ever that we should be achieving. Second on the hit list produced by the Chief Minister, the second point right at the top - although he immediately said: "This is in no particular order" - was the aim of increasing social inclusion and reducing social deprivation. How do we achieve that? Well, what we do not do is we do not let people suffering redundancy go without some assistance, some compensation, some help to see them over a critical period in their lives. For some of them it will be a case of not only have I lost my job, but how am I going to pay the rent in 2 weeks or a month's time? So it will not just be a case of my job has been lost; it may be a case of my accommodation is lost at the same time and debt occurring. There can be no doubt either that the behaviour of the administrators has been, quite frankly, shameful. **[Approbation]** Each and every Woolworths' worker has a contract which clearly lays down terms of reference and notice periods. They have been told very clearly that the terms of those contracts will be ignored. Equally, in terms of notice, we have in place statutory notice periods. Again, the administrators have ignored the statutory provisions that this body has laid down. That is shameful behaviour towards employees on this Island. What is worse, and I believe it is quite shameful on the part of this House, is that we, despite being among the wealthiest parts of the U.K., have not managed in the last 8 years - and I will stop there because I know there was an intention - to put a redundancy law on the statute book in those 8 years. In fact, these

particular workers - and it is ironic but sad - these Woolworths' workers, part of a U.K. chain which they trusted and believed to be a good employer with solid contracts, that these workers are left worse off than any of their equivalents in the U.K. because there is no statutory redundancy pay in Jersey. There is a vertical inequality. These particular workers of Woolworths are left worse off in Jersey than they are anywhere else in the U.K. That is something that this House should be ashamed of, I believe. In talking back in January with the Chief Minister and the Economic Development Minister about the situation, I was singularly impressed by the amount of agreement we could reach around the table when we talked of the issues. I was told: "Provided that we do not set a precedent for others in your proposition" ... I cannot say that the Chief Minister said: "I would support this." He did not quite manage that, but he did hint that he would have no objection. His main reservation was the question of horizontal inequity, that we would set a precedent that if we do this for Woolworths' workers we have to do this for everybody. Clearly, in my proposition it says not just workers on the Island in this situation, it says: "To employees of the Jersey branch of Woolworths made redundant following the collapse of the parent company", et cetera. So it clearly identifies that this proposition, P.2/2009, refers only to the Woolworths' workers. There is no precedent set to include anybody else in the future, to look backwards to anybody else who has already been made redundant in any other insolvencies. It clearly says Woolworths. The degree and level of support I was, quite frankly, surprised at from both the Economic Development Minister and the Chief Minister. Both said there is no doubt that this is a serious issue, that this is an issue we have to deal with. We do not want to set a precedent, but it is so important that we will get a move on establishing redundancy law and regulations in Jersey as soon as we possibly can so that we do not have this emergency and this crisis in the future. Talking about it roughly, we said that might be in place, particularly with insolvencies, within, let us say, 15 months. Not only that, but so high up in the Chief Minister's priorities did it come that he said: "As regards what might happen in that intervening 15 months, in the medium term we must set up a fund to cope with future events again." He said: "I will get on with that as soon as I can." As a matter of urgency, we need this contingency fund to cater for future insolvencies and consequent redundancies in the absence of a law which protects our workers. In a sense, that covers the precedent thing, but it cannot be put in place in time for these workers. This is urgent. The final payment is coming through to these workers in 3 days' time. This is a matter of urgency. Some of these people will be out on the street within the month if we are not very careful, so we have to act. The in principle support and the minor reservation in the fortnight between the conversation I had with the Chief Minister and the Economic Development Minister seems to have hardened in between. I look at the reasoning outlined on the commentary and I have looked this morning at the difference between the comments made by the Council of Ministers and the answers given to my written questions in general terms about the Chief Minister's support for redundancy legislation and an interim measure and immediate action otherwise. What is this Chief Minister, who is so concerned to increase social inclusion and reduce social deprivation, saying about what action he will take to put some meat on the bones, to do something for workers in this Island? He says: "The good intentions of the proposition are recognised by all." Well, that is jolly good. "There is great risk in setting a moral precedent with regard to employee compensation that is not based on legislation." He says: "We have been slow, we have been dilatory, we have taken 8 years to bring something to the statute book to protect our workers." So we cannot act. We cannot possibly give something out of the goodness of our hearts. That would set an unfortunate moral precedent. What sense of morals does the Chief Minister possess, then? Is it perfectly moral to say: "I oppose this urgent action and I will let those workers sink or swim as they see fit with the package of measures around that are in place to attempt to get them into fresh work or to support them, but we know the safety net will miss some of them"? He then goes on to talk about this horizontal equity: "Making payments in respect of these employees will be to discriminate against others made redundant." What are we talking about here? We are talking about employment standards on one of the wealthiest islands in the world with an economy that is still going well, it is not bust yet. What do we do? Do we level up or do we level down? No, we could not possibly make these payments to the Woolworths'

workers because that would imply we had an obligation to treat other workers the same. Not with vast sums of money because they are not vast. Let us not hear the argument that this is too much to put in the pot. The sums of money, I am sure, can be found from returns from budgets, et cetera. We may not even have the Chief Minister or the Treasury and Resources Minister coming to the House to ask for fresh money. This is the sorts of money that can be found from the end of term cleanup, the end of year cleanup, as Members will be aware. So, it is not vast sums of money. What standards should we apply? Why the lowest? We will not even apply the terms which apply in the U.K. because my proposition only - and Members can examine the sums of money involved in Table 1 - applies to 41 mainly permanent, mainly part-time up, some part-time, some fulltime members of staff who have been with the company for numbers of years, loyal employees, some of whom are reaching the end of their careers, who will find it hard to get fresh employment. The sums of money in some cases range into the few thousand pounds. That is the sort of compensation that you need to be able to sort yourself out and decide how you are going to live your life and where the next job and the next opportunities are to be taken. Without it, some people will be thrown, as I say, out on to the street. But we are told we should not be doing that because it sets a precedent for others. Hang on, we have the promise of a fund to be set up, a commitment from the Chief Minister that something will be done for those that come after. Where is the precedent? We are going to get on with it. What we do not have is when that fund will be set up and how much will be in it in order to compensate those people, and there will be more, let us make no mistake about that. There will be more who are made redundant by companies going insolvent and into administration. But we said we can cope with that because the Chief Minister has committed himself to it, so this can only be about the one-off. This is Woolworths. This is here. This is now. This is urgent. Let us get on with it and make sure that this House can look at social deprivation and protect its workers, not just by protecting businesses in the recovery plan or whatever it is called outlined just a few minutes ago by the Treasury and Resources Minister, but deal with the consequences of when things go wrong and treat our workers fairly. As it says at the bottom of the comments, towards page 3, one of the main purposes of redundancy legislation is to prevent hardship. It then goes on to say: "The States departments are doing everything possible to provide benefits where applicable [some will fail] to prevent hardship and to provide those people affected with the support, tools and guidance necessary to gain further employment." Indeed, that is a laudable aim. It is a laudable aim that can be achieved by spending next to nothing by using the provision already set up. What we need is to look at the word with the "support" needed to gain other employment or to establish a new mode of living, and that support is the one where we need to put our hands in our pockets and provide that financial cushion that means that those workers can feel a little more comfortable that they have some time to sort out their lives and see what happens next. Quite frankly, I am very surprised to be here some 2 and a half weeks after I had a conversation with the Chief Minister and thought I had a fair degree of support for the proposition that I was bringing, with the guarantee that it only applied to Woolworths' workers. That I have done; I have kept my half of the bargain. I am not sure that the Chief Minister in his comments from the Council of Ministers is keeping his half of the bargain. I am absolutely certain that in terms of acting to prevent and reduce social deprivation he is failing in his duty to do that. I believe this House has a moral obligation to support these workers in the way that I am proposing, with the U.K. conditions - limited though they are - with their terms and conditions, 2 years and a multiplier involved depending how old you are, recognising how difficult it is to get a new job if you are older, and your length of service in particular. Many of these workers worked all their lives in Woolworths and trusted that employer and trusted the States to look after them. If we fail to support this proposition, that will not be happening. So I urge Members to support this proposition.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** There is an amendment to the proposition lodged by Senator Breckon. I will ask the Greffier to read the amendment.

9. Woolworths Employees: Redundancy Payments (P.2/2009) - Amendment (P.2/2009 Amd.)

The Deputy Greffier of the States:

(1) Page 2 - for the figure £139,500 substitute the figure “up to £289,500.” (2) Page 2 - renumber the proposition as paragraph (a) and after that paragraph insert the following new paragraphs: (b) to request the Minister for Treasury and Resources to register and pursue a claim for up to £289,500 relating to the payments referred to in paragraph (a) with the joint administrators of Woolworths plc, namely Mr. Neville Kahn, Mr. Daniel Butters and Mr. Nick Dargan of Deloitte Limited Liability Partnership, P.O. Box 810, 66 Shoe Lane, London EC4A 3WA. (c) To request the Minister for Social Security to seek the assistance of the Jersey Advisory and Conciliation Service to verify (i) whether appropriate notice payments have been made to former Woolworths’ employees in Jersey in accordance with the requirements of the Employment (Jersey) Law 2003; and (ii) how such payments compare to the terms and conditions and payments made in relation to the redundancy of employees of the company in the United Kingdom.

9.1 Senator A. Breckon:

What I would like to do, first of all, by way of some support firstly for what Deputy Southern has said, I would like to put a human face on this. I think it was something the Dean said this morning: you do not know what you have until it has gone. I was surprised myself the amount of times that I go in Woolworths until I have realised now that the doors are locked and the shop is empty. Many Members - and I am thinking I used to sit over there for a long time - used to have sweets. I can tell you that Deputy Le Hérissier, Deputy Gorst and Senator Ozouf were some of the best customers of Woolworths and will, of course, be known to the staff. The reason I say that, of course, is because for me this is a community issue. It is not about facts or figures or a legal challenge or who is entitled to what. Let us put a human face on this and I hope Members will view it in that respect. The employees themselves I have had the pleasure to meet with on a number of occasions. It has been in unfortunate circumstances. Having said that, I did recognise a lot of faces from where they worked. What they have done, not strictly in legal and technical terms, they did gather a petition and they stood outside the shop on a number of occasions and they got 9,500 signatures. The reason I say that is although it is not technical and the prayer is not attached and the amendment or the proposition does not refer to that, I think it shows a degree of community support because many people will relate to what I have just said about going in there. Even if you have just cut through if it is raining, people do do it and there is an element of comfort. That comfort also relates to the staff because we are not just talking about numbers; we are talking about a group of people that have worked together and supported each other to the very last minute, and then I feel a dirty deal was delivered. I want to come to that in a moment or 2. I am sure Members have read the report I attached. The reason I have done that - and it is quite lengthy - is because what it does it provides what we are supposed to do with some of the scrutiny processes: we provide some evidence, prove it. Are we perhaps negligent here in not having done something? **[Approbation]** I would say that we are. Because of that, and not just that, I think we have a moral duty. I have referred in there to the instance of Shepphard Hill, with a contractor at Queen’s Valley. I remember at the time when that happened. They went bust. It was in December, just before Christmas. Something must be done. That was the cry that went up, and the question I would ask Members is, what have we done and the answer is, we have talked about, we have shuffled round, we have prepared something, but what we have not got is something in legislation that protects vulnerable people that I think that we see in this situation. I think there is some similarities in the Shepphard Hill situation and others, I may add, in insolvency and by other sleight of hand. Since I was looking at this issue, and I have circulated today something that I found that was reported to the States on 26th April 2007. As Members will see in my original report some of this goes back to the year 2000 when we were looking at what we might do and then I believe it was the then Industries

Committee that scuppered this by saying that we must have trade union legislation, how they operate, what they may or may not do, before we had what was considered employer friendly and family friendly such as flexible working maternity and, indeed, redundancy. Within the document I have just circulated there are some interesting comments on page 2, the Minister of the time says - this is the Minister for Social Security: "I will now request that the drafting of these proposals begins with the intention of preparing draft legislation during 2007." So this is not a make do measure at the last minute, this was something that was said would be done. He followed that at the time by saying: "I hope to bring a draft law to the States in early 2008." So that is nearly one year ago. If that had been done, I would contend, we would not be in this situation and the administrator would have had to have followed, as they have done in the Isle of Man, the local regulations. As Members will see in my report, the Isle of Man have had a redundancy provision since 1990. That is how far I would say we are behind with that. The reason I say that, I believe it demonstrates on us, not all of us because some of us have only been here 5 minutes, an evidence of failure to act but I think that because of that we could see innocents suffer and that is something I do not want to happen. I believe we have a duty of moral care and we can show that, we can demonstrate that to the community, and especially those affected. I do not think it is appropriate, and I think it is a bit glib to say you can get another job. I will come to that in a minute or 2. What if this was your son or daughter or your wife or husband or partner, brother, sister? How would you feel if they had received that treatment? Would you not feel that somebody would intervene and say: "Hang on, this is bullying, this is intimidation." We are not going to have that. We are going to send out a message, nobody else does it, and we will put a measure in place fairly quickly to ensure that but in the meantime what we will do is we will put in something that shows, okay, it is a few bob but we have, I believe, a moral duty as well. It is interesting the comments of the Social Security Minister at the time as well, what he said on the next page, on page 3 is: "The Minister recognises that the purpose of redundancy payments is different from protection against unfair dismissal as it compensates employees for loss of job security where they have remained in employment for such a period of time that justifies them having a stake in it." Well, I would suggest the employees of Woolworths had a stake in it. They were committed. They worked evenings in the summer, at Christmas, on Sundays, they did overtime. They provided a level of service in the community that perhaps went unnoticed because we take it for granted. The reason I think that is important is because, okay, go and get another job. You have not got status if you are a supervisor. You have not got length of service. Another thing that is in contracts, and I have seen them, is there is an insurance based scheme that gives people up to 2 to 4 years life insurance for death in service. That went like that when the employment ceased. How do you provide for that? Not by talking about it. You are now without it. So what do you do? That is part of the reason why there is redundancy payments. It is not a handout to somebody. It is compensation for a set of circumstances. I would ask Members to be aware of that. At the time when the Employment Forum was set up it was to make recommendations to the Minister so he could bring things to this House. What was suggested is that there would be one week's year of service unlimited, and it would not be just based on the £330 - incidentally the Isle of Man is £430 - it would be based on what you get paid. So under that, if we had something in place I would suggest that some of these employees would be entitled to far more than what we are talking about. The other thing that I would ask Members to be aware of, if you do change jobs sometimes it seems like a good idea but after 3 months you think: "Well, this is not for me" so there might be another period where you are not employed or you are changing or it is less or it is more. So it is not just here and now, it is about something that provides something for people to have a little financial cushion but a set of circumstances that could well change over the next 2 years, and that is really where I think we should be coming from. The Minister said in this document, which is dated 26th April 2007, that the Minister in general terms accepted the Forum's recommendations. I just want to share with Members an issue that has happened sometimes when I was a young man, and it was not that long ago. But I was privileged enough to do some work for a company called Rolls Royce which Members may have heard of, and it was to do with aircraft engineering. What they had, Rolls

Royce were a very astute company, they had progress chasers and what they did is, if something was not happening or where is it they used to find out, and whether it was the standards, the timing or what, they would be out there finding out. I would suggest respectfully that maybe through P.P.C. or somebody else we should maybe have some progress chasers or the equivalent in the system saying: "Where is this? Where has it gone? Who has lost it? Who is dealing with it?" because these are the very things that we should be looking at and addressing because I think we are failing the community. The reason I say that is because, okay, we can have an inquiry, who dealt with it, who did not, who had what to say, the Minister is new on the watch so we cannot blame him for everything, and he is pro-active I believe in what he seeks to do. But, again, the evidence is here that we should have done something and we should have done something before now, so I would ask Members to be conscious of that. On occasions I know some Ministers in the last 3 years have said: "Oh, 6 weeks, this must go through." Some of these things have literally come out of the clouds. They have not been on the law drafting programme. Where is this? We must do it. It is for the good of the economy or whatever it may be. I would suggest this ... a way some things receive fast tracking, this has been side tracked and for me that is not good enough and it should have been there, and it should have been there before now. My final comments from this is that it does also suggest an insolvency fund and it recommended that an insolvency fund should be created. Obviously there are some mechanics of that, but it appears the whole thing, and as the Minister has said recently, we will now separate that. If that has bogged the thing down then that is not an excuse to good people in the community then we should be dealing with it, whether it is through Ministers, Scrutiny or all of us working together to do that. The other thing that is mentioned in here, and I have mentioned, is about the J.A.C.S. and I would say that they have been helpful and will continue to be so and that is why I have made particular reference to them. But the reason I have done is that because they should be the agency not government. They can deal individually with the people as indeed can the Social Security if that is required. I said earlier that I did meet with the people involved on a number of occasions and I would just like to relate something to you. We met the other night and I was particularly impressed with the younger people, some of whom were only working on a part time Saturday basis but they had been there for a number of years and they had a loyalty to their colleagues and the questions they were asking was, you know, we are talking about engaging young people: "How can this happen? Is somebody not going to do something?" I was encouraged by their support and loyalty to their colleagues, they did not have to turn out on a cold night but many of them did. I would relate that to Members because I think this is where Members can and should come in. Who is going to do something about it? I think we should. We should demonstrate that today. Regarding it being used in other areas; I do not think that is an issue because if the Employment and Social Security Minister is as pro-active as he said then hopefully there will not be another case, this will be a one-off. The other thing I have done is I have put a provision in because when I viewed the papers, and I just want to share this with Members, I have included that in there, I think the actual treatment was disgraceful. There is no other way of ... well, that is probably not strong enough to describe it. People who have had that loyalty and to get letters delivered in a sack, in effect, with nobody's name on and hand them out, and there was somebody phoned me one day last week, I do not remember what day, and this person was particularly upset because he said his other half had not been there at the time and officially has not received anything to say that their employment is terminated. You say: "Well, that is fairly obvious because the store is shut and you cannot get in" but would you not have the common decency to do that in a proper manner and the administrator has not done that. Okay, they have a job to do and somebody said to me it is accountancy in recession, administrators and receivers. It is another way of them generating income. But they have a job to do but I do not think they have been fair and reasonable in that and if Members look at my amendment, on pages 7 and 8 Members will see the letters that the administrator gave to employees in such a disgraceful fashion. Then they realise, if Members look at the fourth paragraph on the first letter on page 7, the fourth paragraph, you will see there is a paragraph there that is taken out of the second letter. The reason it is taken out is they realised that those conditions did not apply and the employees had no

claim on the fund that is referred to there, which is the National Insurance Fund. That is the reason it is taken out. But what they did not do, which I think is despicable, they did not say: “Oh, but by the way, in Jersey you have a Termination of Notice law” and substitute that and say: “But you are entitled to up to 16 weeks” and that is 16 weeks incidentally that includes overtime if it is a regular occurrence, which includes shift pay and it is not capped at any level. The reason for that is it predates redundancy and comes from a long time ago, it comes from 1974, and in some it was used as a cushion. It is either a period of notice to tell you that employment is ending or it is a payment in lieu. Now these employees have had neither of that and I think that is unjust and unfair. With discussions I think we can facilitate that by making a gesture which would be a payment equivalent to that with the proviso that we could reclaim that. Now there might be some to-ing and fro-ing to do that but it is not rocket science. It can be done and I am sure the employees who I understand have taken some legal advice but not in accord or in any fashion. It is just something I think we could do to get over what I see is a difficult situation. We, as Government, could demonstrate that because we have the wherewithal to do it. There may be some technicalities but I think with J.A.C.S. we can get something together and if it needs to be individual claims then I think we can do that and be sort of the lifeboat, the last resort would be the holdings that the company has or has not got, depending on how they are held within the Island, would be the last resort. But, again, I would suggest to Members that we have the wherewithal to do that. Finally, I would just like to say a few words in summary. I think by the evidence I have provided attached to my amendment on this today, I think it is proven beyond a reasonable doubt that we, as a Government, have failed to provide basic protection for employees. But there is a bail out situation. We can act and show that we support the workers of Woolworths and their families. I think it is ... it is not just moral support, it is not a sign, it is practical support but it shows them that in a difficult time, in traumatic circumstances, not does just the community care and we care, but we are prepared to do something about it and, in effect, put our money where our mouth is. That is, I think, the measure we should send out and I think the Council of Ministers have baulked at their first challenge about showing inclusivity. Yes, we could all make excuses and technicalities but I think, and I hope Members will support this amendment attached to Deputy Southern’s proposal, I think it is the right thing to do. We have just past the Christmas season and those workers, some of those who were working hard in the community and I think we should not turn our back on that so quickly, and I think as part of this process they had a reasonable belief that they will be treated similar to their colleagues elsewhere. They were not into technical details and what they were told up to that time led them to believe that. So that is just not a 3-card trick to get something from us, I think it is the right action to take. I propose the amendment and I would ask Deputy Southern if he would consider ... I do not know how we do for summing up, if he would accept it rather than have 2 debates or a mini-debate, I would appreciate it if you could advise on that, through the Chair.

The Deputy Bailiff:

I think the amendment is separate. Members must be free to speak on the amendment as they wish. Is the amendment seconded? **[Seconded]**

9.1.1 Deputy I.J. Gorst:

The loss of Woolworths Jersey from the High Street has been felt by the whole community and as Senator Breckon has just said, it was a much loved and visited member of the retail community of the Island. In my short time so far as Social Security Minister I have tried to ensure that no stone remains unturned to ensure that every possible assistance is provided to the former employees of Woolworths; and that has been one of my highest priorities. I am very pleased to say that the department, ahead of my appointment, had been proactive, along with other departments, working in a joined up manner to safeguard the welfare of the former employees. That work had all, until recently, been carried out behind the scenes and has concentrated upon ensuring that wherever possible the individuals concerned find re-employment as soon as possible so that their long term livelihoods are secured. I am in no way underestimating the daunting challenge facing those long

serving employees in seeking re-employment, particularly in the current economic environment. Yet the aim of securing further employment must be the number one concern. The endeavours of departments to provide support have been extensive and they include one to one and group sessions in respect of employment and careers advice and in respect of income support; workshops to identify any more specific and long term needs; a more intensive workshop over 3 days aimed at providing individuals with the tools and confidence needed to secure employment; liaising with existing and potential future employers to identify job opportunities; hosting assessment centres over 3 days at which almost 60 former employees were interviewed by a future potential employer to explore their suitability for future employment; identifying contingency plans in the event that the staff who live in flats on the site have somewhere to go should their tenancy cease; working with various parties to ensure security of electricity supplies to the access routes to those sites. Many of these activities are continuing. In addition, J.A.C.S. have also provided briefings to groups and individuals in respect of their employment rights and will continue to do so as well as working with the former employees to ensure that all claims for outstanding sums due under Jersey employment legislation are notified to the Jersey Employment Tribunal as soon as possible. I and my officers have also received briefings from the Viscount with regard to the amounts due to the former employees from an insolvency law perspective. Assets in the form of property remain in Jersey in the name of Woolworths plc. The sale or assignment of that property will require the sanction of the Royal Court and the Viscount has advised me of the steps he has already taken and anticipates taking to identify and best protect any legal rights of the employees in this regard. **[Approbation]** I am satisfied that every effort is being made to protect the legal rights of the former Woolworths plc employees. While Jersey does not currently have legislation in respect of redundancy pay, legislation does make provision for minimum periods of notice that an employer is required to give an employee on termination of their employment. These notice periods are longer than those required in the U.K. I have written to the joint administrators to express my disappointment and that of the Chief Minister in respect of the failure to meet their statutory obligations under Jersey employment law. In particular, regarding the failure to make payments in lieu of notice. To discuss these and related matters I have requested a meeting with the joint administrators. High on the list of the other matters that I wish to discuss with them is the behaviour of the joint administrators throughout recent weeks. In particular, their unprofessional conduct and mismanagement of the handling of the local redundancy process. **[Approbation]** The way in which the U.K. based joint administrators, all of Deloitte, treated the long serving former employees of Woolworths was nothing short of disgraceful and while the local firm of Deloitte played no role in the administration the damage to the good name of Deloitte locally must be considerable. The catalogue of blunders makes for unpalatable reading and includes providing very little information to employees locally leading employees to initially believe that all amounts due to them would be forthcoming; providing employees with information which was relevant to their colleagues in the U.K. but utterly inappropriate locally; not providing redundancy notices until the very last day of employment; providing only a pile of photocopied impersonal redundancy notices, not addressed nor distributed to individuals but left in a box to be picked up by staff; not meeting their legal obligations under employment legislation; leaving access to flats occupied by employees without lighting; leaving unanswered the inquiries of those staff tenants who do not know where to pay their rents. The list goes on. I am happy to say that although late in the day the local firm of Deloitte has now entered into dialogue regarding meeting the local legal obligations of the joint administrators towards the former employees. **[Approbation]** It remains vitally important that any action taken today does not in some way let the joint administrators off the hook, either in terms of their legal or moral obligations. This collective response by departments to the plight of the former Woolworths' employees with whom I, and I am sure every Member, has every sympathy, I hope you would agree is comprehensive and in the very best interests of the long term livelihoods of all former Woolworths' employees. Turning now to the principles of the proposition as amended or otherwise. I do not think that anyone can argue that the proposition is not well intended. However, it will establish a precedent in the eyes of anyone finding themselves in the same position as the

former Woolworths' employees over the coming weeks or months or who may have already been made redundant. Not to make similar payments to all those who find themselves in the same predicament would be inequitable, yet making those payments could well turn out to be very considerable and the costs are at this moment unknown. A great deal has been made over the delay in bringing legislation providing protection in the case of redundancy to the States. Firstly, I think I must remind Members that even if the legislation had been debated last September, as originally planned, it is unlikely that it would have been in full effect by now. So, there would still not have been protection for these former employees. It is also important to reflect upon the significant progress that has been made over a relatively short space of time in Jersey. Employment legislation in other jurisdictions has been introduced over several decades. The introduction of the employment legislation in stages was necessary to give employers and employees time to understand and adjust to the new rights and working practices. This was a significant change particularly for small local employers. The introduction of redundancy payments and an insolvency fund must be planned carefully, not only because the issues are complex but also because the introduction of that legislation is likely to result in a cost to employers as well as employees. Legislation giving employees the right to redundancy payment, as I said this morning, will be lodged in February for debate by the States in April this year, and priority will be given to the consideration of the establishment of an insolvency fund. However, such compensation for job loss is a right that others in Jersey do not yet have and an exception should not be made in this instance. States departments are doing everything possible to provide benefits where applicable to prevent hardship and to provide those people affected with the support, tools and guidance necessary to gain re-employment. Considerable effort is also being made to ensure that the legal rights of the former employees of Woolworths plc to amounts remaining unpaid are safeguarded and pursued. It is important that all of those avenues are fully pursued and that the joint administrators are made to honour their obligations as far as possible rather than us meeting their legal and contractual obligations for them. I therefore cannot support either this amendment or the main proposition. Thank you.

9.1.2 Deputy K.C. Lewis of St. Saviour:

It has always been my experience when a local establishment closes down, and it is part of a large U.K. chain, that the parent company normally does the decent thing. Firstly, to reward their staff for the long years of service and, secondly, to protect their good name both nationally and internationally. But when the parent chain is wound up that obviously no longer applies. I did have a much longer speech but in view of the Minister for Social Security's speech I will cut it short. I would like to pay tribute to the Chief Minister's office for their work, J.A.C.S. who have done an enormous amount of work and, indeed, the entire Social Security Department for making things go along so quickly. I would like the Minister to clarify that funds will be made available and if he could, what timescale that would be?

9.1.3 Deputy G.P. Southern:

I just want to examine first of all the chronology of what has happened and why Deputy Breckon felt it was necessary to bring his amendment to my proposition. My proposition initially was done at short notice and in some urgency to try and lodge something in time to have a debate before 23rd January and, indeed, has succeeded in doing that. The information I had at the time produced the sum that I originally came up with, £139,500, and what that was about was simply accepting the, I believe, lamentable situation that we had no redundancy pay in Jersey and that the U.K. system would have produced this figure were it to be applied, and that seemed to me a sensible way forward to compensate these workers, but only some of these workers because one of the conditions is that you should have been employed continuously for at least 2 years, and that those longer serving get more and those elderly ... less young and less easy to find fresh work, get more. That was my aim. Two days after that I left on holiday for a week. Senator Breckon took up the reins and received fresh information both from the company and the administrators

[Interruption] which (a) revised the sum and (b) introduced a new factor which we have in place which is statutory periods of notice which we have a legal right to enforce here. So it was one of timing, I was here, I did my bit, Senator Breckon was here after me, while I was away, and added to that. What is important to distinguish is that it seems to me that while I accepted when I produced my amendment that this was going to be *ex gratia*, this was going to be our moral duty, if you like, to compensate these workers, but there was no chance, little chance, no chance of getting it back. The second sum which Senator Breckon refers to is in law and can be enforced but at this stage, as we have heard from the Social Security Minister, there are no guarantees, we are doing our best to ensure those rights are protected but there are no guarantees that we will be able to chase from either resources already held in the Island, I believe there is a house which is worth X amount, now it seems to me likely that we can get hold of some of that. But the company we keep referring to is Woolworths plc (U.K.), as far as I am aware there is no local body, there is no Woolworths Jersey plc in existence so the extent to which we can chase through to the U.K. and recover that money is perhaps less clear but certainly we have a greater chance to be able to do that with the second part of this amendment. Now it seems to me that the Minister for Social Security has made a great deal of the efforts that are made, he has made, and he is to be praised for it in trying to ameliorate the situation for these workers. However, what he is saying is we have done everything we can but we can offer no guarantees. The only guarantees we can offer are those, at this stage, contained either in this proposition or this proposition as amended. Now that is hard and fast and we could, if we chose to, make that statement. Anything else is pie in the sky. Now it seems to me there is a fundamental dichotomy in the position taken by the Ministers and the Council of Ministers. They are saying on the one ground we are fully prepared to set up a fund to compensate those people who undergo redundancy in these sort of situations in future, and we are going to do it as quick as we can. We do not know how big that fund is. When I was talking to the Chief Minister he was talking about: "Is it £1 million? Is it £5 million?" I do not know what sum I would need in order to do that, but I wish to do it and I wish to do it in a pretty short timescale. Then we have the comments that say: "But this sets a precedent." Hang on, you cannot have both. This is a one-off while ... and if we are, as a matter of some urgency, to set up a fund to cater for similar cases then those rules will apply. In that situation some time, I hope in the near future, we will have a system in place. We will not have to rely on precedent. This becomes a one-off, so you cannot have both your cake and eat it. Either one, and this is precedent, and we do not want to go near it because we do not know what we are letting ourselves in for in terms of moral obligation to pay time after time after time. Or, we do the research, and the research has not been done about what the likely impact is, how many people will be made redundant under these sort of circumstances and whether that sum is £1 million or £5 million, the Chief Minister is speaking on behalf of the Treasury and Resources Minister I am sure, because he knows how the shoes feel, has said: "And we will be doing that. We feel it is our moral obligation. It is our duty to do that." So, it seems to me they have got the bases covered and the argument that they keep coming back to, that this is a precedent and means that we are letting ourselves in for unknown payments has been accepted by the Chief Minister. He needs to do his sums, he needs to do them damn quickly, and to get something in place, but he said he is going to do it. It seems to me that yet again we are in danger of saying: "We have every sympathy with you and we will do what we can provided that it does not cost us very much money or, in fact, any money." When what we need to be doing is showing how we can act decisively and put in this compensation, do the right thing by employees in Jersey, and make sure that we have at least covered this base because we have a moral duty to our workers in Jersey to do so. It seems to me without that all the pious words in the world will just be shown to be meaningless and looking after and engendering community spirit and looking after our people in Jersey means nothing. We have the opportunity here at the beginning of a 3-year period to set the example which acts as a beacon to people in Jersey that says we will do the right thing. Please do not turn this down. While I am on the amendment, it seems to me that I see nothing that is objectionable in the amendment. It takes my proposition a stage further and I believe improves it, so I am minded, before we go much further, to accept this proposition wholeheartedly. Thank you.

9.1.4 Deputy J.A. Martin:

I was very, very glad to hear the Social Security Minister tell us all he is doing for the ex-employees of Woolworths, and I mean that sincerely. What I would like to point out, all the employees from all the branches in the United Kingdom are getting all of this counselling, they are getting more job training, they are being interviewed, some of them are, as I say, being retrained down at the Job Centre and everything our Social Security Department is doing is being done for the U.K. ex-employees of Woolworths, but unlike our employees they have already got, and they know they are getting a good redundancy payment. **[Approbation]** So what we are doing is good but we are missing the third arm, the money, which gives the people comfort of the U.K. Woolworths, well, I can look around, I can retrain, I can possibly go out and do a better job. No, what we are saying is, and I think the Social Security Minister said: "Re-employment is at the forefront." Yes, of course, but what do you want some of these people doing? Jump from being managers into doing something that they will be out of work again in a few weeks' time because they cannot fit in. We have got some very good workers here and we need to get their full potential. This is what I am always told. You need to have good employee and your aims need to be high. Let me deal with the letters that have been written by Social Security and the Chief Minister and they are very, very annoyed, and they have told the administrators that they are very, very annoyed and now the administrators seem to be coming on board and I think they know that somewhere along the line there is some property in Jersey, there might be some money to come back and hopefully, if we believe ... or the Viscount, and we know our law on property is different, we may be able to claw some back. What is Senator Breckon asking? He makes it quite clear and I think he covers it quite clearly, and in the comments it says: "If Woolworths sign over the claim there could be a claim from the States to the administrator." That is basically what he is asking. Well, who is in a position to fight? Fifty-odd ex-employees who are all over the Island, some have got rights here, some are on income support, some are moving on to other jobs, or the States of Jersey who have either way been letting all employees down for many, many years, well I would say it is us and I say we have got the legal muscle to do it and especially if the administrators are now talking to Ministers. So, that is not a problem. I would like to say we seem to be really worried about setting up this precedent and I cannot quite get my head round this. On the comments from the Council of Ministers we get 4 paragraphs in the middle of page 3: "Good intentions of the proposition are recognised by all however it is a great risk setting a moral precedent with regards to employee compensation that is not based on legislation. Members may well agree with the sentiment however making payments in respect of these employers will be to discriminate against others made redundant and against those who could be made redundant over the coming months. Not to make similar payments to all those who find themselves in the same predicament to the form it would be inequitable." I totally agree and I think Deputy Southern has covered this. The last: "There has been a great deal of progress but we do not know what the cost is going to be and if we set this precedent we are setting it to other employers that may find their self", and we know that this may happen. What I cannot get my head round, and it is the moral or it is the political pledge and I tried to get an answer out of it, this Chief Minister and the previous Chief Minister, about what exactly is a political pledge? Now, we have been told to everybody, and I respect the ex-Woolworths' employees, and this goes to £289,500, top whack we are asking, and it might not all be needed. That is what we are asking for. A political pledge, and I think it was said in question time today, if we need any money for bank deposits in Jersey this would not cover 6 people. Now I do not get my head round that. Which is moral, which is political and which is the truth? You cannot have it both ways. This money, as I say, the amendment is asking the States of Jersey to take on some big administrators and they are based in London, yes, I think with the Jersey political pressure the Jersey branch of those administrators have now got involved but the people from Woolworths do not know where they stand. So, I can only support this because if I cannot support this please do nobody come running to this Member of the States when everything else goes pear shaped and ask me to support because we made a political pledge. We made a political pledge to look at this, to get an insolvency fund, to deal with things that arise and

also to put in employment law, redundancy law, by the end of ... bring it back to the States in April some time or slip a month, May. In between now and then people will maybe be made redundant which should be, as Deputy Southern said, the Chief Minister should be outlining some sort of insolvency fund. Again, this is pie in the sky, this is promises for Members who feel: "Well, I would like to support this but then the Chief Minister has made this promise." "We cannot do it because so-and-so was made redundant 6 months ago and they never got any money." When do you stop? Or when do you start? Basically I am going to start here because I know I feel if somebody does not start somewhere we, as Deputy Breckon said, in 3 years' time and at the end of our tenure probably as States Members we will be saying: "Oh, it will not happen again" but I can assure you if we do not go through it now, put our legal guys on it, have the argument with the administrators and get the money back. It can be done. How much faith do you have in the States of Jersey legal advisers? I have all my faith in them and I would like them to do the bite(?).
[Laughter]

9.1.5 Deputy M. Tadier:

I will try and keep it brief and some of what I was going to say has been said, so I will try and be concise. I would appreciate it if there was a bell for 30 seconds before I could finish. Chance would be a fine thing. **[Interruption]** To start off, let us make the point, these people are unemployed now. They need help now. We do not know how long it will take if there any assets in Jersey which is uncertain, it needs to be established. We do not know how long that process will take, and that is not going to be of any help to them, so I say there is a requirement to act urgently. I want to look back on this slightly and put it in the historical context. There has been historically a lot of feet dragging in this regards, in particular redundancy laws. Now if we look at some of the excuses that have been offered, we were told that the job market was different, that we did not need this kind of legislation in the past and that people could find employment very quickly. To be frank, that is a very poor excuse. If anything that is the exact time when you need to be putting in this kind of legislation and I hope that we will find a satisfactory solution to that very quickly in this new House. I want to take up the 3 main objections which will be made to this argument, some of which have been covered already. The first one is to do with precedent, and that has been covered fairly extensively. Let us look at it from a slightly different angle. If it did not set a precedent would we support this proposition? That is an interesting question because if you would support the proposition, if there were no precedent then you have got a question whether you support it with a precedent because I think the moral obligation is unchanged there. Secondly, there does not have to be a precedent of course. It is up to the States to make sure that satisfactory legislation is put through very quickly. As far as I am aware this legislation would only come into play when we are reimbursing people for being made redundant due to insolvency. I think that is correct, so it is not going to apply in all cases, although I may be incorrect. This mentality about get another job. Well, Deputy Martin has pointed out very clearly, in the U.K. people are still free to look for work, people in the Isle of Man are still free to look for work, to retrain, but they have a statutory right under the U.K. and Isle of Man law that they can still claim their money from the government when there is no money on behalf of the company, when it has gone into liquidation. So I do not think that is an acceptable argument for not paying these people. Something that I am still confused about, to go off on a slight tangent, is the role of the administrator in Jersey. I am not satisfied that the administrator has been acting legally. We heard earlier from the Attorney General that the due processes for any creditor to go through and make an application to the Royal Court, if they are a U.K. body, this does not seem to have taken place from my research so I wonder if that will be the case, but there seems to be a lot that is uncertain. With that in mind I will go back to the point that we do not know how long it will take, if there are any assets in Jersey, how long it will take for a satisfactory conclusion to come from that. Secondly, we do not know for sure whether the assets will remain in Jersey anyway. But I do want to come back on this particular point that is alluded to in the document I have just received in P.2 of 2009, it does say: "It may be possible for a claim to be registered in respect of those amounts paid which compensate for amounts due by right

to the former employees of Woolworths plc should they agree to assign their rights to the States in exchange for such payments.” Now, of course, this is an area which I am concerned about too. We could find that if we, today, agree as a States, to pay these people money, which I believe we should do and I will be supporting the proposition, that down the line the States could find themselves in a position to be able to claim back the money as creditors. Of course, there could be a clause put in any payment so that if we do pay Woolworths’ staff they would not be able to make a secondary claim and if they did they should, of course, be expected to pay the money back to the States. I think that would only be reasonable. So, I do not think I have anything particularly to add apart from the fact that I do express my sympathy to Woolworths’ staff, particularly at this time, it has been difficult over Christmas, and I think it is the Christian duty of the House to support these people with practical aid and also to put in proper legislation very quickly and I shall be supporting both the proposition and the amendment.

9.1.6 Deputy A.K.F. Green of St. Helier:

Much of what I was going to say has already been covered so I will not cover it again. I was going to make the comparison about the savings scheme and the proposed payment here in the same way that Deputy Martin did. Initially, my thoughts were that it is not Government’s role to provide redundancy payments but it is Government’s role to provide a framework for good employment and to look after the employees of the Island and we failed the Islanders in this respect **[Approbation]** and failed these employees in particular. We talk about equity; do you know our own employees in the States of Jersey have a redundancy scheme and yet we are saying the ex-employees of Woolworths should be treated differently. The amount of money that we are looking at here, to my knowledge, would have covered some of the payments that we have made to individual chief officers when they have left, just one. **[Approbation]** We are talking about it not being based on legislation and yet we are prepared to go back later on without legislation in the case of the savings scheme. I do not see any difference here. I am going to support the proposition.

9.1.7 Deputy D.J. De Sousa:

The 2 things that keep jumping out at me are the lack of previous Houses to do anything about this. Time and time again legislation has been talked about and talked about but nothing has been done. If the previous Houses had have done their jobs we would not be here today for a start. The other thing that jumped out at me is the good intentions of the proposition are recognised by all, however there is a great risk of setting a moral precedent with regard to the employees’ compensation that is not based on legislation. Even if we do in this case decide to go forward with this proposition, if we get the framework in place to pass the necessary legislation for the future then it will not be a precedent because we will have the laws in place so that the people will get their redundancy money. So it will not be a precedent.

9.1.8 Senator T.A. Le Sueur:

Deputy Southern in his opening remarks made reference to a meeting which he and others held with the Economic Development Minister and myself, and he reported that meeting very fairly and correctly. He quoted me as making 3 comments. Firstly, that I would be minded to support some sort of proposal provided it did not set a precedent, and I will come back to that question of precedent later on in my speech. The second commitment was the need to set up a redundancy law as soon as possible, and the Minister for Social Security this afternoon has indicated that that law should be lodged very shortly and debated in short order and be on the statute book by the end of the year. So, I think there is no question about that. My third comment related to the setting up of a fund to deal with those employees of businesses which became insolvent because clearly an insolvent business does not have the wherewithal to pay redundancy monies to which he owes employees, but otherwise be entitled under the law. So, those 3 commitments which I gave at the time he asks whether my view has changed or hardened and the answer is no, not at all. I still maintain those same views. I think perhaps I need to go back, particularly for new Members, with

a little bit of history because it was in my time as president of Employment and Social Security many years ago now, that I brought forward a document on fair play in the work place, and the need for good employment practice. The fact is that I believed then and I believe now that the majority of local employers still and then adhere to good employment practice, but sadly there are some that do not and it is for those that legislation ultimately becomes necessary. But those laws have to apply equally to good employers and bad employers, to good employees and bad employees. So, no great difficulty there. Senator Breckon in his comments on the amendment reminded us of 2 things: firstly, a proposition which was lodged by the Employment and Social Security Department back in 2000 when I was president, so I can, as they say, I remember it well, and the need to bring in a variety of legal measures including that of redundancy, unfair dismissal, fair time off, trade union matters, T.U.P.E. matters, a whole range of things which needed to be done over a period of years. In the nature of things when that was debated an amendment was brought, as Senator Breckon says, by the then Industries Committee, changing the priorities of that. Nonetheless all those issues remained very much live issues and remain live issues to this day, and that was one of the reasons for setting up an Employment Forum to give some external views of employers and employees to how a suitable employment law might best be framed for Jersey. Senator Breckon quoted from the report which was presented by the former Minister for Social Security in April 2007. It spoke about the need for a redundancy fund, some redundancy payment, and the Minister accepted the forum's recommendations. It also proposed an insolvency fund for dealing with those cases where a business became insolvent. The forum recommended that the insolvency fund should be set up and should be funded by contributions from employers and employees with no States funding, other than the States as an employer. It was not funded by the States but funded by the employers and the employees themselves. I think although the Minister took note of that, he at the time, and I think Members at the time, acknowledged the difficulty that that would place on employers and employees and was it considered necessary. So I think, firstly, there was a delay but, secondly, there was a clear message that any insolvency fund should not be Government funded, but should be employer and employee funded. That remains the position today and I think can be essentially a bit of a stumbling block, because what they are doing here, as I see it, is setting up a redundancy fund funded not by the employer but by the taxpayer. Now it may be that we believe that it is appropriate that we should do so. All I am saying to Members is that is not what the Employment Forum, who we set up, recommended. So I come back to this question of precedent. A precedent which Deputy Tadier spoke about moments ago and others have in the past, that if it is correct for the former employees of Woolworths to make this payment then it must be equally morally correct to make it for other employees in the same situation. I do not disagree with him. I do not see how one can disagree. If it is right in one case it is right in other cases and I think therein lies the problem. When at that meeting, at the start of my speech with Deputy Southern, I referred to not wanting to set a precedent. I have thought long and hard and I cannot see how morally we can avoid setting a precedent. If we cannot avoid setting a moral precedent I also do not believe we can avoid setting a legal precedent, and again that would be for States Members to decide whether they believe we are justified in setting up a moral and legal precedent, not for £139,500, not for £289,500 but for a sum which I do not know, which Deputy Southern does not know, and none of us know. I am not saying we should not, I am saying that we should be aware of the fact that this is an uncertain, open-ended commitment and it is not in the spirit of what the Employment Forum suggested. I think it is important that we do not try to mix up some of the various elements in this in a view to trying to express tangibly what clearly all feel about the need to do something concrete to help the former employees of Woolworths. I want to do something concrete to help the former employees of Woolworths, as I do to help the former employees of other businesses whose employees have also been made redundant, and those businesses in the future whose employees may also be made redundant. I suggest to Members that we cannot treat Woolworths as a one-off here; what is sauce for the goose is sauce for the gander, what is right for Woolworths former employees must be right for other former employees in that situation.

Deputy G.P. Southern:

Can I ask a point of clarification from the Chief Minister? Thank you. He keeps talking about precedent but does he not accept that what would be required to compensate any other worker would be for somebody to bring a motion to the States to compensate those workers and that a fresh decision would have to be made by the States in any case, and that precedent therefore would depend on this Chamber?

Senator T.A. Le Sueur:

Precedent will certainly depend on this Chamber but I believe that if this Chamber today made a decision to pay whatever sum of money it would be to the former employees of Woolworths we would be very hard pressed not to make a similar payment next week, next month, to other employees in the same situation. I think that is a moral duty. It is either to all or to none and it may be a hard decision to say: "Well in that case, sorry it has to be for none" but sometimes we are in the States to make hard decisions and that is not to say that we are hard hearted and unsympathetic to the needs of Woolworths' staff, but it is just that we have a responsibility not just to them but to all the residents and all the taxpayers of the Island. I do not underestimate the moral difficulties and the moral uncertainty that we all face today in trying to resolve this issue. It is not an easy one but to me the answer has to be, sadly, that we have to be realistic and we have to follow the principles set out in the comments of myself and my fellow Ministers, but we have to continue to support in the way that the Minister for Social Security has already done and I know will continue to do all due process to ensure that the obligations, the entitlement of those former employees, not just of Woolworths but of anywhere else, are fairly and legally correctly dealt with and that their rights are not prejudiced. If there are ways in which we as the Government can help ensure that those legal rights are enforced and they are supported in that then we should certainly be doing that, but the way to do that is not simply to put money into this situation. Indeed I suspect that someone said that the administrator appeared to be employing bullying tactics and I suspect that if we simply pay money then that suggests to the administrators that they can get away with bullying tactics. I think what we have to do is to say: "No, we are a responsible government and we will make sure that you comply with the laws of Jersey" and that is the procedure which we need to pursue in this particular case.

Deputy G.P. Southern:

While the Minister is on his feet if I may? It is a genuine point of clarification, I believe.

The Deputy Bailiff:

Are you willing to take a point of clarification?

Senator T.A. Le Sueur:

I am willing to help Deputy Southern.

Deputy G.P. Southern:

Thank you. As ever. You volunteered to help me at the meeting we had. But the question is, it seems to me unclear whether you talk about the moral obligations ...

The Deputy Bailiff:

The Chief Minister.

Deputy G.P. Southern:

Chief Minister, I apologise, the Chief Minister seems to be saying that he refers continuously to this moral obligation to do something, but he seems to have resiled from the position that he presented in January with me that he, in conjunction with the Minister for Treasury and Resources, would set up this contingency fund for insolvency and therefore cover it in the medium term and that he

would do something. Is he now saying that he is not prepared to do that because that might be different to what the Employment Forum is recommending?

Senator T.A. Le Sueur:

No. I still believe that a redundancy fund for those insolvency cases is required, but I am pointing out it should be funded by employers and employees, not by the States.

Deputy G.P. Southern:

In what sort of timescale can he do that, because if he is providing an alternative, a viable alternative in the short term, then perhaps he has an alternative? Otherwise he is saying we have got a moral obligation to do something but we are going to do nothing.

Senator T.A. Le Sueur:

It is, I believe, an orderly process and the orderly process for a redundancy fund for insolvency has to be dealt with in its proper way.

The Deputy Bailiff:

That is enough, Deputy Southern. We cannot have a debate across the Chamber. Deputy Tadier, I saw you flashing your light again. You have already spoken, though. Was there a point of clarification you wished to raise?

Deputy M. Tadier:

I believe it may be, Sir. I will leave you to judge that. Really I just wanted to say that I think my words were misconstrued earlier when I had not been acknowledging the fact that this would necessarily set a precedent. What I would like to say is that ... can you hear me?

The Deputy Bailiff:

So at the moment it is a point of clarification of what he said earlier.

Deputy M. Tadier:

I just want clarification on whether you think ... the Minister talks about Social Security funding the insolvency fund rather than the States. I would make a point that the fund does not exist yet.

The Deputy Bailiff:

I am sorry, but I do not think this is a point of clarification, so I think you will have to call a halt there. Very well, I call next Deputy Trevor Pitman.

9.1.9 Deputy T.M. Pitman:

As a member of the public I have to say that there is nothing worse than listening to people make the same points again and again so I will keep this very brief. First I would commend Deputy Southern and Senator Breckon for making their case very eloquently. Really I think we could have sat down and had the vote after that because the case is so strong, in spite of what the Chief Minister seems to think. So where are we? It is not Government's fault about the spiralling global economic crisis that has led to the collapse of Woolworths and so many others. It is not Government's fault that administrators have treated staff, many of whom are here today, so shabbily. It seems to me from meeting with them administrators are hopping from one foot to the other. Is it Jersey law that applies, is it U.K. law that applies? That is absolutely disgraceful. It is not good enough. But it surely is the Government's fault, albeit previous Assemblies, that nothing has been done this past 8 years to ensure that ordinary hardworking Islanders have no better legislation than would be more akin to a banana republic because that is the truth. We seem to love, especially in the Executive, talking about iconic and world class. Well, we certainly do not have that in this case, have we? I would really ask Members to focus on what I think is the red herring of all this talk of setting precedents. After all, Government has the power to do both the

right thing and support Deputy Southern and Senator Breckon's calls, and then act to ensure such a scenario cannot happen again. Forget all the jargon, it is that simple. I read the comments from the Council of Ministers, I listen to the Chief Minister, the Minister for Social Security and it comes to me what is the definition of a Minister? It seems to me difficult men making simple things complex. Doing the right thing is not difficult. Is this a huge amount of money? Well, it is a huge amount of money to some of these guys. It is the difference between eating, the difference between having a roof over your head. Is it a big amount of money to the States? Well, I hope the public are listening because the reality is the Executive could decide to dump the Communications Unit for one year and that would pay for all of this. In my former profession, which I like to go on quite a lot about, something is repeated almost like a mantra. It is not just about always doing the right thing, but sometimes going beyond that. The right thing might be niceties of legislation but it is about having the guts, the courage, the bravery, the moral conviction to do the good thing and the good thing is to see the human side of this, forget the jargon, forget the pie in the sky, let us wait 6 months down the road when half the people will not be here anymore, they will be joining the Jersey exodus. Let us act on this now, let us support the proposition and the amendment. It is that simple. I really implore Members, support both. Support the people up in that balcony. Thank you.

9.1.10 Deputy T.A. Vallois:

I would just like to make a logical point of view from the fact that we are looking at of course the £289,500 for people who have been made redundant in the wrong way and I would just like to make the point that whether we spend it by giving this money to them, we have to look at it logically that in future if they were to get jobs where they were stressed or any health implications we are going to be spending that money anyway through Health, through Social Security, through Housing and also from a point of the Minister for Treasury and Resources answering my question earlier today is that we should be putting money back into the economy. What better way to do this than to help people? Thank you.

9.1.11 The Deputy of St. Martin:

I think I am not the only one feeling rather uncomfortable with this particular proposition and we do always believe we have a moral duty to look at taxpayers and the money they have, but of course included in those taxpayers are the people from Woolworths who have been taxpayers who made a contribution towards the wealth of this Island. The question we have to ask ourselves is a question that has been spoken to me about by a number of my parishioners and that is should the taxpayer bail out a multinational who is opting out of their obligations, and if we are going to do that we then would feel that we would be able to do so every time someone chose to opt out of their moral obligations. That is why I feel very uncomfortable, because I do feel every sympathy for people who lose their jobs and people have been losing their jobs for many, many years with no compensation whatsoever and is that the right thing? Well, clearly it is not but at the same time we have to make a start somewhere. The one thing I would like one of the proposers to tell me, maybe, is is there any opportunity or if indeed we do pay, or the States do grant this money, is there any chance of that money being recovered by the administrators if indeed any claim is made against them, because we are told that there is a number ... I do not know how much money Woolworths have or the companies have, but it certainly has a tremendous number of properties, even the one in High Street, I do not know if they own it or not, but we are being asked to make a lot of decisions here without all the knowledge, all the facts I would like to have. But what I would like the proposers to tell me is is there a chance of this money being recovered from the administrators, in which case if we do agree and I will remind the supporters, if I knew that there was a chance of getting that money back to the taxpayer, otherwise I might not be able to give it support. So I will repeat the question. Can we recover that money or can the States recover that money if we make the payment today?

9.1.12 Deputy P.V.F. Le Claire:

I will be supporting Senator Breckon and Deputy Southern today and in doing so I would like to introduce some of the points that were made in September of last year by the Minister for Treasury and Resources, Senator Terry Le Sueur. Reading from the draft budget report of 2009 the foreword by the Minister for Treasury and Resources, Senator Terry Le Sueur said: "This 2009 budget is being presented during a period of economic turmoil and uncertainty, the like of which has not been seen for generations. Financial markets are in crisis and a worldwide recession appears increasingly probable. Jersey cannot be immune from these outside events. Islanders have experienced increases in the cost of food and fuel, access to mortgages is becoming increasingly more restricted and the problems experienced by financial institutions could result in consolidation and job losses. These are indeed difficult times." He goes on to say: "Yet because of the policies adopted during the last few years Jersey is in a strong position to weather this economic storm." So in September he acknowledges that there will be job losses as the Treasury Minister, surprise, surprise, goes on to be elected as the Chief Minister and is now telling us that we are not ready to implement proposals as a government to take care of the Woolworths' employees because that happened just a little bit too soon and we were not ready for it. Well, they were clearly ready for it, from a fiscal perspective, in September to levy new taxes to take care of it. In September they increased impôts duties to generate additional States income estimated at that time of £1.5 million. Something they could do again this year and the next year and the next year and the next year. They introduced a proposed land transaction tax which they estimated to bring in another £1 million and they have also introduced a stamp duty which was difficult to estimate and no doubt those estimates will have to be revised, but that was going to bring in another £1 million. Having watched the debacle of the Woolworths' saga it is very difficult not to get involved with the emotions of the individuals that we are talking about. Ninety five people, many of which when we went to speak with were in absolute tears because of their predicament. It has been acknowledged this afternoon in what I think has been one of the strongest speeches ever made in condemnation of a functioning business in Jersey by the Minister for Social Security that the administrators of this have been absolutely appalling. There are a number of ways in which the States of Jersey, being that that administrator has been appointed through the Royal Courts, could choose to act if it wished to. If this was a situation where the United States of America or Great Britain wanted us to introduce emergency legislation to freeze bank accounts and assets because of a terrorist organisation or an individual involved with terrorists then that individual and that property and that proposition would have been before us this morning. It does not take a minute for the States of Jersey to freeze assets where it wishes to. Now it is our knowledge that there is a property in Jersey that is part of this portfolio that could be seized, that could be held over, that the monies from this could be used for to pay for, and the administrators should be, in my view, stopped from administering any future activity in Jersey, given their track record to date. At what point does the States of Jersey stand at least eye to eye with the banks and the finance industry on this Island and say: "While we will give we will not allow you to take what does not belong to you"? Why oh why do we offer nothing but support to this industry and we are afraid to say boo when the people involved with it are allowed to act in this manner? There are many things that need addressing from a Government perspective, not least of which public limited companies that operate in Jersey. The Regulation of Undertakings and Development Law needs to be looked at which is identified. We need to make sure that companies that operate in Jersey operate in Jersey on a level playing field and they are not immune from prosecution when they choose to pick the law that suits them when the argument is being made in either jurisdiction, because at the moment what is happening or what has happened is that they have chosen to use contrary jurisdictions to argue whenever the seesaw was up one end. What we need to do as a Government is acknowledge that there will be job losses but we will not support past redundancies that are made in order for the States to bail them out. To send a signal to companies today that we will bail out redundant workers would be a signal in some circumstances to unscrupulous employers to lay off staff, so it is perfectly reasonable to say in this instance in the cases of insolvency that refer to U.K. plc in this instance we will be

required to act in a precedent-setting manner but how many of those U.K. plc companies are we talking about collectively and how much money really are we expecting to have to pay out if all of them were to go? £1 million, £2 million, £3 million, maybe £5 million. The figure that was mentioned in our meeting with the Chief Minister off the top of his head was £1 million. Now if it is known and accepted and we know it is accepted behind the scenes because the Minister for Social Security is going to come back with that proposal for £1 million, if it is accepted that that is probably the risk then why are we neglecting our responsibility as representatives of this community to look after these 95 individuals, some of which have been working for this company for 30 or 29 years and have found themselves being made redundant in the most appalling circumstances? Some of which who have special needs, some of which may gain a new place in the workforce, but it will not be the same place in the workforce for them, they will not be pegged at the same level in that workforce with the new company, they will not have the same holiday rights. They may have to wait a whole year before they get a holiday. What about their pensions? What about those of them that were involved with pension plans? Has that been accounted for? All of this is really a lot of navel gazing and the States of Jersey should just announce today that it supports the workers of Woolworths and the vulnerable, it supports the Ministers that are going to get them back into work, and it will go hell bent for leather after those unscrupulous individuals in the community who decide to choose the laws of Jersey as and where and if they choose to. Because that is what we are elected to do. That is why we are here. We do not have to go and ask Chief Officers to make these decisions. They can give us advice but we are the ones to make decisions and this decision today will be an accountable decision. Not a faceless, unaccountable civil service decision, but an accountable political decision to put £250,000 on the table with the caveat that we will then, through the various ministries, seek redress for that money from the assets of that administration. We will also have set a precedent for U.K. plc insolvent businesses and nothing else. We will not be setting a precedent for redundancies, we will be setting a precedent for a very small portion of the community. We acknowledge further down the road that we are going to do this in any event, hats off to Deputy Southern, what a fantastic argument he made. The precedent of giving somebody the money because we are going to give it to them later anyway, or if they walked out today and got another job and that job they were in in a year's time suddenly made them redundant, the irony is that we would be giving them redundancy money and they would be thinking: "Well, are you going to set a precedent with me now as an individual that you did not set before when I had spent 29 or 30 years of my life working in this community?" I think we are responsible people in the States of Jersey and I think that we acknowledge that the vast majority of people that work in this community have the ability to be re-employed but in difficult economic times some of us have more skills than others. Some of us have skills that are needed and are in desperate supply and some of us have skills that are not in desperate supply. These people, if they walk out of here without any support, and I know because I have lived these types of lives, they are going to be looking to borrow money, to move out of their place, to try to get the quickest job they can and put up with the worst conditions they are able to, just to get food in the fridge. £250,000. Last year we amended the budget in September, not long ago, to pull in £4 million. I say again, in meetings with the Chief Minister it was made quite clear to us as politicians, we are talking about an insolvent business. We are talking about a U.K. company. We are not talking about a normal redundant continually operating entity that decided to lay off 10 or 12 workers, that is trying to shrug its responsibilities. There are always going to be members of the community that will hark on about us looking after money and not giving over money to people who are in desperate need: "Oh, why are you giving them a handout, why are you giving them a handout, why are you giving them a handout?" Well, we are not giving them a handout; we are giving them a hand up. We are giving them a hand up so that they have the confidence to look their next job interviewer in the eye and say: "The States of Jersey have stood by me in employment sessions and they have stood by me in financial terms and they are helping me get re-employed in this community, and I have food in the fridge and I have the strength of character to come and seek re-employment" because without it some of these people are going to fall through the net. So the

rest of it is immaterial. Let us get on and support these workers and let us stop being ridiculous. It is £250,000. **[Approbation]** I have seen more spent on coffee in this States Assembly in the last 10 years.

9.1.13 The Connétable of St. Lawrence:

I am not sure if I am the only Member here today who is somewhat confused as to exactly what we as an Assembly are able to do to claim back this figure that has been proposed by Senator Breckon of up to £289,500 if we were to agree his amendment to the proposition today. I wonder if I would be able to direct a question to the Attorney General, with your leave, and that is to first ask whether the recourse that Senator Breckon has identified which is to request the Minister for Treasury and Resources to register and pursue a claim is the only recourse that we have as an Assembly or whether there is any way that the assets that I have heard referred to today, being a house in Jersey, may indeed be seized or frozen and this money reimbursed in any way to the House to reimburse us? I wonder if the Attorney can address that please.

The Deputy Bailiff:

Mr. Attorney, would you be in a position to respond to that now?

The Attorney General:

In a sense that the Connétable's request follows up the request of the Deputy of St. Martin who was asking whether or not the States could recover from the administrators, and I was just beginning to make some notes in response to the Deputy's question, which I think is also going to answer the Connétable's question, at least in part, the straightforward answer is no, there would not be an ability to recover from the administrators unless 2 conditions are satisfied. The first of those would be that the employees have a valid claim against the administrators and the second would be that the employees assign those claims to the States; so in other words the nature of the claim which the States would make against the administrators is we have right by an assignment of the claims from the employees who themselves have a right against the administrators. I would need to have all the facts to advise conclusively. I have not, for example, seen a copy of the contract of employment and so I would ask Members to take what I am about to say with a degree of caution, but I have been advised that the contract of employment is silent on what the proper law of the contract of employment is. That means which law applies to the nature of the employment contract, is it English law or is it Jersey law? If it is silent, which is what I am advised is the position, then it seems to me to be likely that the contract of employment would be governed by Jersey law because Jersey is the place where the employment contract is to be performed, because the employees were doing their work in Jersey. If that is so then it would seem unlikely that the States could claim from the administrators any redundancy element because even if that were assigned to the States there is no claim which the employees could bring for redundancy because under the current Jersey law there is no claim which employees have against their employers for redundancy payments. It would seem to me to be probable that employees would have a valid claim against the administrators for any outstanding holiday pay and for pay in respect of the minimum periods of notice which they are entitled to receive as employees under the employment law. If those claims were assigned to the States then it would seem to me to be probable that the States would have a good claim against the administrators for those elements. Where those claims would stand in the overall priority of claims which the administrators have to pay is a different issue and that may depend upon some quite difficult questions of the competing insolvency laws of the United Kingdom where the administrators are appointed, and Jersey if this is where the argument about those priorities is to take place. There has been mention in the Assembly today of the Sheppard Hill disaster, or whenever Queen's Valley was constructed, 15 years ago, 20 years ago or so and my recollection of that case is that in that case there was a protection given to Jersey creditors, certainly Jersey preferred creditors, by ensuring that the Jersey assets did not leave the Island and were available for Jersey preferred creditors. I cannot recall but the Minister may know, because

he has had discussions with the Viscount around the problems generally, whether that extended to un-preferred claims. So I am sorry that all sounds rather complicated but my advice to Members would be almost certainly no claim in respect of redundancy against the administrators. Very probably a claim for any outstanding holiday pay and pay in respect of minimum periods of notice if the employees assign their claims to the States and probably a mechanism for keeping the assets in Jersey or the value of the assets in Jersey at least long enough to have negotiations with the administrators and very possibly an order to enforce payment of the claims in Jersey. Of course ultimately in the usual circumstances it is the creditors, and the employees are creditors for these purposes, who would be expected to protect their own legal rights, but there is absolutely no reason why the Assembly should not as a political decision, if it chooses to do so, either fund legal fees or proceed the route of trying to obtain an assignment of those claims in all the Assembly can do. This is a matter for political choice.

Deputy R.G. Le Hérissier:

Can I ask a follow-up question to the Attorney General? What would be the procedure for the assignment? What would an employee or a creditor have to do to assign the claim to the States?

The Attorney General:

Well, I think there would need to be a formal assignment document because it might be necessary to establish to the satisfaction of a court that the States had indeed received an assignment of those rights. So I would expect that formal document to need to be prepared.

The Connétable of St. Lawrence:

I would like to thank the Attorney General for his response and it seems to me that the question posed by myself and the Deputy of St. Martin should have been addressed, I think, to the Attorney General or his legal team, by the Minister for Social Security, if not the Chief Minister's Department, because I think that the answer we have received throws a different complexion for me on the way I will be voting on this proposition and in fact I wonder though whether the wording of the amendment to this proposition or the proposition itself is correct and whether based on the information we have just heard something should be done about advising the employees of Woolworths and helping them to assign the issues we have just heard about to the States. Nevertheless I think certainly what the Attorney General has just told us may give us all pause for thought before we decide how to vote on this issue. Thank you.

Deputy I.J. Gorst:

I wonder if the Connétable would give way before she sits down?

The Connétable of St. Lawrence:

Yes, I have finished speaking, thank you.

Deputy I.J. Gorst:

I think Members and the Deputy will realise that this is a difficult situation that I find myself in, the department does and I was hoping that Members might have perhaps shall we say read between the lines of what I was saying in my speech. I have tried to be very careful not to in any way, shape or form use the ex-employees because I do believe that the primary concern of this Assembly is their future well-being and I believe that that is in finding them employment. The Connétable says that she is surprised that my department have not undertaken some of the work that she suggested we ought to have done. We indeed have done that. We have made those offers to the Woolworths' employees but I did not want to mention it earlier because I believe that it is stepping upon what I believe is the best interests of those employees and it is with a heavy heart that I have to raise and admit that fact.

9.1.14 The Deputy of St. Mary:

Before I start I would like to say about procedural things that maybe if we can have all the speeches tonight about this amendment, there will be other ideas possibly going into the pot like the one we have just heard about in that little exchange, but maybe the 2 proposers can get together and adapt what they are bringing into the House in some way. No? Okay, whatever, but that was just a thought because ... anyway I am going to proceed in 3 parts, as one tries to. I am not an expert in this field, I am an expert in other fields but I do think that it is worth saying something and I take on board what people have said about pursuing assets and recovery of assets and recovering in some way the liability of the States if we go ahead with this proposition. The first point I want to pick up on is what the Deputy of St. Martin said. He said he felt uneasy when he first saw this proposition. That is exactly how I felt when I first saw this proposition back in January. It feels like an age, back on 4th or 5th January, I looked at it and I thought: "Well, what is going on here?" There is a sad situation, we have read about it in the paper, Christmas and all that and Woollies, the great establishment of Woollies. Then it just dawned on me and I sort of read through the proposition and I looked at the thing and I came to where I think the Deputy of St. Martin is coming from, although I am putting words into his mouth, where he says: "We have indeed to make a start somewhere" and what has happened is that we have seen that the U.K. situation with regard to redundancy is different to the Jersey situation and what I came to see quite quickly was that the U.K. situation was the right one and the Jersey situation was the wrong one and it did not take me long to reach that conclusion, that if you have worked for a company for 5, 15, 20 years and then your job suddenly goes, through no fault of your own, through totally external forces in fact, probably the credit crunch in this case, suddenly you find yourself with no job and all that that involves, not just the money but also how you feel and so on. Then the State in the U.K. has agreed, somebody brought a proposition to say: "We need this legislation, these people need protection" and that went through. So in the U.K. all the other 800 stores, the former employees of Woolworths had protection. Here in Jersey they do not. So that is where the kink comes, that is where we have suddenly seen that justice, the bar has been raised and so if we do not follow, if we do not take that precedent from the U.K. then somehow we have slipped behind and that is an uneasy feeling, is it not, to take the idea that the bar has been raised by somebody else? But I think we do have to go there and I think that is in a way what the Deputy was saying when he said: "We have to make a start somewhere" and I think we probably have to make a start now. My second point is the importance to the community of a thing like this and the proposer of the amendment touched on this to some extent. This is quite fundamental. It is how we support people who hit a hard patch and it is not going to be the last time this is going to happen. Mr. Ballacher, was it, on the front page of the *J.E.P. (Jersey Evening Post)* 2 weeks ago talking about 500 redundancies in the finance industry. This is not going to be the last and so we really do have to think what kind of society we are; whether we look after each other, whether we support each other when the going gets hard. We heard from the Minister for Treasury and Resources this morning that his F.P.P. are looking not just one year ahead, maybe 2, maybe 4 and that if this downturn is really, really bad then we are looking at an unprecedented situation. Well, if we are looking at an unprecedented situation where does that leave this kind of issue? Where does that leave the solidarity of our community? We have to support each other. There is not really an option. In hard times it is pull together time, it is not: "Blow you mate, I am all right and you have just lost your job. Sorry about that." So that is my second point. I think for resilience, for resistance to the shock that is coming, and I do think that it is certainly uncertain - that sounds a bit like Mr. Rumsfeld - it is certainly uncertain and it could be very much worse. So that is my second point, we need to build community and solidarity and I think that has a direct bearing on the way we approach this proposition. My third point is if I can look at my fantastic spider's web of notes here, we seem to be getting ourselves in knots. Now this is a response to this dialogue that has been going on around the House and about precedent and the problems surrounding precedent. Now there are 3 things that need to be done. One is that we need redundancy legislation. Nobody seems to be arguing that and the Minister has just told us that it will be before the House in February, did he say February and then April? He mentioned the date of April and someone else said it would be in place by the

end of the year. So that is the first thing, redundancy legislation. The second thing is ... and that will include, or possibly slightly later, a full scale insolvency fund. So that is agreed. We all agree that we have to go there in some form or other. The second thing is we need an interim measure because, as I said, they will not be the last, I am afraid, and the second thing is we need action now. Those things we are sort of dancing around and it seems to be very complicated and in a way it is, because if you take the sort of legal niceties you have problems. The comments of the Council of Ministers on page 3, paragraph 5 which we were given this morning: "Making these payments in respect of these employees [the Woolworths' employees] will be to discriminate against those who could be made redundant over the coming months" and that is the nub of the argument. If we support the Woolworths' former employees then we are laying ourselves open to future liabilities which we cannot quantify. But are we going to level up or are we going to level down? That really is the question and as I said before I do not think there is any option. I think we have to level in the direction of community and in the direction of mutual support. So then the question is how to do it and I want to throw in a little idea. Funding the insolvency we have been told is not the function of government. There is not money for some reason, anyway it should not be a Government job. But what is an insolvency fund? It is a form of insurance. It may not be my company that goes bust but it may be. It may not be yours but it was. It may not be ... and so on. So it is a form of insurance. We have a fund that is about insurance and it is funded by the employers and the employees jointly, which is exactly where I thought the insolvency fund idea was first mooted. When it was first mooted that was where the money was going to come from, from the employers and employees. Well, I am sorry there is a fund already that exists that is funded by employers and employees on an agreed basis and has been so for years and it is called the Social Security Fund. Now is there not a way of creating, bolting on, the insolvency provisions into the existing mechanism? I cannot see any problem with that, and that is why I said at the outset of this speech that maybe the proposers would look at this in the recess which we are bound to have because we are not going to get to the end of this today, and just sort of think about that, because it seems to me that there may be the mechanism for the ongoing problem and the problem of so-called precedence. What we do in the short term with these pursuits of assets and so on I am not qualified to judge but I thought that what I said was worth saying and I hope you agree. Thank you.

Senator S. Syvret:

Shall I propose the adjournment, Sir?

The Deputy Bailiff:

Yes, the adjournment is proposed. I have at the moment one remaining speaker on the amendment notice and Deputy Power.

Deputy S. Pitman:

Sir, I wanted to speak as well.

The Deputy Bailiff:

Very well. Then the adjournment is proposed. Before we adjourn there is one matter that I must inform Members of, the lodging of P.8 of 2009, Energy from Waste Facility: Rescindment lodged by the Deputy of St. Mary and that is being circulated. Very well, we will adjourn and reconvene at 9.30 a.m. tomorrow morning.

ADJOURNMENT