

# STATES OF JERSEY

## OFFICIAL REPORT

MONDAY, 13th JULY 2009

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

## **QUESTIONS**

### **1. Written Questions**

#### **1.1 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING CHANGES TO THE CRIMINAL JUSTICE (YOUNG OFFENDERS) (JERSEY) LAW 1994:**

##### **Question**

In light of the recent court case involving six local girls under the age of fifteen who viciously attacked two visiting French girls, hospitalising them, could the Minister advise whether he intends pursuing changes to the current situation whereby under the Criminal Justice (Young Offenders) (Jersey) Law 1994, the Courts only have the power to remand a young person under fifteen and have no power to impose a custodial sentence on someone under fifteen; and would he provide up to date statistics for the period 2004 to 2008 from the States of Jersey Police, Parish Hall enquiries and the Youth Court to illustrate :

1. whether there is an increase in young offenders coming to the attention of the Police, Parishes or Courts?
2. whether those under the age of 15 are carrying out more offences?
3. whether the number of referrals to the Youth Court has increased?

##### **Answer**

I intend to propose an amendment to the Criminal Justice (Young Offenders) (Jersey) Law 1994, to enable the Courts to impose a custodial sentence on young people over the age of 12. However, this would, of course, be in only the most serious of cases, where all other avenues to address the young person's offending behaviour had been explored, and proved unsuccessful. The form of the sentence is still to be worked out, but will be especially designed to meet the needs of 12-14 year olds.

#### **1.2 SENATOR B.E. SHENTON OF H.M. ATTORNEY GENERAL REGARDING CHANGES TO THE FUNDING OF SUCCESSFUL MAGISTRATE'S COURT PROSECUTIONS:**

##### **Question**

Would H.M. Attorney General advise whether he would consider investigating the establishment of a system whereby defendants would contribute towards prosecution costs, where appropriate and taking into account ability to pay, in respect of successful Magistrate's Court prosecutions?

##### **Answer**

I agree this is a matter which could be usefully reviewed, and I will do that in consultation with the Solicitor General, the Court Service, the Minister for Treasury and Resources and the Public Accounts Committee

**1.3 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING INCREASES IN SALARY AND WAGES BETWEEN THE YEARS 2007 AND 2008:**

**Question**

Given that an increase of £2,936,438 in Salary and Wages (not including social security or pension) for Education, Sport and Culture occurred between the years 2007 and 2008, together with an increase of 7.2 Full Time Equivalent Members of staff, would the Minister provide a full breakdown and reason for these increases?

**Answer**

	<b>FTE</b>
There was a transfer of 5 posts from Social Security to Careers Jersey to form an all age Careers, Information, Advice and Guidance Service.	5.0000
There was 1 post transferred from Treasury to the ESC Finance Team to provide additional support to school administration.	.6757
There was 1 additional post in the ESC Finance Team to support and advise all areas of ESC on RAB and GAAP Accounting.	.7005
There were additional hours to support Special Education Needs at Highlands College.	.8238
<b>Total</b>	<b>7.2</b>

	<b>£ -</b>
Pay award	2,213,615
Transfer of posts into ESC	247,500
Annual increments and additional hours	475,323
<b>Total</b>	<b>2,936,438</b>

**1.4 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING INCREASES IN SALARY AND WAGES BETWEEN THE YEARS 2007 AND 2008:**

**Question**

Given that an increase of £5,062,293 in Salary and Wages (not including social security or pension) for Health and Social Services occurred between the years 2007 and 2008, together with a decrease

of 42.57 Full Time Equivalent members of staff, would the Minister provide a full breakdown and reason for the increase in Salary and Wages?

Would the Minister also explain the reason for the increase in expenditure of £11,366,740 from 2007 to 2008, and detail what allocations or re-allocations of funds were made during that period?

**Answer**

The increased costs associated with Salaries and Wages between 2007 and 2008 in the published accounts are:

	2007	2008	Increase/ (Decrease)
	£000s	£000s	£000s
Manpower – States Staff Costs	102,923	108,856	5,933
Manpower – Non States Staff Costs	<u>947</u>	<u>389</u>	<u>(558)</u>
	<u>103,870</u>	<u>109,245</u>	<u>5,375</u>

The increase in manpower costs between 2007 and 2008 can be attributed to the following factors:

	£000s
Increase of annual pay awards	3,204
Increase in annual increments	1,645
Increase in pension costs	725
Increase in Social Security costs	299
Decrease expenditure on Agency & locum Staff	(332)
Decrease in overtime, on call, extra duties payments etc.	<u>(166)</u>
	<u>5,375</u>

The decrease in Fte is associated with the restriction of recruitment in the attempt to contain costs within the approved 2008 H&SS cashlimit.

As per the published accounts total costs between 2007 and 2008 increased by £11.4m. The above manpower increases account for £5.4m of that sum and the balance of £6.0m is associated with increases in non pay expenditure.

The increase costs in non pay expenditure between 2007 and 2008 in the published accounts are:

	2007	2008	Increase/ (Decrease)
	£000s	£000s	£000s

Supplies and Services	31,097	36,215	5,118
Administrative Costs	5,000	4,641	(359)
Premises and Maintenance –			
General	7,071	7,857	786
Incidental Expenses			
and Charges	6	4	(2)
Grants and Subsidies -			
General	<u>8,417</u>	<u>8,866</u>	<u>449</u>
	<u>51,591</u>	<u>57,583</u>	<u>5,992</u>

The increase in supplies and services is associated with inflationary and activity increases in drugs, prosthetics, patient appliances and other medical supplies and services. Also there is continued pressure on budgets associated with caring for the elderly in private nursing homes and sending patients to UK hospitals, childcare facilities and mental health services for specialist treatments that are not available on Island.

Important to note is that a proportion of the cost increase for elderly care placements in Jersey and for specialist treatments in the UK is due to “health tourism”. Health Tourism is the phrase used in H&SS to describe those patients who travel to Jersey with the express intent of accessing the Island’s high quality healthcare and specialist treatments in the UK.

The decrease in administrative costs is associated with reductions in recruitment and advertising expenditure, legal costs, charter flights, patient travel, training and staff removal expenses.

The increase in premises and maintenance costs is associated with additional inflationary rises in services and utilities across the H&SS estate.

The increase in grants and subsidies is associated with the inflationary increase provided to external service providers and additional investment in specific charitable/voluntary bodies

In terms of financial resource allocation, H&SS always requires the ability to reallocate financial resources to address expenditure pressures and emerging risks. Numerous reallocations occur every month to manage these changing priorities and risks. These reallocations are a key component of financial management in the H&SS department and the ability to respond to service pressures.

**1.5 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE MINISTER FOR HOME AFFAIRS REGARDING INCREASES IN SALARY AND WAGES BETWEEN THE YEARS 2007 AND 2008:**

**Question**

Given that an increase of £3,279,769 in Salary and Wages (not including social security or pension) for Home Affairs occurred between the years 2007 and 2008, together with an increase of 23.23

Full Time Equivalent members of staff, would the Minister provide a full breakdown and reason for the increases?

**Answer**

The increase in staff costs (not including social security or pension) and increase in full time equivalent (fte) members of staff for the Home Affairs Department between 2007 and 2008 is due to three main factors, namely:

	<b>£'000</b>	<b>Fte</b>
Historic Child Abuse Enquiry	1,065	0
Pay awards, increments and staff movements	1,457	1.91
Prison – additional staff	758	21.66
	<b>3,280</b>	<b>23.57*</b>

\*the fte figure included in the table on page 33 of the Financial Report and Accounts 2008 was rounded to 640, the actual fte of 640.34 is shown on page 94. Increase between 2007 and 2008 is therefore 23.57.

Historical Child Abuse Enquiry (HCAE)

No funds were included in the Department’s 2007 or 2008 Cash Limits for the HCAE. The States agreed to fund expenditure actually incurred and validated by the Accounting Officer in respect of the HCAE in P91/2008 which was agreed by the States in September 2008.

An amount of £1.065 million relates to additional staff costs (not including social security or pension) incurred by the States of Jersey Police.

Pay awards, increments and staff movements

Staff transfers, leavers, new recruits, incremental drift and pay awards accounted for a net increase in staff costs of £1.457 million between 2007 and 2008 (not including social security and pension).

For information, provision of £1.699 million was included in the Department’s 2008 Cash Limit to fund the full year cost of the June 2007 pay award and the part year costs of the 2008 pay award (including social security and pension).

Prison – Additional Staff

The increase in staff costs and numbers in 2008 relate to the recruitment to new posts at the Prison following a full review of the Prison resources in 2007.

At its meeting on 29 November 2007 the Council of Ministers considered a report prepared by the Home Affairs Department regarding the Prison budget. The Council, having accepted evidence that the budget for H.M. Prison La Moye fell short of the resources required for the size and

complexity of the task, concluded that there should be an increase in the Prison's base budget for 2008 and subsequent years.

This budget shortfall consisted of three key elements:

- Staff - Fully funding authorised establishment
- Staff - Increased staffing requirements (31 fte)
- Non staff costs

As the additional funding provided in 2008 fell short of the budget shortfall identified the Prison was not able to recruit to all the new posts in 2008 as future years funding had not been secured.

## **1.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING NURSING VACANCIES:**

### **Question**

Will the Minister inform members of the vacancy rate in real (Full Time Equivalent) and percentage terms of nursing staff without including Health Care Assistants (HCA's)?

In order to set the figures given in her answer on 30th June 2009 in context, will the Minister further give the historic vacancy rate over the past decade for the registered nurse (with and without HCA) workforce?

Will she give a breakdown of the proportions of those with and without local housing qualifications and J category status over the same period?

Will she inform members whether those leaving the service have a leaving interview and, if so, what information she has regarding the reasons given by those leaving the service?

Will she further comment on the potential impact of the pay freeze on recruitment and retention in the light of pay rises under negotiation in Guernsey and the UK?

Will the Minister advise whether the figure of 5% for the vacancy rate for nursing is seen by hospital management team as a critical point which puts some service provision under threat, and if not, advise whether the current rate of 5.39% is acceptable, and detail at what level services would be under threat?

### **Answer**

As at Monday 6th July, the full time equivalent Registered Nurse (RN) vacancy rate was 31.24 FTE (4.7% of the RN workforce). Data relating to vacancy rates over the last ten years has not been kept as a matter of record. However, such data is now collected in a routine and systematic way and has been so since March 2008. As the Deputy will be aware from his long standing interest in this matter, Workforce Planning - particularly within the sphere of nursing and midwifery - is crucial to the sustainability of my Department and this data helps those nurse managers who are tasked with ensuring that recruitment and retention within the two professions is managed effectively.

The proportion of those registered nurses with 'J' category status is 35% of the workforce (which is 235 members of staff). As to locally qualified nurses, the figure is 65% (which is 425 members of staff). Again, data has not been kept historically on these matters and therefore I am unable to assist the Deputy by retrospective analysis over the last ten years.

I can confirm that all members of staff who leave their posts are offered an 'exit interview'. Whilst some nurses and midwives decline such interviews, the majority do take advantage of this opportunity. The task is performed by nurse managers, but if a nurse or midwife would rather speak to a Human Resources professional (perhaps because there has been some element of job dissatisfaction which has prompted a resignation) then this is provided. Within this context, the reasons why nurses and midwives leave are recorded as follows:

- Cost of living too high.
- Improved career opportunities/remuneration elsewhere.
- To move closer to family.
- To achieve improved work – life balance as a result of increased local workloads.

Whilst there is no evidence to support the contention that the 'pay freeze' here in Jersey will have an impact on recruitment and retention, intuitively one must accept that it is likely to have a negative impact, particularly as neither Guernsey nor the United Kingdom are as yet seeking to impose a 'pay freeze' in the short term. The key group of nurses and midwives who may be particularly sensitive to such variations in pay are those who are currently employed in the UK, but who are contemplating employment in Jersey. Further, whilst it is well understood and accepted that nurses and midwives enter their professions prompted by their desire to care for others, material considerations are obviously of significance. As such, nurses and midwives may feel their worth has been devalued if their pay and conditions are seen to fall behind those of their professions in other jurisdictions.

The States Employment Board, senior HR managers and representatives of my Department – including the Director of Nursing and Governance – are currently seeking to agree the vacancy rate which would be seen to represent a critical point where the risk to the provision of nursing and midwifery services on the Island becomes high. It is in no-one's interest for Jersey to be denuded of these professions and it is important therefore, that a 'trigger point' is agreed which would prompt a review of terms and conditions if the position became high risk in this way. It is self evident that a high vacancy factor places greater pressure on the delivery of service than a lower vacancy factor. Whilst the Department deploys agency and bank nurses – and allows staff to work overtime – these are not optimal solutions. The ideal circumstance is to be fully staffed by nurses and midwives who work their set hours – and are not fatigued, nor distracted, by having to work challenging and onerous shifts to make up for absent colleagues.

Whilst the majority of nurses work in set locations to reflect their specialist skills (i.e. theatre nurses only working in theatres, orthopaedic nurses working in orthopaedics), it is possible to deploy other nurses to fill vacancies in ward and departmental rotas, depending upon where the greatest pressures are at any one time. Thus, it is not possible to be very specific and precise as to the impact of any vacancy factor at any one time. But having said this, areas of considerable pressure created by the vacancy factor continue to be acute medical services, intensive care services, old age psychiatry services and accident and emergency services.

## **1.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE SUCCESS OF INCOME SUPPORT AS AN 'IN WORK' BENEFIT:**

### **Question**

Will the Minister inform members whether he has data to show an increase in the rate of those finding work through his department's services whilst on benefit after the first 18 months of Income

Support, and if not, when will he be in a position to inform members of the success or otherwise of Income Support as a genuine 'in work' benefit?

**Answer**

Income Support is a single benefit designed to provide consistent financial support to local families whether or not they have employment. As at 30th June 2009, there were 2,881 adults aged 18 to 64 in employment and receiving income support.

As has been explained in a number of written questions answered over the last few months, my Department is actively working with the Statistics Unit to introduce improved reporting on individuals actively seeking work, which will include identifying those who find work through the department's services whilst on benefit.

**1.8 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE JOB GROUPS COMPARISONS WITHIN THE COMMENTS ON THE PROPOSITION ENTITLED "STATES EMPLOYEES: PAY INCREASE FOR 2009/2010 (p.68/2009 - AMENDMENT)":**

**Question**

Will the Chief Minister advise the Assembly the name of the Company who produced the work which was included as a table within the comments on the proposition entitled 'States Employees: pay increase for 2009/2010 (P.68/2009) – amendment' and state exactly where they found police, fire and prison officers in the private sector in Jersey?

Will he further release details of the full paper, including detailed analysis of the job group comparisons, and any background papers used by this Company and, if not, why not?

Will he further state whether he has full confidence in the validity of these figures, if the current study is being conducted by the same organisation and whether he would be prepared to have the organisation and its work subjected to scrutiny by the Economic Affairs or Corporate Services scrutiny panels?

**Answer**

The Company which carried out the 2006 States of Jersey pay survey was the Hay Group, which is based in London.

Clearly Hay were not comparing salaries in the Island based on a "job match" basis as there are not Police, Fire and Prison services in the private sector. As the table clearly states, comparisons were based on a "job size" or job weight basis (using job evaluation).

I am happy to release to all States Members copies of the full Hay reports in 2006 and this is available from my department on request.

Hay are recognised as being very experienced in the conduct of pay surveys throughout the private and public sectors in the UK and I have no reason to question the validity of these figures. The current survey, which is restricted to local comparisons only, is being conducted by Hassell Blampied Associates. I will be pleased to give all States Members a commentary on the key findings of the report when it is received. It is for the Corporate Affairs Scrutiny Panel to decide, on receipt of that commentary, what further action it might wish to take, but Scrutiny would normally review policy in the light of evidence, rather than the evidence itself.

**1.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ECONOMIC ADVISER'S ANALYSIS OF THE SIZE OF THE DOWNTURN IN JERSEY'S ECONOMY:**

**Question**

Will the Minister release to members details of the Economic Advisor's quantitative and qualitative analysis of the size of the downturn in Jersey's economy referred to in his response to a question on 30th June 2009?

**Answer**

The paper titled "Forecasting whole economy GVA" by the Economics Unit will be circulated to members at this meeting.

**1.10 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE CONTINGENCY PLANS FOR STAFFING AT THE HOSPITAL SHOULD THERE BE A MAJOR SWINE FLU OUTBREAK:**

**Question**

Given that Swine flu has arrived on Island, can members be advise what contingency plans, if any, are in place to ensure that the Hospital continues to be fully staffed should the following situations arise–

- (a) if medical staff (doctors and nurses) fall ill with Swine flu
- (b) if members of staff's families are taken ill
- (c) if members of staff have to stay at home to look after their families because schools are shut?

**Answer**

The General Hospital has been developing contingency plans to deal with Swine flu since the World Health Organisation (WHO) identified this viral strain in Mexico in April of this year. The contingency plans are based upon the existing Major Incident Plan, the purpose of which is to deal with an extraordinary incident such as a major disaster (For example, a chemical or biological terrorist attack, a major multi-casualty collision, a multiple life threatening incident at the airport). (All general hospitals in the British Isles have such plans and are required to update them from time to time to reflect new lessons learnt as incidents occur across the world). The 'contingency plans' which the Deputy refers to is known within my Department as 'the Swine flu operational plan' – and a clinical and managerial group chaired by Dr Ivan Muscat, Consultant Microbiologist, has been responsible for developing it.

The Deputy asks what plans exist to ensure the hospital 'continues to be fully staffed'. It is not a realistic planning assumption to believe that in some way hospital staff will be immune from the onset of infection across the Island. An estimate has been made about the number of staff who will be absent from work during the onset of the predicted pattern of infection. The planning assumption is that an adult will be on sick leave for up to seven days.

It is important to ensure that the vast majority of Islanders who become infected are treated and cared for in their own homes or in the community. This will enable the General Hospital to deal with its 'normal' emergency care service and also manage those complex cases whose admissions are precipitated by Swine flu. A significant effort is being placed in creating, resourcing and funding the 'community response'. The reason for this is that whilst Swine flu is demonstrably more transmittable than seasonal flu, it is – with some exceptions – a milder form of flu which can be managed by patients in the community with support.

Whilst the 'community response' is the best means of protecting the General Hospital's ability to perform its emergency function, a further action will be deployed if necessary which is to cancel all elective surgery (i.e. planned, routine surgery) and to reallocate the staffing to the hospital's general and emergency medical services.

This is the best means of managing the predicted absentee rate of doctors and nurses, if either they become ill themselves or are required to remain at home as parents or as carers.

It is clearly a concern to all parents of school aged children if a school – or schools – have to be closed. The General Hospital caring staff, who are also parents, will wish to act as all other parents would in such circumstances. It must be said that Jersey has been successful to date in containing outbreaks in schools. This success is in no small measure due to the excellent working relationship that has been created between my Department and the Education, Sport and Culture Department in tackling this matter together with great professionalism and resolve. A senior member of the Education, Sport and Culture Department sits as a full member of the Medical Officer of Health's Incident Team meetings which take place every other working day. As yet, I cannot speak definitively upon the matter of school closures on health grounds and this matter is clearly of as much political interest to the Minister for Education, Sport and Culture as it is to me. Our two Departments are considering how best we deal with the potential for schools to be the generating source of infection, but it is too early for us to make any public statement on this matter.

Finally, Islanders should take comfort from the work that is underway, both within my Department and across the States to mitigate the impact of Swine flu. The prediction is that my Department will come under heavy and sustained pressure for a significant period of time. This will require additional resources – and it will require an extraordinary effort from all of my staff, all relevant staff in other States Departments, the undoubted contributions of the Parishes and the charitable sector. I am sure that this effort will be there for us all to see when it is needed.

**1.11 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE COST OF PROVIDING BLACKBERRIES AND MOBILE TELEPHONES TO MINISTERS AND ASSISTANT MINISTERS:**

**Question**

Which Ministers and Assistant Ministers have Blackberries or mobile phones paid for by the States?

**Answer**

The following Ministers and Assistant Ministers currently have the use of States owned Blackberries and/or mobile phones:

Chief Minister and Assistant Ministers.

Minister for Economic Development and an Assistant Minister.

Minister for Education, Sport and Culture.

Minister for Health and Social Services and Assistant Ministers.

Minister for Housing.

Minister for Planning and Environment and Assistant Minister.

Minister for Social Security and Assistant Minister.

Minister for Transport and Technical Services.

Minister for Treasury and Resources and Assistant Ministers.

Note: where an Assistant Minister serves two departments, only one device is allocated.

### **Question**

What is the expenditure covered by the States for these communications for the last 3 years and from what budget does it come?

### **Answer**

The charges covered by the States for all Ministers and Assistant Ministers since November 2006 is £11,784.95. They are paid from Information Services and the appropriate department budgets

### **Question**

What were the costs of these phones per individual for the last 6 months?

### **Answer**

The costs for Ministers and Assistant Ministers that have States provided communications over the last six months are as follows:

<b>Title</b>	<b>Costs per individual (last 6 months)</b>
Chief Minister	£ 114.70
An Assistant Chief Minister	£ 110.20
An Assistant Chief Minister	£ 150.80
Minister for Economic Development	£ 159.79
Minister for Education, Sport and Culture	£ 104.60
Minister for Health and Social Services	£ 122.42
An Assistant Minister for Health and Social Services	£ 14.17

An Assistant Minister for Health and Social Services	£ 145.98
Minister for Housing	£ 106.62
Minister for Planning and Environment	£ 690.61
An Assistant Minister for Planning and Environment	£ 14.17
Minister for Social Security	£ 474.60
An Assistant Minister for Social Security	£ 255.60
Minister for Transport and Technical Services	£ 112.45
Minister for Treasury and Resources	£ 319.22
<b>Total Cost of Ministers and Assistant Ministers</b>	<b>£ 2,895.93</b>

### **Question**

What were the total costs of their communications over the last 12 months?

### **Answer**

The total cost of the communications used by Ministers / Assistant Ministers for the last 12 months is £ 4,649.03.

### **Question**

With which local telephone companies are the accounts held and which company is contracted by the States to provide services?

### **Answer**

The local telephone company that holds the States Blackberry contract which provides the service to the Ministers / Assistant Ministers is Sure Mobile (Cable and Wireless) and a mobile phone is provided by Jersey Telecom.

### **Question**

In view of the fact that Article 44 of the States of Jersey Law 2005 requires that all States members receive equal remuneration and allowances, how does the Chief Minister reconcile this added support for these members?

### **Answer**

Ministers and Assistant Ministers do not receive additional remuneration or allowances over and above that of any other States Member. Ministers and Assistant Ministers do, however, have access to departmental officer and administration support in order that they may effectively carry out their Ministerial functions and responsibilities.

In the same way, Scrutiny Panel Members also have access to officer and administration support in order that they may perform their Scrutiny functions and responsibilities. With regards to Ministers and Assistant Ministers being provided with communications for Ministerial business purposes, this is not prohibited by Article 44 of the States of Jersey Law 2005.

**1.12 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE EFFECTIVE TAX RATE FOR ALL 1(1)(K) RESIDENTS CURRENTLY LIVING IN THE ISLAND:**

**Question**

Will the Minister provide a detailed breakdown of the effective tax rate for *all* 1(1)Ks currently living in the island for the past 5 years?

**Answer**

It is unclear exactly what the Deputy is asking for. However, it is assumed that the question seeks the effective tax rate for *all* 1(1)k's, in other words the *average* rate for *all* concerned, for each of the last 5 years of assessment.

The reason this is significant is, as the Deputy will appreciate, the only information that can be released into the public domain by the Comptroller of Income Tax is the *average* effective tax rate for all 1(1)k's. The Comptroller cannot and will not release individual data in respect of individual taxpayers into the public domain for any taxpayer, including 1(1)k's. To do so would be a breach of the Comptroller's Royal Court Oath of Office.

The Comptroller and his staff assess each individual's liability to tax on a case by case basis. This applies to all taxpayers, including each 1(1)k and the companies and trusts in which they have an interest. Taking the information from each case file, it would be possible to calculate the average effective rate for all 1(1)k's. However this would entail a substantial amount of work and resource cost at the Income Tax Office, as well as diverting Income Tax staff resources from their very busy workload. Suffice to say, this information if required, will take some time to collect.

What the Comptroller has said, on the basis of his experience, is that it is reasonable to expect that the average effective tax rate for all 1(1)k's, in respect of their personal, corporate and trust income liable to Jersey income tax, will be in the range of between 15% and 20%.

**1.13 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE NUMBER OF EMERGENCY SERVICES VISITS TO ST. SAVIOUR'S HOSPITAL AND THE OTHER MENTAL HEALTH ESTABLISHMENTS OVER THE PAST 5 YEARS:**

**Question**

Will the Minister inform members on how many occasions, if any in the past 5 years the police and/or other emergency services have been called out to St Saviour's hospital and the other mental health establishments as a result of staff being unable to restrain and deal with violent patients and will she provide these figures with a breakdown per year as well as a general total?

**Answer**

I wish it to be noted that the vast majority of people with mental health problems are not violent and are much more likely to be victims of assault rather than the perpetrators of it. All professional staff working with clients in crisis are skilled and trained in diffusing potentially challenging situations. All serious incidents involving violence are the subject of a review with the aim of learning lessons as to how future incidents can be more effectively managed. Such staff receive regular training in this crucial aspect of health care.

The Mental Health Directorate within my Department does not keep records on the number of times the States of Jersey Police are called to either St Saviour's Hospital or to other locations where clients reside. Whilst it may be important to the States of Jersey Police as to the number of times they are called to St Saviour's to intervene, to the Mental Health Service this is not an important indicator – as every incident is treated entirely on its merits with the focus being on the least intrusive, the least threatening, but the most therapeutic way of resolving such incidents.

**1.14 THE DEPUTY OF ST. JOHN OF THE CHIEF MINISTER REGARDING THE SELECTION OF A CHAIRMAN AND MEMBERS TO CONDUCT THE COMMITTEE OF INQUIRY INTO THE REG'S SKIPS LIMITED PLANNING APPLICATION:**

**Question**

Given that on 13th May 2009, the States approved P.50/2009 entitled 'Committee of Inquiry: Reg's Skips Ltd. – Planning applications, as amended, would the Chief Minister advise what progress, if any, has been made in selecting a Chairman and members of the Committee?

**Answer**

Officers within my department are currently taking the necessary steps to appoint suitable candidates to undertake this inquiry. It is my intention that we will return to the States with a proposition to appoint the Chairman and members of the Committee of Inquiry which it is anticipated will be lodged during the summer recess for debate in September.

**1.15 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING THE USE OF LAPTOPS IN THE CHAMBER:**

**Question**

Given that Blackberries and some mobile telephones are capable of sending and receiving e-mails, and are commonly used by some members in the Chamber, does the Committee have any plans to allow laptops to be used in the Chamber to give all members an equal opportunity to communicate with each other in debates and to research issues over the internet as can be done with these devices?

**Answer**

The Privileges and Procedures Committee as previously constituted considered the possible use of laptops in the States Chamber at its meeting on 4th May 2007, following a request from Deputy P.V.F. Le Claire.

The Committee considered Standing Order 99(1) which states -

## **99 Behaviour of members during meeting**

- (1) *Before entering the Chamber, a member of the States must switch off any mobile telephone and every other electronic device he or she has with him or her that would be likely to disturb the proceedings of the States.*

The Committee felt that given the size of members' desks in the Chamber there was not enough space to accommodate laptops without causing disruption and that the use of laptops by large numbers of members would almost certainly disturb debates. The Committee also felt that members would be tempted to answer e-mails and undertake other work on their computers rather than concentrate on the proceedings.

The matter was considered again at the Committee's meeting of 23rd July 2008, following a request from Senator F.E. Cohen. Once again, the Committee noted that Standing Orders neither prevented nor permitted the use of electronic equipment, but that Standing Order 99(1) would prevent the use of any electronic device likely to disturb proceedings of the States. Investigations were undertaken to find out what work would be required to enable the use of laptops in the Chamber.

Property Holdings have since confirmed that, in order to enable the use of laptop computers in the States Chamber, Members' desks might need to be adapted for computer use. Health and safety standards would need to be considered as well as the constraints arising from the fact that the Chamber is part of a listed building.

The Privileges and Procedures Committee will consider this matter at its next meeting, with regard to the discussions of the Committee as previously constituted. The Committee will examine the situation in other jurisdictions, such as the United Kingdom House of Commons, where members are permitted to use small hand-held communications devices, and those with recently constructed assemblies, such as the Welsh Assembly, where electronic facilities are in-built. The Committee will then determine whether the use of laptops should be permitted within the Chamber, before considering whether further work should be carried out in conjunction with Property Holdings in relation to the suitability of the workspace available.

## **2. Oral Questions**

### **2.1 Deputy F.J. Hill of St. Martin of the Minister for Home Affairs regarding Operation Blast:**

With reference to Operation Blast, will the Minister advise Members what motivated the States Police to create the files and cease the practice last November, and who was responsible? Was there any political involvement, who gave consent for the searches to be carried out on States Members, and what internal disciplinary investigations have taken place to date?

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

This is a very similar question to one which I answered 2 weeks ago. As I indicated then, the answers to these questions are now subject to investigation and I am not going to prejudge the outcome of the investigation. That also applies to disciplinary investigations as well as other matters.

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

I was not aware of any answers given 2 weeks ago. Can I ask the Minister, were the answers given to my particular question, because the question was never formally asked?

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

The answer to that is I had a very, very similarly-worded question I think from Deputy Le Claire, but I do not blame the Deputy of St. Martin for his second question.

**The Deputy of St. Martin:**

Could I just press the Minister? I do believe there are some questions in my question here that could have been given an answer to and I just ask the Minister that maybe he can give us some indication how soon some of these answers can be given?

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

I am hopeful that the investigation I am talking about will be concluded by the end of September. I cannot be sure of that date, but I am hopeful of that.

**The Deputy of St. Martin:**

Can I press the Minister again? Has any Member of the States Police yet been suspended for this particular action?

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

The answer to that question is no, but suspension is under consideration for one particular individual.

**2.1.1 Senator S. Syvret:**

Could the Minister for Home Affairs inform the Assembly whether the investigation that has taken place will examine whether in fact the Operation Blast files and the whole exercise was completely lawful?

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

The investigation will consider as to whether criminal offences were committed in relation to Operation Blast.

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

Will he also confirm that his investigation will also examine the motivation underlying the need for such files?

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

That is correct.

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

Could the Minister also clarify whether he is aware of any substance to rumours circulating that the files are much wider and apply to people who are politically active, but not necessarily yet elected?

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

As I indicated, when I answered questions on making the initial statement in the House, one of the first questions that I asked was: "Is there anything more?" In other words, were there files in relation to other people? No information has returned to me to the effect that there are. That is a matter which the current acting senior officers will continue to monitor.

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

Could the Minister advise us whether the Data Protection Commissioner has commenced investigations into the Operation Blast? Is he aware of any progress on that?

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

I am not aware of any involvement of the Data Protection Commissioner in relation to this. If criminal offences have been committed then they probably would be in the area of data protection.

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

I wonder if the Minister could tell us whether or not his investigation will consider the implication of the invasion of privacy, as this does extend from the outset to all States Members, Senators, Constables and all Deputies? It is yet to be established whether or not that constituted or comprised of family members or associates, et cetera. As there are issues in the U.K. (United Kingdom) relating to invasion of privacy right now, I wonder whether or not he can comment if the investigation is going to look at whether or not that has stretched into that area in Jersey?

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

The investigation will look into 2 areas: firstly, in relation to possible disciplinary matters concerning various individuals, and secondly, in relation to whether or not there may have been criminal offences committed. It will not, at this stage, go beyond that, but of course once the facts are known, other considerations can be looked at.

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

Within the current files - and yet I have to go myself to police headquarters and inquire, but hopefully the Minister might be able to answer the question - on States Members, within a file of any particular Member, are the antecedence files attached to it? If so, what action is the Minister taking to make sure that those files also are disclosed to the States Member, or the persons nominated on that file?

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

Just to clarify, because people have used different terminology in relation to this - particularly the press, which is very confusing - my understanding is strictly speaking there are 2 files, but those files contain sections on each person who is a States Member. My understanding is that each of those sections contains a full criminal record check, which the Deputy of St. John has of course referred to as antecedence. The existence of those files, of course, and the record check, is part of what the investigation will look at. I may have lost the final part of the question.

**The Deputy of St. John:**

If I may come back? Yes, within the antecedents files, historically, in my time within policing, it would also encompass known associates and members of one's family, in part. Could you answer that?

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

I do not know the answer to that because I know that in relation to certain individuals there is very limited information there, but in relation to others, much more extensive information. I am not sure of this, but I do not think that we retain the information about members of family and contacts was there.

**2.1.7 Deputy M. Tadier of St. Brelade:**

Given that everybody who seems to be asked about the existence of the files or involvement with the files has denied any knowledge of that, what tools does the Minister have at his disposal to get to the bottom of what happened and who was involved?

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

That is going into speculation as to how the investigators would proceed. If I were them I would start with the people in Special Branch who told the Acting Chief Officer about it and I would also look at who had requested the criminal checks, because normally there is a name on that, and I

would work my way backwards from there. It is entirely for professional police officers at Wiltshire to decide how best to proceed.

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

I am rather disappointed that the Minister feels that he cannot give a report to the States until the end of September. This has been known since November what was going on and I really am disappointed. But can I have an assurance from the Minister that although he did say that he would have a report by the end of September, can I ask that it be ready by the beginning of September? I would have thought 6 months would be an ample time - even 8 months would be an ample time. It is of even more significance because on 22nd September we are due to debate Deputy Higgins' report and proposition on the matter, and I think it would be very helpful if we had as much information before we have that debate. Can I have an assurance that it will be ready by the first sitting in September, which will be 8th September, or whatever the first sitting is?

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

The answer which I gave relates to Operation Blast, in terms of timescale; it did not relate to other matters being looked at by the Wiltshire Police and I will answer that question shortly with the question from the Connétable of St. Helier. I cannot control the speed at which investigation is taking place. The procedure is this: that I ask the Chief Executive of the Council of Ministers for a report. He has in fact delegated that for good reasons to his Deputy Chief Minister. He then decides how to proceed. He, in turn, has asked the Wiltshire Police, so I am not in control of the investigative procedure, as far as disciplinary matters are concerned.

## **2.2 Deputy R.G. Le Hérisier of St. Saviour of the Minister for Education, Sport and Culture regarding the funding crisis surrounding the Jersey Heritage Trust:**

What action, if any, is the Minister taking to deal with the funding crisis surrounding the Jersey Heritage Trust?

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

Since being elected as Minister for Education, Sport and Culture, my officers and I have had regular meetings with representatives of the Jersey Heritage Trust in order to ascertain the extent of the problem and to consider a number of actions which might be taken to ameliorate the situation. As a result of these discussions, I have taken the following actions: at all times I have made it clear to the Trust that while I might wish to provide additional funding, my department faces other pressures, which equally need to be considered before any commitments are made. As part of the carry forward process, I gained agreement from the Council of Ministers that an additional £200,000 would be provided to the Trust so that they were able to meet immediate funding requirements for 2009, allowing for a longer-term solution to be found for 2010 and beyond. During the Strategic and Business Planning process, I have highlighted the issues faced by the Trust to the Council of Ministers and the likely need for additional funds in order that services can continue to be provided by Jersey Heritage, both now and in the future. I have met with representatives of Jersey Archive Centre and, more recently, the National Trust and Société Jersiaise in order to better appreciate their concerns they have in relation to the overall funding issues identified by Jersey Heritage. With the help from the Minister for Economic Development, a review on the day-to-day management of Jersey Heritage Trust has been instigated, although the terms of reference have yet to be finalised. Also, I have agreed with the Comptroller and Auditor General that it would be helpful if a review was carried out on the financial management of the Trust and other governance issues, including the suitability or otherwise of the present partnership arrangements between Jersey Heritage and my department. In addition, I have approached both the Minister for Treasury and Resources and the Minister for Economic Development asking that they review the current rental agreement in place between the Jersey Heritage Trust and the Jersey

Harbours for their Maritime Museum and Occupation Tapestry museums. On a more practical level, I have encouraged the Trust representatives to consider ways in which income generated from our heritage sites could be improved and suggested that discussions should take place with the Tourism Department and, indeed, even our local bus company, Connex. Finally, I have encouraged the Trust to explore, with the Treasury Department, the possibility of accessing funds from the fiscal stimulus package if it could be shown that timely improvements on certain facilities would both increase visitor numbers and generate additional income both now and in the years to come. I hope this answers the Deputy's question.

**The Bailiff:**

Minister, just before the Deputy asks the question, I appreciate this is a complex subject, but answers are meant to be concise and I think that was quite a lengthy answer. I would not necessarily allow such a long one again.

**2.2.1 Deputy R.G. Le Hérissier:**

Could the Minister confirm that the emergency grant will indeed allow the Trust to keep its facilities open until the end of the year? Secondly, has he put in place mechanisms so that no irrevocable step is taken and no facility is closed down and therefore not able to be reopened?

**The Deputy of St. Ouen:**

It is my belief that the emergency funding was sufficient to maintain the services provided by Jersey Heritage Trust for the remainder of this year. With regards to what actions Jersey Heritage Trust may choose to take regarding the closure or otherwise of some of the facilities, I have indicated my view. However, I cannot control the actions that Jersey Heritage Trust take as they manage their budget.

**2.2.2 Deputy S. Power of St. Brelade:**

The Minister will be aware that I questioned the acquisition of 2 ferries by the Jersey Heritage Trust last year; indeed, myself and Deputy Lewis expressed some concerns; 2 of them for £500,000 and then last year, £50,000 spent on them. Is the Minister aware that neither of these 2 ferries is operating at the moment and have not done so for a week?

**The Deputy of St. Ouen:**

No, I am not.

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

The Minister began his answer with the words: "Since becoming Minister." Would he confirm that the funding problems for the Heritage Trust have been ongoing for several years now and that his predecessor was in regular communication with the Trust, therefore these are not new matters on his desk or his officers?

**The Deputy of St. Ouen:**

I am aware that discussions of a financial nature have been going on with my department for a number of years.

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

I sincerely hope, on the question before last, that the Minister was not misleading the House because earlier this morning I was present when Deputy Power, in fact, informed the Minister that the craft that tend Elizabeth Castle had not been operating for the last week. Will he confirm that that is correct?

**The Deputy of St. Ouen:**

I can confirm that Deputy Power spoke to me this morning and suggested that the DUKWS had not been in operation for a week. I have had no discussion or notice from Jersey Heritage that that is indeed the case.

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

I am glad to see the Minister has taken to his new role like a duck to water. **[Members: Oh!]** The Minister, I believe, is being characteristically vague in his responses, speaking of words that explore the possibility of gaining money from the fiscal stimulus package and that we will review the rent that is charged for the Maritime Museum, all of which is non-committal. Will the Minister give a guarantee that by the end of the summer none of the museums in Jersey, and in particular the Hamptonne and the Maritime Museum, will not be forced to close? Will the Minister give that guarantee?

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

No, I cannot give that guarantee.

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

A supplementary. Would the Minister also then acknowledge that he is of the opinion that the Heritage have been very prodigal with their money and wasteful and the Minister does not wish to give them any more money because he believes that they have wasted it already?

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

The Deputy clearly has not listened to my first comment. I have a genuine desire to support Jersey Heritage; however, I need - and others need - confidence that they are managing their finances in a prudent manner, hence the reason for the reviews that I have instigated.

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

The previous speaker spoke of Hamptonne. Will the Minister confirm that Hamptonne, although run by the Heritage Trust, in fact is owned by another charitable trust, and I think it is the National Trust, and if this is the case, what are the National Trust doing to help the Heritage Trust out of this particular scenario?

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

I can confirm that the National Trust and the Société Jersiaise collectively have a management agreement with Jersey Heritage with regards to Hamptonne. Following a meeting with the National Trust and Société Jersiaise, it is clear that further discussion needs to happen between themselves and the Jersey Heritage Trust to ensure that Hamptonne remains open to the public.

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

Would the Minister acknowledge that a situation where he holds the purse strings and therefore the, in a sense, future of the Trust in his hands and yet has no power over how the Trust will use any money he comes up with, is not a terribly good situation?

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

As I said, we have a partnership agreement in place that is supposed to inform the department of how funds are being spent, but equally put a requirement on the Trust to manage those funds in an appropriate manner. This is one of the areas that, as I say, I have asked the Comptroller and Auditor General to look at.

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

Just a supplementary. Could the Minister outline what powers of intervention there are under the partnership agreement?

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

We require the Jersey Heritage Trust to identify resources that are needed, both now and in the future, and in exchange we expect good dialogue happens between both my department and themselves.

**The Bailiff:**

Very well. Question 3 falls away in the absence of Deputy De Sousa.

**Deputy G.P. Southern:**

On a matter of process, in the normal course of events where someone is not present to ask their question, would an answer be circulated anyway through the email system, or not?

**The Bailiff:**

That is a matter for the Minister.

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

I am desperately keen to answer this question. I am disappointed that Deputy De Sousa obviously cannot be here this morning. I will circulate the answer.

**2.3 Deputy S. Power of the Minister for Health and Social Services regarding the inappropriate feeding of seagulls by householders in high density housing areas:**

I preface this question by saying that I have had correspondence with that department for 2 years on this subject. Can the Minister outline what action, if any, the Health and Social Services Department is able to take to stop the inappropriate feeding of seagulls by some householders in high-density housing areas that cause annoyance to other householders or neighbours?

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

The Health and Social Services Department does not have any legal power to deal with the feeding of wild birds, including seagulls. Furthermore, I am not aware of any other States department having a power conferred in law that would address this particular problem. The Statutory Nuisances (Jersey) Law 1999, administered on my behalf by the Health Protection Service, provides a legal remedy only in cases where the animal, bird, insect, reptile or fish is kept, and thereafter that the manner in which they are kept is prejudicial to health or a nuisance. Where complaints have arisen of disturbance due to activity, it has been customary for my officers to seek an informal solution that best fits with the needs of both parties; however, the difficulty of problems of this nature are that each side often becomes entrenched with little prospect of a solution.

**2.3.1 Deputy S. Power:**

If I may be allowed? I thank the Minister for her comments; however, it is not a solution that is satisfactory. Can I suggest to the Minister that 4 district councils in the U.K. - Brighton and Hove, East Devon, Bradford and Dorset and Dumfries - have found out that there is an increase in seagull populations in their areas, and these are typical of all U.K. town councils, and they have introduced a culling campaign to collect the eggs. Would the Minister not consider that?

**The Deputy of Trinity:**

As I said, I think the best is to try and educate people and see if we can come to an amicable agreement with both parties, but also to educate the general public that feeding of birds really should be carefully considered. I know that the Ornithologist Society and the Société has been very proactive in this case.

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

Is the Minister aware that one of the problems, certainly in the urban area of St. Helier, is that most of these birds are breeding on roofs of properties that are let to many residents and therefore no one

takes any individual care? Also, the feeding habits is mostly from discarded waste from the domestic household bin that is causing the problems and this needs to have a multi-department approach in order to solve it. Thank you. Does the Minister agree?

**The Deputy of Trinity:**

Yes, I do, and as I said, education is a good way forward. Most people fail to bag waste appropriately and therefore birds with the skills of herring gulls can pounce and take free advantage of a free lunch. Jersey, we are so different from other places. I understand that herring gulls can now live in the middle of France because they have that free lunch.

**2.3.3 Deputy M. Tadier:**

It is very simple. Would the Minister be in favour of a ban on feeding seagulls?

**The Deputy of Trinity:**

I think, in some ways, feeding birds is ... I know a lot of people do it, but it is finding the appropriate places so that these things do not happen, because I can understand that it becomes a great nuisance to neighbours.

**Deputy M. Tadier:**

Just to clarify, was that a yes or a no?

**The Deputy of Trinity:**

It was neither. I would need some more information.

**2.3.4 Deputy S. Power:**

The reason I ask this question is that some of my constituents are being driven to distraction by sleep deprivation and these gulls dive bombing and ripping open black bags. Can the Minister make a simple statement to the public and urge them to not feed seagulls?

**The Deputy of Trinity:**

I know that has been done many times and I have ... I know they have protection. We have worked very hard with the Deputy and with other parishioners with this specific issue. I have offered to go and see the relevant parties to see if we can come to sort of informed way forward.

## **2.4 Deputy A.E. Jeune of St. Brelade of the Minister for Education, Sport and Culture regarding providing appropriate training to match job vacancies in the Island:**

Given that many of those completing courses this year are experiencing difficulties in finding suitable positions in which to fulfil their ambitions for which they have studied and qualified, does the Minister consider it appropriate to increase the number of places available for study at Highlands College and what procedures, if any, are in place to ensure that the training given is suitable to the vacancy situations in the Island?

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

I will try to be more brief. Yes, it is appropriate to increase the numbers of places available at Highlands College to meet increased demand due to economic recession. However, other initiatives are also being pursued. A youth training initiative, advance to work for young people unable to gain employment, an extended apprenticeship scheme to provide more places in more diverse occupations, a graduate work experience scheme to be established if local graduates are unable to secure employment later in the year, and a careers service strengthening scheme to enable the service to meet increased client need and to provide resources for short-term retraining opportunities for adults who may need to consider changing career.

**The Bailiff:**

Deputy, do you wish to ask a follow-up? You do not have to.

**Deputy A.E. Jeune:**

I thank the Minister for his answer. I will come back again another time, thanks.

**2.4.1 Deputy G.P. Southern:**

Is the Minister aware of any permanent, long-term, additional resources that are being put into the area of job seeking, in particular for young people?

**The Deputy of St. Ouen:**

At this moment in time discussions are still ongoing about what finances may or may not be required following the introduction of these initiatives. However, the funding for these initiatives are all provided within the fiscal stimulus package.

**2.4.2 Deputy J.A. Hilton of St. Helier:**

In recent years the construction faculty has been oversubscribed by quite a large number of applicants. Is the Minister able to tell the House how many additional places have been offered to students in the construction faculty?

**The Deputy of St. Ouen:**

I have not got the details of that. However, I have been notified that although perhaps block layers might not be required, dry liners are. I am informed that within a relatively small period of time block layers can be retrained to meet the demands of the dry lining that is currently required on the Island.

**Deputy J.A. Hilton:**

Would it be possible for the Minister to, by email, inform the House how many additional places have been offered in the construction faculty, please?

**The Deputy of St. Ouen:**

Absolutely.

**2.4.3 Deputy T.M. Pitman:**

Could the Minister just clarify for the House what numbers of apprenticeships are available at the moment and is he aware what increase is likely, through his knowledge of Education?

**The Deputy of St. Ouen:**

I cannot give absolute details at the moment because, clearly, this is a moveable feast. As individuals approach the Careers Department and the Social Security Department identifying their needs, the aim is that we will meet and provide for them. Clearly we have got a good base insofar as that through Project Trident we have a large group of employers who are already involved in working with my department to provide work experience.

**2.4.4 Deputy G.P. Southern:**

Will the Minister agree to come to the House showing the way in which the numbers of apprenticeships that have been available over the past 5 years have declined and the moves, the initiatives, under special measures to compensate for the recession, that they will only restore numbers to what they should have been all the time?

**The Deputy of St. Ouen:**

I am not aware that the apprentice traineeship schemes have declined over the past 5 years. However, I will be happy to provide any information that the Deputy may want.

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

Given that in the answer from the Minister for Education, Sport and Culture he mentioned the economic recession, is it not also true that the economic recession is having an impact on the Project Trident positions that are available?

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

I am not aware of such; however, it is clear that there are employers, as I am led to believe, that are keen to be included in the apprenticeship scheme. This is borne out by a past experience, which was ... I think happened in 1997.

#### **2.5 The Deputy of St. John of the Minister for Economic Development regarding the mooring list at La Collette Marina:**

Can Members be told when the list at La Collette Marina was closed for new vessels wanting to moor, and would the Minister advise whether the Harbour Department is reviewing the waiting list for all marinas, and if so, would he explain in what way?

#### **Senator P.F. Routier (Assistant Minister for Economic Development - rapporteur):**

The waiting list for La Collette Marina was closed for new vessels wanting a berth in October 2004. The latest review of the waiting list was conducted in February this year. A letter was sent to all those on the waiting list, excluding the pre-2004 La Collette list, inviting them to update Jersey Harbours with their up-to-date requirements in case they have changed. An advert has been placed in the *J.E.P. (Jersey Evening Post)* and will be run again prior to the Southampton, Paris and London boat shows, inviting those considering buying a boat to add their name to the general marina waiting list. I am very grateful to the Deputy for spending some time with me and the Minister a few weeks ago to review all the marina waiting lists, and also the letter that has been sent out to those on the waiting list.

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

In my supplementary, would the Minister repeat, please, the date that the original waiting list was closed? I will go on and put a supplementary. Given that the La Collette Marina is the only marina with 24-hour access, how big is or was the waiting list when it closed? Given that a list existed means a demand for 24-hour marina access is a priority. What action has the department taken to allow the list to be reopened and are there plans to increase permanent deepwater berths across all areas of St. Helier Harbour?

#### **Senator P.F. Routier:**

There are a few questions there. I am not aware how big the waiting list was when it was closed, but certainly I do recognise that there is a desire by many people to be in the deepwater marina. We do recognise that ... we are trying to do our best to find a mechanism. We have got a plan we are working on to increase the number of berths, not only in the deepwater section, but also in the St. Helier Marina itself to ensure that more people are able to have a mooring that they require. I have to say, we do have a waiting list which is very long for all sizes of berths and it has been ... since we had such a successful boat show this year, there are a lot of people who are wanting to get on to the waiting list and wanting mooring space. We are working on a plan to increase the number of berths and we hope to bring that forward in the next year or so.

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

I asked the Minister if he could give me the actual date when the original marina list was closed. But while I am on my feet, with the intake of 35-metre yachts into St. Helier Marina, thereby reducing the number of smaller moorings, how does the Minister hope to expand on this most

lucrative trade for the Island, given that it is good business for the economy, but at the same time reducing space for smaller craft? Where are the displaced craft going to go?

**Senator P.F. Routier:**

I am sorry that I cannot give the answer to the question with regard to when the marina list was closed. I did not have any notice of that question, but I can find out for the Deputy. As I said, there is a need for more marina berths. What we are looking at is a plan to reconfigure the whole of the existing pontoons to make best use as we possibly can. There is a plan that is being devised which may move to use the number 4 and number 5 berth, further down the marina, which is outside the existing St. Helier Marina walls, to allow us to take larger vessels. But we accept that there is a need for more marina spaces and we are doing our best to increase those.

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

Is the Minister, or Assistant Minister, aware that because the vast majority of marina berths are tidal, additional space is needed for boats to wait in safety before they can get access to their berths? At the moment we are desperately short of space on number 5 and if that space is going to be used for bringing in larger boats then there will be virtually nowhere that vessels can wait in safety.

**Senator P.F. Routier:**

I appreciate that. Within the draft plans, which are being drawn up, there is an area put aside for people waiting to get into the tidal berths. We do recognise that that is the case.

**The Bailiff:**

Very well. I think we ...

**The Deputy of St. John:**

Usually, a Member has a chance to put the final question ...

**The Bailiff:**

There are quite a few, Deputy, but all right. One more.

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

If new deeper water berthing is to take place in the main harbour, this in itself brings income into Jersey. Have the Council of Ministers given their support to this excellent money-raising project? If not, why not? Are the Council dragging their feet at a time of the recession? Further to this, I would presume all user groups have been given a presentation on your proposed mooring plan. In general, have they been supportive? Thank you.

**Senator P.F. Routier:**

I thank the Deputy for his continued support for ... I know this is a passion of his, boating, and the need to have more mooring spaces. The plans that we have drawn up in draft have been shared with the users of the harbour and, in general, they have been very supportive. There are some people who are concerned about some of the heritage issues around the harbour, which we are trying to make sure that the heritage is maintained.

**The Deputy of St. John:**

Are the Council of Ministers supportive?

**Senator P.F. Routier:**

Of course the plans will require some funding, but as a trading department, we do have to try and manage these things within our own funding. We have not taken it to the Council of Ministers yet,

but I would be very surprised that they would not support us in trying to make sure that our assets in the harbour are used effectively.

## **2.6 The Deputy of St. Martin of the Minister for Home Affairs regarding the payment of compensation in the event that States of Jersey police officers damage property when gaining entry to premises:**

Will the Minister advise members of the States of Jersey Police policy in respect of compensation if police officers damage property when gaining entry to premises following the arrest of the occupier, with or without a warrant?

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

This particular scenario would be a most unusual scenario because you would normally expect forced entry more in cases where a person had not been arrested. Where a person is arrested - particularly if there was a warrant - you would think commonsense would prevail and they would let the police in. But the answer to the question in this relatively unlikely scenario is that if the police find evidence which is relevant then they do not normally compensate. If they do not find such evidence then they do normally compensate.

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

I am rather surprised at the answer because, quite clearly, I would have thought if the police caused damage to property when carrying out their duty without the owner's consent, then surely the police are responsible for compensation? Would the person not agree with that?

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

If the person who has been arrested - and particularly if there were to be a search warrant - and they were to be unreasonably refusing access, I am afraid I am not very sympathetic in that scenario.

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

Yes, but could I just press again the Minister? If indeed property is damaged without a need to damage it, when there is a key present or key available, should the police not use that key to gain entry, rather than damaging a property? If they do damage a property when there is the existence of a key, then should they not be responsible for paying or compensating the owner, whether that person is guilty or not?

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

The police should cause the least damage possible in gaining entry. If they know of the existence of a method such as a key they should most certainly use that. If they were to proceed and cause damage in circumstances in which they knew there was another method, then frankly, I would strongly disapprove of that and would direct them to pay compensation.

### **2.6.3 Senator S. Syvret:**

A few months ago, 2 of my constituents and their children had this experience on an early Friday evening. They were in their home and a police raiding party arrived with these kind of battering rams they use and smashed in simultaneously both the front door and the rear door of the property so violently that both doors were knocked flat off their hinges on to the floor. The house was stormed. There were children present. The officers doing the raid screamed obscenities to the effect that: "Oh, [expletive deleted] there are kids present." The 2 adult constituents were roughly assaulted by the police. There was no child protection officer with the raid, so the children were deeply traumatised by this. Nothing illegal was found. At the end of this horrifying ordeal one of the constituents asked the police: "Well, what is going to happen to our doors?" because their house was now completely unsecured as both the doors were lying on the floor. They were told: "Well,

you will just have to get on to the Housing Department on Monday morning about it” and that was it. Does the Minister think that that kind of conduct is acceptable?

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

I cannot of course comment on the reasons why the police may have thought it necessary to force entry in this particular case. I would have thought having forced entry and having discovered, as it were, nothing that they would have had some sort of responsibility to ensure that the doors were put back.

**2.6.4 Senator S. Syvret:**

The doors were not put back and the house was consequently left unsecured all weekend. But it is also the question of the policy of the police in terms of having child protection officers present when raids are carried out on family homes. This is really quite serious.

**The Bailiff:**

Sorry, what was the question, Senator?

**Senator S. Syvret:**

The question is will the Minister examine this subject and look at the policies and practices adopted by the police when undertaking these kinds of raids? Because the 2 subjects of the raid were still not told why it had taken place. The only thing that police would say to them was: “Information received.”

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

If Senator Syvret would provide me confidentially with information by which I can identify the particular case, I will most certainly take the matter up with the senior leadership of the police. It is of course always open to individuals, if they think they police have behaved improperly, to make a complaint to the Police Complaints Authority.

**Senator S. Syvret:**

I am happy to do that, but the 2 individuals in this case are terrified and I think complaining is the last thing they are going to do.

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

Could I try to get 2 into one? **[Laughter]** Would the Minister not agree that the Police and Criminal Evidence Bill, as drafted, lays itself open to abuse by the police inasmuch as they can enter property under that guise? Would he give the States assurance that maybe he will look at that particular law? Also, will he also make the policy on damage to property available to all States Members so we can see the policy that the police are acting under when they do damage property in the course of a duty, whether gaining entry with or without warrant?

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

Following this question, I indeed will look into the States policy in relation to compensation because there are some scenarios which I could think of in which I would not necessarily be happy with the full policy as it has been outlined to me. In relation to the P.P.C.E. (Police Procedures and Criminal Evidence) Law, I have taken this up already with the police who assure me that the powers contained therein are important powers which are no different from those held by their U.K. counterparts.

**2.7 The Connétable of St. Helier of the Minister for Home Affairs regarding the duration and cost of the suspension of the Chief Officer of the States of Jersey Police:**

Would the Minister state the duration and cost of the suspension of the Chief Officer of the States of Jersey Police and advise when he expects the investigation to be completed?

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

The suspension began back in November, so that means we are now coming up to 8 months. The cost to date of the Wiltshire Police investigation to 30th June totalled, and of other costs of acting up for officers, £384,070, of which £63,903 was acting up and cover costs. My current information is that the report in relation to initial matters being investigated by the Wiltshire Police may not now be available before September.

**2.7.1 The Connétable of St. Helier:**

Could the Minister confirm whether that £384,000 includes the salary of the officer who is being suspended?

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

No, it does not because other people have been replacing him and there are replacement costs of acting up, which is the £63,903. If we were to count the salary of the officer being suspended we would be double counting.

**2.7.2 The Connétable of St. Helier:**

Could the Minister confirm that the Head of States H.R. (Human Resources) involved in the original suspension has now left the States employment and will this person be interviewed by the investigators into the original suspension?

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

That is correct, that the original officer has left the States of Jersey. The answer to the second question, I would think no, because they are not investigating the circumstances of the original suspension.

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

Can I ask the Minister where is this money coming from and from what fund? It seems to be here we are going to head up towards at least £500,000 before this case is even finished. We have also got £1 million for the suspension of Dr. Day. I think the public are getting rather concerned, the amount of money being spent on getting nowhere with suspensions. Can the Minister not find a way to speed this process up? Obviously this was clearly ready by the end of June. Now it is on to September; it could well be Christmas. It could well be way past the retirement date of the current police chief and it is looking as though it is almost a conspiracy to ensure the man will never come back to work.

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

There are about 5 questions there; I am not sure I can remember all 5 of them. The Deputy of St. Martin is not right on the date of retirement of the police chief, which is not at the end of this year; it is the end of next year. The answer in relation to where this is being paid from, thus far out of the historical abuse inquiry funds. Indeed, when we have the proposition later on for transfers of monies to cover this I will be making that clear. I am afraid I have now forgotten the other 3 questions.

**The Bailiff:**

I expect the Deputy has too.

**The Deputy of St. Martin:**

I am only trying to make the point I think the public ... will the Minister agree that the public are getting rather concerned at the amount of public money being spent on people who are suspended?

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

Yes, they would and I am also concerned.

**2.7.4 Deputy T.M. Pitman:**

I think my question was one of the 5 the Deputy of St. Martin hoped to ask. Could the Minister confirm that in actual fact the Chief of Police will never come back to work and that is why this is just being left to run and run and run?

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

I cannot confirm that. We are going through a disciplinary process. I am awaiting reports. I will need to carefully consider those reports. I will need to decide whether to take a full disciplinary hearing. If I do, there are rights of appeal and any final decision is for the States and not for myself.

**2.7.5 The Connétable of St. Helier:**

In his closing moments of his last answer to me, the Minister said, almost *sotto voce*, that the investigators are not investigating the original suspension. Is the Minister saying that the terms of the investigation have shifted from the grounds under which the Chief of Police was originally suspended? Does he not think that is against the rules of natural justice?

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

That is not what I am saying at all. I am simply saying that we have not asked the police to investigate whether or not the police chief was properly suspended in the first place. That would be a total waste of public money.

**The Connétable of St. Helier:**

The person to whom I was referring, the Head of States Human Resources, was closely involved in the decision and gave advice on a decision to originally suspend the Chief of Police of the States of Jersey Police. Is it not logical that that person should be interviewed as part of an inquiry?

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

No. People are complaining that public money is being wasted on this. I have no wish to waste further public money on side issues.

**2.8 Deputy T.M. Pitman of the Minister for Treasury and Resources regarding the payment of £340,000 as a 'loyalty' bonus to seven senior management figures at Jersey Telecom:**

In the light of last week's States decision not to support pay awards for States workers, and in the interests of ensuring a level playing field, what action, if any, will the Minister be taking as a representative of the shareholders to prevent £340,000 being paid out as loyalty bonuses to 7 senior management figures at Jersey Telecom? I should point out it is a mistake. It should be £399,000 I am advised.

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

I am advised that the loyalty bonus included in the Jersey Telecom 2008 accounts relates to a retention scheme which was a contractual commitment made in October 2006. This was to ensure that the company would be able to retain key members of the senior management team that had the skills and local knowledge essential to steer the company through a period of unprecedented change. The unprecedented change during 2006 related to the J.C.R.A. (Jersey Competition Regulatory Authority) awarding 2 additional mobile phone licences coupled in addition with the then Minister for Treasury and Resources' declaration of his intention to sell Jersey Telecom. Last week the States decision not to support a pay award for States workers is, I think, very different to

Jersey Telecom's meeting of 2006 contractual obligations to its senior staff. As Members will know the issue of governance around States owned companies is very important to me, and I have commissioned a review of the relationship between the States and the utilities with a particular focus on how we can improve corporate governance and strengthen the way in which the States manages their shareholdings. I aim to ensure the States are following the best practice as shareholder enabling the companies to perform and deliver the key services on which we all rely.

**2.8.1 Deputy T.M. Pitman:**

I am advised that £59,000 has already been paid to the accountant, since retired, who originally left this off the accounts. Does that seem satisfactory to the Minister?

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

I would need to investigate that. I am not advised of that.

**2.8.2 Deputy G.P. Southern:**

Can the Minister state whether this product is the result of his famous competition policy? Competition policy in Telecom means that senior management get loyalty bonuses and that is the result of competition.

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

I am afraid Deputy Southern is not going to encourage me or goad me into making such simple pronouncements. The Deputy, is he really questioning the benefit of competition to our Island community and the putting in place of a Competition Law which would result in lower R.P.I. (retail price index) for the whole of the economy? I hope not.

**2.8.3 Deputy G.P. Southern:**

Nonetheless would the Minister not state whether this is a result of competition policy? You cannot have a loyalty bonus if there is only one company. Now there are 3 we need a loyalty bonus of £340,000.

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

If the Deputy would have heard my answer very carefully, there were 2 reasons why I explained that the Board at the time avoided this loyalty bonus, and half of that being in relation to the decision the Minister for Treasury and Resources made at the time in order to consider the sale of J.T. (Jersey Telecom). That is the period of uncertainty so he is not going to encourage me to claim that there is a payment of £399,000 because of competition because that would be nonsense.

**2.8.4 Deputy S. Pitman of St. Helier:**

What message does the Minister think this sends out to States employees who [**Approbation**] are not going to get a pay award this year?

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

I think the Deputy makes a good point but I would just rehearse with her the reasons why the loyalty payment was paid. This is in relation to a payment back in 2006 on an arrangement made in 2006 when the whole economy was in a very different situation to where we come to today. So all States workers are asked to accept a pay freeze because that is what is happening in the private sector in many companies and organisations and employers across the Island community and elsewhere.

**Deputy S. Pitman:**

Could the Minister answer the question: what message does he think we are sending out to States employees?

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

The message is clear. This was a contractual arrangement passed in 2006. The current situation is very different.

**2.8.5 Deputy R.G. Le Hérissier:**

Could the Minister confirm, given the reasoning he has put forward with great enthusiasm, that he believes in the concept as applied at that time of a loyalty bonus?

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

I am not the Minister for Treasury and Resources with command and control responsibilities of the boards. There is clearly a separation of duties between the board of J.T. (Jersey Telecom) who has designed and who has been put in place with non-executives to make executive decisions so I cannot really speak for the board. Obviously, they made decisions at the time with information which was the right situation at the time. I think now to try and speculate with the benefit of hindsight is probably unwise.

**2.8.6 Deputy R.G. Le Hérissier:**

As a general policy, could the Minister confirm that he agrees with the payment of loyalty bonuses?

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

I cannot agree generally because **[Laughter]** you need to take each case on its merits. Certainly on some occasions in certain circumstances loyalty bonuses should be paid.

**2.8.7 Senator J.L. Perchard:**

Will the Minister share his view with Members on the level of expectations of those people working in States owned utilities and quangos and limited companies like W.E.B. (Waterfront Enterprise Board) on the levels of expectations on pay increases in 2009, and does the Minister intend to give a directive to the boards of these utilities, companies such as W.E.B., as to what the States expects of them?

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

I am reviewing the whole of the arrangements between the Treasury and the States owned utilities and I have to make sure I am not treading over the line of effectively being a shadow director, which I have no intention of doing so. I am sure that the boards of all of these States owned utilities are well aware of the economic situation that exists and they are negotiating with their representative groups accordingly. Certainly I have made it very clear that my view is the general economy indicates that there is pay freezes, recruitment freezes, going on because of the economic downturn and I am sure the boards will be aware of that situation too.

**2.8.8 Senator J.L. Perchard:**

I understand the Minister for Treasury and Resources' position that he does not want to be seen as a shadow director but he has demonstrated recently that he behaved like a shadow director of W.E.B. when he gave the developers 3 months' notice in which to come up with the funds to provide **[Approbation]** for the development. Therefore, will he at least continue in his role as shadow director of W.E.B. and give an instruction to the directors that they are expected to award a zero pay increase to staff?

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

There is a big difference between my arrangements and review and research in relation to the Esplanade Square development. It is to this Assembly that I am reporting because of the commitment that the Senator asked of the previous Minister for Treasury and Resources to bring the W.E.B. deal to the States. That does not sound as though I am responsible for asking this Assembly to effectively involve itself in W.E.B.'s affairs. The Senator was the person that asked for that to be the case and I am carrying out those duties properly to ensure that this Assembly is

properly informed in relation to that deal. That is an entirely different situation and I am sure that the Senator, with experience of being a director apparently, would understand that. I am reviewing the arrangements with utilities to put in place strengthened arrangements, but arrangements that are appropriate and proportionate and proper.

**2.8.9 Senator S.C. Ferguson:**

Returning to Jersey Telecom, will the Minister be advising the board that since the situation has now changed that it would be appropriate to renegotiate the contractual arrangement and remove [Approbation] the loyalty bonuses?

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

It does not seem to me ... I am surprised by Senator Ferguson's suggestion. Is she really suggesting that one reviews contractual arrangements and is suggesting that the Minister for Treasury and Resources could instruct for a contractual obligation to be changed? I do not think so. That must be an issue for the board. This was a situation taken at the time and no doubt the board acted in the best interests of the company. I do not think I can really add anything further.

**2.8.10 Senator S.C. Ferguson:**

The Minister will note that I said "advise". Surely it is possible for the Minister to advise the board that these loyalty bonuses in this particular economic state and with the pressure to sell J.T. removed, that it is inappropriate to continue with such loyalty bonuses when the rest of the staff have had no increase for the current period. [Approbation]

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

First of all, I do not think it is quite correct to say that the staff of J.T. have had no increase. All I will say is that the board is very well aware of my views on the whole issue of wage freezes and recruitment arrangements in Jersey at the moment.

**2.8.11 Deputy A.E. Jeune:**

Would the Minister agree that the States should have sold Jersey Telecom when it had the opportunity and raise money for the States coffers which could be helping us today?

**The Bailiff:**

I think, Deputy, that is probably straying a little too far outside the original question. [Laughter]

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

Would the Minister agree that double standards are being carried out by himself and his department given that quangos get bonuses but our working staff within States departments are getting nothing?

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

I would just remind the Deputy that we are dealing here with a loyalty bonus that was put in place in 2006 when the economic situation was very different. I would remind the Deputy and all Members of the increases that States workers had during that period too. We are now dealing with a pay freeze for this economic situation and this year's pay round. That is very different from trying to interpret the issues of a pay freeze today with going back in history, reinventing history and suggesting that everybody should have had a pay freeze previously. In relation to quangos, quangos do have uses for particular purposes but just like the U.K. Government I am going to review exactly the role of quangos and the appropriate arrangements for quangos in Jersey too to ensure that taxpayers' money is best spent and best used.

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

Given the Minister's response, was some £7 million odd put aside last year in the budget for [Approbation] States employees to have a rise this year, hence the cost of living rise, hence he is operating double standards? He must agree to that.

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

The Deputy must, I think, get to the facts here. The States always puts in place arrangements and puts sufficient money in place for anticipated negotiations for pay rises. If those pay rises are not deemed necessary or not deemed as appropriate in light of recruitment arrangements then fine. I realise the Deputy of St. John lost his side of the argument in relation to the pay freeze last week. I would express the hope that he would be supporting the 11(8) request today to ensure that the majority will, of the Assembly, in relation to the removal of those funds that he would see the light and agree with that.

**2.8.14 Deputy T.M. Pitman:**

Obviously I am not one to be pushy, but taking on from Deputy Le Hérissier's question, does the Minister believe in loyalty bonus fat cat culture in this instance?

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

I think that these loyalty payments should be absolutely justified and should be a rarity and certainly all I will say to the Deputy and other Members is that I have put in place a review and I intend to put in strengthened arrangements in relation to the relationship between the Treasury and States owned utilities. I will also be publishing any reports that I commission in relation to that.

**2.9 The Deputy of St. John of the Minister for Economic Development regarding the length of time the fisheries vessel the Norman Le Brocq has been out of service over the last 12 months:**

Would the Minister advise Members of the length of time the fisheries vessel, the Norman Le Brocq, has been out of service over the last 12 months and the reasons for this?

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

Could I ask my Assistant Minister to deal with this matter?

**Connétable L. Norman of St. Clement (Assistant Minister for Economic Development - rapporteur):**

The fisheries vessel, Norman Le Brocq, has been out of service for 21 weeks in the last 12 months. This is to undergo a full 10 year refit to extend its life for another 10 years.

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

As some years ago the area of sea to be policed by the Jersey Fisheries vessel was increased considerably and given the importance of the policing presence in Jersey waters, can the Assistant Minister explain how the Fisheries work is being undertaken at the moment and whether or not a temporary vessel has been brought in to cover this 21 week period?

**The Connétable of St. Clement:**

Yes, other vessels have been used during the period that the Norman Le Brocq is not available including harbour vehicles, the department's own other vessel and, indeed, some commercial vessels as well.

**2.9.2 Deputy S. Pitman:**

Most of the questions that I want to ask have been answered, but with the vessel that has been in place has it been able to fully police the fisheries laws?

**The Connétable of St. Clement:**

The Fisheries Law has been fully policed. Of course, without this vessel we have not been able to go as far and as often as we wish but, you know, this vessel is 12 years old, needed its refit, is having its refit and will be fit for purpose when it returns in the next week or 2.

**2.9.3 Deputy S. Pitman:**

Has the vessel that has been put in place been able to police the laws as effectively as the Norman Le Brocq?

**The Connétable of St. Clement:**

The Norman Le Brocq is a specialised vessel designed specifically for the Island to be able to carry out the fisheries protection duties around the Island and we have no identical vessel, so the answer clearly is no. But certainly the work at the Fisheries Department has continued at pace and only last week some 4 French vessels were boarded. There has been no let up in fishery protection effort.

**2.9.4 Deputy R.G. Le Hérissier:**

Is the Assistant Minister aware, and a remarkable display of public duty, the Deputy of St. John and friends are often to be observed standing up with binoculars plotting the movements of the Norman Le Brocq?

**The Connétable of St. Clement:**

The department and I are extremely grateful for the efforts of the Deputy of St. John and his friends.

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

I wish that one had not been put in because it has thrown me a bit. **[Laughter]** Given that some 5 months is taken for a refit and new vessels can be built in far shorter time of greater proportion and greater value, does the Minister or Assistant Minister consider that the States of Jersey are dragging their feet through his department in not making sure this work was carried out far more efficiently and in a much shorter period of time?

**The Connétable of St. Clement:**

To the best of my knowledge and understanding, the work is being carried out extremely efficiently. We are spending around about £300,000 on this major refit after which, when it is completed, we will have a vessel worth something like over £1 million, so I think it is well worth the job.

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

Is the Minister aware that you can build a whole new vessel for £300,000 in a matter of 4 to 5 weeks?

**The Connétable of St. Clement:**

I am not aware. I will accept what the Deputy is saying but then we would have a vessel which would not be as efficient or effective as the Norman Le Brocq will be when she returns later this month.

**2.10 Deputy K.C. Lewis of St. Saviour to the Minister for Education, Sport and Culture regarding banning from all schools very high caffeine energy drinks:**

What consideration, if any, will the Minister give to banning from all schools very high caffeine energy drinks that could raise metabolic rates in children?

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

Although a complete ban on the sale of very high caffeine energy drinks could be introduced, it would be extremely difficult to enforce a complete ban on the consumption of high caffeine energy drinks in schools. A more constructive way of dealing with this issue would be to continue to actively discourage their use and to work with the Department of Public Health in the introduction of a school nutritional standard.

**2.10.1 Deputy K.C. Lewis:**

This product alone is full of ginseng and caffeine. If we look at caffeine content alone, a cola drink contains 9.2 mg per 100 ml. This product contains 200 mg per 100 ml. Should a child be taking this product on a sports day with an undiagnosed heart condition, it could be very dangerous indeed, if not fatal. Does the Minister not agree?

**The Deputy of St. Ouen:**

Absolutely and I would encourage and would like to take this opportunity to encourage all parents to ensure that where possible their children are provided with healthy drinks and understand the dangers that some of these high caffeine energy drinks can present.

**2.10.2 Senator S. Syvret:**

Could the Minister give us an assurance that seagulls that might be accreting around schools and school playgrounds are not being made more aggressive by the over consumption of caffeinated drinks?

**The Deputy of St. Ouen:**

I am sorry. I could not hear that question. [Laughter]

**Senator S. Syvret:**

Could the Minister undertake some research, I mean given this is obviously such a desperately important topic for this Assembly, to see whether the seagulls around schools are being made more aggressive by consuming caffeinated drinks?

**The Deputy of St. Ouen:**

I think that would be outside of my remit. [Laughter]

**2.10.3 Deputy S. Pitman:**

The Minister has said that his department are continually and actively discouraging this type of food. How is his department continually and actively discouraging unhealthy foods and is his department selling unhealthy food within schools?

**The Deputy of St. Ouen:**

As I said before, we are working with Public Health to consider the introduction of school nutrition standards to be phased in over the next 3 years. This would enable us to regulate the types of food and drink available for sale in our canteens and vending machines in the schools.

**2.10.4 Deputy K.C. Lewis:**

This is a very serious subject in my book. One of these shots of drinks contains the same amount of caffeine as 21 cola drinks. It is also full of ginseng making the children very hyper. Part of the problem in town at night is children drinking very, very strong lagers combined with one of these shot drinks or more which is making them very hyper and very aggressive. Will the Minister be working with other departments to warn children of these dangers?

**The Deputy of St. Ouen:**

Absolutely and we do have a healthy schools programme which is designed to teach children and young people the importance of a balanced diet, regular meals, healthy snacks and drinks, all of which are conducive to a healthy lifestyle, and I am sure that due to the efforts of the Deputy, far more attention will be paid to this new high energy drink.

## **2.11 The Connétable of St. Helier of the Minister for Home Affairs regarding the deployment of community police officers in the Parishes:**

Would the Minister state how many community police officers are deployed in the Parishes, the cost per officer of this service and whether it is planned to increase their role?

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

There are currently 3 community police officers for the Island and because of their average seniority the cost is about £57,172 per officer. I am keen to see the community policing role increased. The notes which I have indicate that there are 2 ways in which you could do that but perhaps I should stop there in case a supplementary is asked.

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

I am very surprised to hear that only 3 community police officers are covering the whole Island. What figure does the Minister think would be more appropriate?

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

The number that should be there if the police had a full complement is 9. What is happening is that because police numbers are below full complement and because there are specific pressures of particular investigations like the historical abuse inquiry, and also there is another issue which is that although recently 15 new officers were sworn in, they have only just from July become available for all duties, so we are getting part of the year when the police are 20-odd officers down plus others who may be seconded and at other times of the year when they are not so far down. I am not sure I have answered the question.

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

Given the community policing I have to ask is it nice to have or is it a necessity given we have our 12 Honorary Police forces within the country Parishes? I see frequently community police officers around various Parishes as I am going about and I wonder if some of this work could not be returned to the Honorary Police given the excellent work they do within the community and generally they have their feet on the ground. Would the Minister agree to look at this?

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

I am very appreciative of the work done by the Honorary Police but this is a different role. Last Tuesday I was in Guernsey talking to my counterparts who very highly value their community policing. I will now give the second half of the answer. There are 2 ways of approaching this. One is to build up the establishment of community police officers up to 9 and the other one is, in fact, to change the philosophy and the culture of the police force so that officers are performing this kind of role, making contact with people locally, listening to what they are saying, et cetera, et cetera, without them being formally attached to individual areas.

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

If the suspension of the Chief Officer of the States of Jersey Police is proven to have been politically motivated and if the investigation costs of close to £500,000 therefore wasted, would the Minister agree with me that this money would have been better spent on maintaining a full complement of community police officers?

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

That is an entirely hypothetical question.

**2.12 Senator A. Breckon of the Minister for Housing regarding the determination of the prices for the 46 residential units at La Providence.:**

How were the prices for the 46 residential units of La Providence determined as detailed in R.68/2009?

**Senator T.J. Le Main (The Minister for Housing):**

As my Assistant Minister spent a huge amount of time with officers dealing with this, could I ask that the Assistant Minister deals with this question please?

**Deputy S. Power (Assistant Minister for Housing - rapporteur):**

At the outset, could I point out that the Housing Department inherited the Homebuy plan from the Minister for Planning and Environment. The 46 homes of La Providence were valued by an independent member of the Royal Institute of Chartered Surveyors using his experience of the local market. That was in the manner approved by the previous Health, Social Security and Housing Scrutiny Sub-Panel of which I was chair. These values are shown in R.68/2009 in the appendix. These values were then initially discounted by the 35 per cent deferred payment as set out in the Minister for Planning and Environment's Homebuy proposition. This resulted in an indicative purchase price of between £283,000 and £302,000. During the period between the Minister for Planning and Environment's proposition and the delivery of the scheme by the Housing Department, bank lending criteria radically changed. Financial modelling indicated by the Housing Department showed that Homebuy prices had to come down to somewhere between £255,000 and £265,000. The Housing Department, including myself and the senior officers of the Housing Department, re-approached the developer, Dandara, and the result of that was that the developer agreed in March of this year to reduce the price of the homes to arrange it between £255,000 and £265,000 which indicated a discount of between 40 and 44 per cent on the market value.

**2.12.1 Senator A. Breckon:**

Does the Assistant Minister believe it is realistic just to get one valuation and does he know if the valuer used other comparatives on other estates recently built?

**Deputy S. Power:**

There were 2 independent valuations carried out. One by the chartered surveyor instructed by the Housing Department and one by the developer, Dandara, and there was not much difference between the 2 valuations.

**2.12.2 Senator A. Breckon:**

Does he know if any comparatives were used about recently built estates and a devaluation on those values?

**Deputy S. Power:**

The Housing Department is aware that because of the changes in bank lending criteria there has been a retraction in the valuations of some houses on the market in this price sector. However, we feel that given the gateway eligibility scheme which dictated that the maximum couples or parties eligible for a Homebuy could only borrow 5 times a gross combined salary of between £40-60,000, we knew then we had to stick to a value of between £250,000 and £260,000 and there has been very little movement in the market since then.

**2.12.3 Deputy S. Pitman:**

Would the Assistant Minister explain why mortgages were not put in place before the houses were allocated to people as there are still a number of people who have houses allocated to them but cannot get a mortgage?

**Deputy S. Power:**

My understanding is as of this morning on the Homebuy Mortgage Summary of the 46 houses 33 parties have now been approved for mortgages. There are 2 people who are waiting on confirmation from one banking group. There are 3 people who have pulled out and those houses have been reassigned and there are 8 parties who are waiting on confirmation by another banking group.

**2.12.4 Deputy S. Pitman:**

My question has not been answered. People are being allocated houses where the Housing Department have not sought to put in place mortgages with banks. Surely these mortgages should have been put in place before these people are allocated houses, allocated their number.

**Deputy S. Power:**

I can make it clearer to Deputy Pitman that the Housing Department does not negotiate mortgages on behalf of couples or parties who have been allocated a Homebuy property. As entirely a credit relationship and an appraisal relationship between the successful parties who have been allocated a Homebuy property, that is between them and their banker. I can tell the Deputy that the Housing Department have had a series of meetings with the Jersey Bankers Association and because of those meetings with the Jersey Bankers Association I can confirm that 10 mortgages were approved by HSBC, 4 with Lloyds TSB and 19 with Barclays and we are waiting on one other group. So while the department cannot get involved in individual credit assessments, the department has been right in the middle of working with the Jersey Bankers Association because of the credit crunch.

**2.12.5 Senator A. Breckon:**

The Assistant Minister has mentioned a tinkering that they were priced to sell but I would ask him if he thinks that is realistic bearing in mind that the area is prone to flooding. It may give him a clue, it is Goose Green Marsh.

**Deputy S. Power:**

Goose Green Marsh is the original name of the area where these houses are built. If the Senator is referring to the thunder storm and heavy rain shower that happened on Monday 22nd, a lot of standing water was found in a lot of Parishes. My information from both T.T.S. (Transport and Technical Services) and from the developer is that the standing water in La Providence cleared within 30 to 35 minutes and, indeed, the final construction of the attenuation tanks is more or less complete. We are now waiting for the pumping station to be completed at Route de la Haule.

**The Bailiff:**

We will move next to question 14 which Deputy Tadier will ask of the Minister for Education, Sport and Culture.

**Deputy M. Tadier:**

I would be happy for this question to fall away. I feel it is very similar to question number 2 and I do not believe any more information will be gained from it being answered so can we move on to the next question?

**The Bailiff:**

Thank you very much, Deputy. I think Question 15 has been withdrawn anyway. Is that right, Deputy?

**Deputy K.C. Lewis:**

Yes, Sir. On a point of information, the Chairman of the Comité des Connétables has requested I withdraw this question for the time being pending a meeting between myself and the 4 Connétables to discuss the ramifications.

**The Bailiff:**

Very well, so we move then to question 16 which Senator Breckon will ask of the Minister for Planning and Environment.

**2.13 Senator A. Breckon of the Minister for Planning and Environment regarding the drainage system for the development known as La Providence constructed on Goose Green Marsh:**

What planning conditions, if any, were altered in relation to the drainage system for the development known as La Providence constructed on Goose Green Marsh?

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

The La Providence planning permit has over 60 conditions, 2 of which relate directly to the permanent surface water drainage requirements. These are condition 50 and condition 54. Condition 50 required the developer to provide detailed proposals relating to the controlled disposal of surface water to the water course. These proposals had to include calculations for the sizing of the sewers and details of surface water attenuation. Planning condition 50 originally stipulated that the developer had to submit their proposals within 6 months of commencing work on the site. In February 2008 however, the condition was varied allowing them to submit their proposals within 6 months of an associated Planning Obligation Agreement being registered in the Royal Court. This Planning Obligation Agreement related to both the onsite attenuation and an offsite water pumping station. Their proposals were approved by both the department and T.T.S. in November 2008. Planning condition 54, which has never been varied, required flood mitigation measures to be installed and to be operational prior to the completion of the housing development. These included the surface water attenuation proposals which have been installed onsite plus an offsite surface water pumping station on Route de la Haule. Both of these were also subject to the separate Planning Obligation Agreement.

**2.13.1 Senator A. Breckon:**

Can I ask the Minister if all that work has been completed?

**Senator F.E. Cohen:**

The pumping station has not been completed but I understand that it will be in the first quarter of 2010.

**2.13.2 Senator A. Breckon:**

What are the implications of it not being completed?

**Senator F.E. Cohen:**

The pumping station is a planning benefit that benefits the other houses in the area. It is not specifically targeted at the new development because, of course, the newer development is predominately located on the higher land. So it will, when it is finished, be of benefit to the other houses in the area, and clearly until it is finished the benefit to some extent is delayed.

**2.13.3 Deputy R.G. Le Hérisier:**

Can the Minister for Planning and Environment therefore confirm that when the condition was that the houses would only be sold when the drainage was put in place it was not a prerequisite that the pumping station on Route de la Haule had to be completed? Can he confirm that that was, indeed, the understanding because people have got a different understanding?

**Senator F.E. Cohen:**

The position is that originally the pumping station was intended to be completed significantly earlier and there were considerable delays in negotiating the acquisition rights from our Property Holdings, so I am really not entirely sure what impression others have.

**2.13.4 Deputy J.B. Fox:**

Do I understand from the answer the Minister has given today that, in fact, because the pumping station is not finished and the other tanks are not finished that there should be a delay in further residents moving in to fill the gaps that have not yet been occupied because of the amount of water that could occur in storm conditions?

**Senator F.E. Cohen:**

I do not believe that there should be significant further delays in relation to occupation and, in fact, I have taken quite a practical approach in relation to occupation of properties on this development because there were a number of occasions where individuals who were wishing to purchase one of these properties were about to lose their mortgage opportunity, and I allowed some flexibility in terms of allowing occupation and would continue to do so if necessary.

**2.13.5 Deputy S. Power:**

Would the Minister not agree with me that the temporary scheme that Transport and Technical Services Department are working at, at the moment in relation to the surface water drains and the holding of water from the surface water drains in La Providence, is working satisfactorily and that the department are carrying out a sometimes weekly, sometimes twice a week, service to make sure that the surface water drains in the tanks are emptied?

**Senator F.E. Cohen:**

Yes, I understand that the system is working and that it is proving satisfactory in operation.

**2.13.6 Senator B.E. Shenton:**

Could the Minister confirm that the ownership of the pumping station will eventually be transferred to the States and the taxpayer will be left with the liability of maintaining and operating the pumping station?

**Senator F.E. Cohen:**

I would need to do some further research in relation to the final ownership of the pumping station and I will do that later today and distribute it to Members before the close of business today.

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

The temporary scheme that is in place by T.T.S.; who is paying for this temporary scheme, the developer or the public?

**Senator F.E. Cohen:**

It is my understanding that it is the developer paying for the temporary scheme.

**2.13.8 Senator A. Breckon:**

The Minister mentioned some planning benefits and planning gains in that other properties in the area would benefit from this scheme, but could he also confirm that the building on this land has put some loading and some strain on the existing systems and is he aware that this has raised any insurance issue?

**Senator F.E. Cohen:**

No, I am not aware that this has raised any insurance issues and if the Senator is aware of any specific issues I would be grateful if he could advise me accordingly.

## **2.14 Deputy G.P. Southern of the Chief Minister regarding research into pay awards in the private sector for 2009:**

Will the Chief Minister inform Members what research, if any, has been done and what evidence has been found concerning pay awards including bonuses for senior management in the private sector for 2009?

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

No research has been undertaken by my department concerning pay awards including bonuses for senior management in the private sector for 2009. Hassell Blampied Associates are about to complete a benchmarking survey of pay rates in the public and private sectors and this will include senior management pay. It will not include data on pay awards and bonuses paid in 2009. It is the view of the States Employment Board that the pay freeze in the public sector proposed for 2009/10 should apply to all employees including senior management.

**Deputy G.P. Southern:**

I am lost for words. I am told I have to ask this question of the Chief Minister and he does not know what is going on.

## **3. Questions to Ministers Without Notice - The Minister for Economic Development**

**The Bailiff:**

Very well, that concludes question time. We come then to questions without notice and the first period is to the Minister for Economic Development.

### **3.1 Deputy C.H. Egré of St. Peter:**

As the Minister is aware of the ongoing problem regarding the PFOS (Perfluorooctane Sulfonate) contamination of the borehole water supply resulting from uncontrolled discharge of residue from the fire fighting foam used by the Airport Fire Service up to 1996, would he confirm that the States are paying for the legal representation for the affected households and that our own Law Officers Department is at best being tardy in dealing with the issue, thus causing an own goal regarding costs?

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

Yes, the Deputy is quite correct. I am more than aware, as he knows, about this particular long running saga and, yes, I can confirm that in fact an independent firm of lawyers have been involved in this particular process for some time partly due to the specialist nature required and also because they were involved originally when the settlement agreement was negotiated. This whole affair has dragged on for far too long, as the Deputy is well aware. We have worked hard at the airport to reach a solution and we are hopeful that we are very close now with the assistance of Law Officers and Eversheds, the specialist law firm that have been advising, to reach an agreement that will be to the satisfaction of all.

### **3.2 Deputy S. Pitman:**

How long does the Minister think that Scrutiny needs to look at the Depositor Compensation Scheme with a potential liability to the States of £100 million bearing in mind that writing the report, checking for accuracy with witnesses and giving States Members 2 weeks to see the report and any amendment, just those 3 things takes an absolute minimum of 6 weeks?

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

I would have thought as the Deputy is on the Scrutiny Panel she should probably answer that question with regard to how long it would take. This is an important matter. It is a matter of great importance to the Island, in particular depositors, local residents and international depositors. It is of great importance for the reputation of Jersey that the Depositor Compensation Scheme is introduced. The Deputy is right that this is a costly issue potentially. There is potential liability of up to £100 million. However, the Scrutiny Panel were furnished with information, drafts on 5th May of this year. The full final draft was issued on 2nd June and I would hope that they would have had time to give consideration to the matter to allow the important debate which we will get to hopefully if not later today then in the next few days ... consideration to be able to comment on it so that we could proceed.

### **3.2.1 Deputy S. Pitman:**

Since February the Scrutiny Panel has been asking for information and we know it was out there but the department insisted on not giving it to us and States Members were furnished with a list of how many times we asked the department to give us information. Does the Minister not appreciate that Scrutiny need a significant amount of time to scrutinise this scheme given the considerable public interest and the £100 million from the Strategic Reserve? Does he not believe that this needs good scrutiny?

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

Yes, this matter does need scrutiny. I fully accept that. As I said a moment ago, I would have been very hopeful that the Scrutiny Panel would have been in a position to at least provide comments for the debate that we are going to have either today or later in the week. The panel was given draft 14 of the legislation on 5th May. The final draft was draft 20. They have been given all the relevant information since then. There has been a significant amount of information supplied to the Scrutiny Panel and I am disappointed if they do not feel they have had suitable time to at least have made relevant comments in this regard. It is an important matter and we do need to progress with it.

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

Would the Minister not agree that the new advertising programme should be event themed to encourage specialist groups, i.e. Spring Walking Group, Jersey Live, Branchage Film Festival? If not, why not?

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

I agree with the Deputy entirely, and I have to say that a certain amount of our advertising is targeted towards specialist events and we have a number of very good events that occur in the Island and they are targeted both with direct mail ... there are many different ways as I am sure the Deputy will appreciate in marketing to these things. Walking is one of the most successful events that occurs on the calendar and we get a large number of walkers coming to the Island so I do agree with her.

### **3.4 Deputy J.M. Maçon of St. Saviour:**

Could the Minister inform Members when Depositor Compensation Schemes were introduced in the following countries: United Kingdom, France and Germany? If the Minister does not know exactly when, can the Minister confirm that in these jurisdictions Depositor Compensation Schemes were enacted years ago?

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

I am afraid I cannot give the exact dates but I know in the early 1970s schemes were introduced, I believe, in the U.K., and in Europe later than that, but certainly a number of years ago. The nearest jurisdiction to us, of course Guernsey, as the Deputy may well be aware, enacted a scheme towards

the end of last year in a direct result. They had to move particularly quickly due to a bank default that they had.

### **3.5 Senator B.E. Shenton:**

Given the Minister likes to spend money on bollards, state of the art control towers, multi-million pound airport refurbishments, could he tell the House what his relationship with the angry men is like at the moment? [Laughter]

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

What a very good question. I should first correct the Senator. I am not particularly keen on spending money on bollards. However there are certain requirements, a register of requirements, for a modern airport to ensure that it has an up-to-date control tower and various other areas where expenditure, significant expenditure, is necessary and I do appreciate it is taxpayers' money. What we have to deliver is value for money, and I am confident that my department delivers value for money in the majority of areas where it delivers the services that are required.

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

At the beginning of June we understood that Economic Development, along with T.T.S. and Planning and Environment, would be carrying out a review of the abattoir and would be reporting at the end of July. Would the Minister advise of the progress of this report and the anticipated date for its publication and if he cannot confirm it, can he give us the understanding that it is coming through on time?

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

Yes, I have no reason to believe that the report is not progressing to the timescale stated. I am more than happy to check that out and advise the Deputy when I know the answer.

### **3.7 Deputy T.M. Pitman:**

Could the Minister clarify for the House when exactly the Depositor Compensation Scheme was first worked upon?

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

Yes, indeed. I believe towards the end of last year when my predecessor instructed a review to be undertaken into Depositor Compensation Schemes. That process started at the end of last year. The actual legislation itself commenced or the Law Officers I believe began work on it at the beginning of this year.

### **3.7.1 Deputy T.M. Pitman:**

Could I have some clarification? I was really alluding to what I believe was a scheme worked upon nearly 4 or 5 years ago, and could the Minister clarify that and what was the level of compensation and how was the funding for that scheme going to be arranged?

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

I believe that the Deputy is referring to a scheme which, in fact, the current chairman of the Economic Affairs Scrutiny Panel, Deputy Higgins, was involved in when he was an employee for the Jersey Financial Services Commission. Yes, a draft scheme was prepared I believe by Jersey Financial Services Commission at that time. However, it never received approval and, in particular, I understand it did not receive funding agreement from the industry.

### **3.8 Deputy R.G. Le Hérissier:**

Given the statement of Senator Maclean's co-conspirators, I think that he has been dragged into the culture of it all. Would he say there is absolutely no hope in his department for efficiency savings any more?

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

No, I do not agree with that. In fact, I never believe there is a situation where you cannot deliver efficiency savings. Any organisation has the ability to deliver services in a more efficient manner and I do not think that is a situation that we should ever deviate from.

**3.8.1 Deputy R.G. Le Hérisier:**

Would the Senator therefore be advising the rump of the angry men that their view is wrong and that there are enormous opportunities for cost savings throughout the States which he is, at the moment, actively pursuing?

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

I do believe there are opportunities for efficiency savings within the States. I think the low hanging fruit, and this description has been used before, has been delivered in many respects. There have been efficiency savings. There have been great strides to improve the efficiency of the States. The point I was making was that no organisation is never in a position where it cannot deliver further and better efficiencies, and I think that is something we need to keep our eye on.

**3.9 Senator A. Breckon:**

Back to depositor protection, I wonder if the Minister could explain what the urgency is now when his predecessor up to 12 months ago said there was no need. Indeed, he actively resisted any such scheme because we only had the top 500 banks in Jersey.

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

Yes and, in fact, my predecessor was absolutely right in that respect. Jersey is a well regulated financial services centre. We are in a fortunate position where we do have banks from the top 500 but it is not just that; that is just one of the criteria. The banks regulated here are well regulated and I think the urgency that we are now seeing with regard to the need for a Depositor Compensation Scheme is because international standards have moved on. We are in a position where our banking industry themselves have come forward. They are recognising the need for a Depositor Compensation Scheme. There is a risk that business could be lost to the Island. We are seeing in some cases individuals who have deposits here are not depositing additional funds because of the fact that we do not have a Depositor Compensation Scheme. We do not want to run the risk in this current economic climate of losing business and that is something that there is a significant risk could occur if we do not deliver a scheme.

**3.9.1 Senator A. Breckon:**

Can the Minister and perhaps his predecessor appreciate that it is perhaps the little old person in Albert Street that is worried about their savings, not just the international finance industry?

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

Absolutely, I agree with the Senator entirely, and that is again a very good reason why a Depositor Compensation Scheme, although we have a political guarantee in place, we should bear in mind that the political guarantee is unlimited. We want to move away from that position to a statutory scheme that ensures it protects everyone, local residents and international resident depositors as well.

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

To take the Minister back, he has told Members that the final draft reached Scrutiny on 2nd June, would he care to tell Members how many weeks there is between 2nd June and now, bearing in mind that has been said already; writing a report, checking for accuracy and giving States Members 2 weeks takes 6 weeks, so therefore the Scrutiny Panel would have had no time to have had any hearings or engage an adviser.

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

I am sure the Deputy can work out that the timescale between 2nd June and the current date, but the first draft which was, in fact, draft 14 of the legislation was delivered at the beginning of May. I accept there is a lot to go through with regard to reviewing for Scrutiny the Depositor Compensation Scheme. This is not reinventing the wheel. There are schemes like this elsewhere. Guernsey has a scheme. This scheme is very similar to what is in place in Guernsey. I would hope that the Scrutiny Panel will take a pragmatic view with this and allow the debate to proceed to get into position so we can have a statutory scheme in the Island immediately for the benefit of local residents and our international vitally important finance industry.

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

If a new deep water berthing is to take place in the main harbour of St. Helier, this in itself brings income to Jersey. Have the Council of Ministers given their support to this excellent money raising project? If not, why not and are the Council and the Minister dragging their feet at a time of recession?

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

The Deputy of St. John asks a very pertinent question, a very valuable question. He is absolutely right, there are opportunities. I was, for example, very pleased to see the new vessel, Tickled Pink, recently a Jersey registered vessel, come into the Island demonstrating the value to our ship's registry and wider economy. I can tell the Deputy that the Council of Ministers have not specifically discussed this particular issue because it is a matter for the department. But the department, I can reassure the Deputy, is committed to these areas. There are opportunities. Obviously, we have to do appropriate cost benefit analysis to ensure that it is going to work but we are progressing these issues and I support his view.

**4. Questions to Ministers Without Notice - The Chief Minister**

**The Bailiff:**

I know there are a number of other Members who are still on the list but I am afraid that brings time to an end. We come to the second tier of questioning which is to the Chief Minister.

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

As the Chief Minister is aware, the House agreed that at the end January we should have a review of the unelected officers or the Crown Officers and we should have had a report and proposition naming the chairman and the panel members. Will the Chief Minister appraise Members as to why we still have not had the names of the chairman or the panel to carry out this review?

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

Yes, because I am anxious that we should have the best possible chairman for this important review and in order to achieve that person we have had to look high and low. We are still looking. I am more confident now than I was that we will find someone in the near future but at this time we do not have a name. Until that name is available we cannot proceed but I remain anxious that we can deliver these objectives and I appreciate the time delay which has occurred and which is regrettable.

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

I had this answer a month ago from the Chief Minister. Can I ask what steps he has taken to advertise the post rather than ask people if they would like to do it?

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

The difficulty with advertising it is one tends to get a very mixed response and has a significant amount of weeding out to do. If we can find a way of doing it without having to go through that process I would prefer to do that. If we cannot find a way without doing that, then certainly we shall advertise.

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

In his written answer to question 4670 given earlier in the day, the Chief Minister states that clearly Hay were not comparing salaries in the Island based on job match places and, in the documentation presented to the States over the debate, are to freeze States workers' pay. Will he accept that nonetheless although Hay did not present that information, it was presented by his department in their comments as if it were a local comparison between private and public sector and thus it managed to mislead the House as to what the statements were about? Will he accept that he has misled the House and will he apologise for doing so during the debate on pay freeze last time?

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

I do not believe I did mislead the House at all. When one makes comparisons, one tries to make comparisons on a like-for-like basis. When Hay did that survey in 2006 they did their best to carry it out on a like-for-like basis acknowledging that there were not the equivalent police officers in the private sector and therefore looked for equivalent job matches in order to get that very comparison which the Deputy and others want to have.

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

I do not question the work of the Hay Group, I question the presentation by his department of the figures that were produced. Does he not accept, and I will give him a second chance before I put it in writing, that he may have been guilty of misleading the House and if so will he apologise for that?

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

I do not believe I am guilty of misleading the House. If Members of the House have misread into what was written something which is different, then I can understand and appreciate their concern. I believe that what was said was perfectly straight forward.

#### **4.3 Deputy J.A. Hilton:**

The North of St. Helier Master Plan aside, is the Chief Minister still committed to delivering the town park on the Gas Place site as set out in the terms of reference agreed by the Council of Ministers in the autumn of 2007 when setting up the steering group, whereby the Council of Ministers confirmed a green park across the site not compromised by any development whatsoever?

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

I am very confident that the working group looking at the North of St. Helier Master Plan is well aware of the States decision taken in 2007 and is also well aware of the need to make the best possible opportunities for the whole area in the way ahead. I await the report of that group with interest and I believe that they are equally committed to delivering a town park as part of an overall project to enhance the North of St. Helier and, indeed, the whole town of St. Helier.

#### **4.4 Deputy K.C. Lewis:**

At present we have, I believe, over 900 people registered unemployed. Does the Chief Minister in consultation with his Minister for Economic Development believe that licences should be drastically reduced for companies employing low-skilled foreign labour to give locals a chance?

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

Yes, I think those who attended the migration policy presentation last week at the museum will be well aware of the way in which the current Regulation of Undertakings Law is being applied in the

current circumstances and is, indeed, tightening up on the way in which unskilled labour may need to be used. Those licences are reviewed as they come up for renewal in a constantly changing climate.

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

I would like to ask the Chief Minister whether he agrees with blanket confidentiality agreements on papers that are given to Scrutiny Panels which prevent proper scrutiny and investigation of the issues being considered. I will give him an example. The Depositor Protection Scheme which questions have just been asked about is subject to confidentiality clauses; the 12-inches thick of paper I have been told cannot be spoken about elsewhere. Only the chairman has had access to that. We have asked the department to go through and sift out what is genuinely confidential or not. Does he believe that this is the best way of having scrutiny?

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

Wherever possible the scrutiny process should have the fullest amount of information available to it. On the other hand, there will be matters of commercial confidentiality, not just with the Depositor Compensation Scheme but in many other cases as well. It is up to the Scrutiny Panel in conjunction with the Minister to see how the information can best be obtained by the Panel in a way which does not prejudice that commercial confidentiality and the way in which by having the confidentiality the Minister is best advised as to the way to proceed. The Scrutiny Panel equally needs to be well advised and well informed and it is how that can be achieved, without breaking that confidentiality, which needs to be discussed between the parties concerned.

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

Just following through on that, I might add that the Scrutiny Panel did ask the Minister at a hearing to go through it and sift through what was relevant or not. We have still not heard back from them; it is still confidential.

#### **The Bailiff:**

Was that a supplementary, Deputy, or not?

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

Sorry, I will let it go.

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

This follows on nicely from Deputy Higgins. As Chief Minister, could the Chief Minister not get a policy with all the Ministers who work with Scrutiny Panels that they are exactly the same? Because some Scrutiny Panels work very well with their Ministers. They get the information very timely and they work along. Would the Minister not agree because there is no set policy across all ministries with scrutiny we are in a fine mess because Economic Development would not release very important papers which we are now told are basically not reinventing the wheel, these schemes are all over Europe and the U.K. So, which is it, but can the Minister please use his title as Chief Minister and get his band together?

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

I certainly agree that there should be common and high standards of communication between Ministers and the relevant Scrutiny Panels. The questioner suggests that may at the current time be patchy. I would suggest that maybe the experience between different Panels is also uneven. What we need to do is to work together on both sides to ensure that Scrutiny works in an effective way, and that is one reason why I intend to continue to have regular meetings with the Chairmen's Committee to see how these sort of things can be developed.

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

The Chief Minister was invited to partake in sea tucker trials for charity at Bonne Nuit this Saturday. I understand he is not going to attend. Could he share with us his views, whether it is because he does not like seafood or because he has some other more committing engagement?

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

I should love to have been attending the Bonne Nuit Festival this weekend and I hope that other Members will have the opportunity to attend even though I cannot. The only reason why I have had to decline is because I shall be out of the Island this weekend. I have to go to the U.K. to collect my grandchildren coming over from America who are still under 16 and so that means I am out of the Island for this event, which I am sad to miss. I do like seafood.

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

As we come up to the Business Plan, will the Chief Minister assure the House that the many good aims and objectives in the Strategic Plan agreed by Members will be carried out, or does the ideological imperative of keeping Jersey bottom of the league with regard to government expenditure matter more than all these fine words?

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

I think expenditure was part of the Strategic Plan, but I hope that the Deputy of St. Mary and other Members will come to the presentation being given in a couple of weeks' time by the Minister for Treasury and Resources and myself about the Business Plan, which I believe does, indeed, follow on and should follow on from the Strategic Plan in trying to put those strategic objectives into practice. Clearly, there will be conflicting demands between different areas in this and one of the difficulties in doing this is trying to please everybody. Certainly, it should not be focussing simply on the financial aspects but certainly the Business Plan does have to come up with spending within certain constraints.

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

A supplementary. Which will take priority? The Chief Minister has not answered the question. Which will take precedence: fulfilling the needs of our society or keeping taxes low?

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

I think part of the need to fulfil the needs of society would involve keeping taxes reasonably low but sufficient to meet the demands of society. But that is a matter for all States Members at the time of the Business Plan to decide just how much spending they wish to incur and the consequences of doing that.

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

Does the Minister not agree that Scrutiny is not working, especially in light of the recent report on Income Support where the Minister has stated that Scrutiny have been misinformed, however he was invited to a hearing in order to inform?

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

My experience of Scrutiny over the past 3 years and a bit has been very positive and I believe in many cases Scrutiny works very well indeed. As I said in answer to an earlier question, it is sometimes patchy and it can vary from Panel to Panel. Scrutiny works well provided there is good information and good understanding on both sides and that the Scrutiny is based on factual information and not on personal prejudices and hypotheses. I am not going to comment on any particular Scrutiny report. If some people believe that there is room for improvement then we should all work together to try to achieve that improvement.

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

Given the answer to question 4668 by the Minister for Health and Social Services earlier today pointing to the reasons for nurses leaving the profession were: cost of living in Jersey too high; better remuneration elsewhere; and increased local workloads, what steps will the Chief Minister take to make this Island once again attractive to workers both local and foreign in order to man our essential services?

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

This Island will not be attractive to nurses or any other employees if the rate of inflation were to rise unnecessarily or if the Island were to become uncompetitive. One has to balance the need for paying a realistic salary and competitive salary with the need to maintain equilibrium in our costs. It is up to the States to decide how it is done and I believe in the current time the balance we have is quite correct and that the number of nurses and the vacancies we have in the department is not untypical of what has been happening for some time.

**4.10.1 Deputy G.P. Southern:**

A supplementary. Does he believe that a pay freeze across the public sector is the way forward and will he agree to put competitive salaries in the field particularly of nurses in comparison with Guernsey and the U.K.?

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

I entirely believe that a pay freeze for the current year is very much the right course of action to do and is mirroring what is happening in the private sector already. I think if we are to remain competitive and if the private sector is to remain competitive we need to maintain this pay freeze and that policy will be debated in the House in due course. I believe wholeheartedly that it is the right policy at the right time for all States employees to match that in the private sector.

**4.11 Deputy S. Pitman:**

Does the Chief Minister think it appropriate that the legal adviser to the Council of Ministers is also responsible for deciding whether or not to prosecute any former or current States employee?

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

As a personal question, the answer is yes, I do, but that issue I am sure can be dealt with quite adequately by the Attorney General himself and will no doubt form part of the ongoing review. I am totally confident that there is no conflict whatsoever.

**4.11.1 Deputy S. Pitman:**

Could the Chief Minister explain why he thinks that there is no conflict?

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

Yes, because the Attorney General in making his decisions does it on a purely objective basis.

**4.12 Deputy G.P. Southern:**

In the light of the additional funding being directed towards apprenticeships in the fiscal stimulus plan, will the Chief Minister organise figures and deliver them to the House over the number of apprenticeships in the public and private sectors over the last decade in order that we can see what the trend has been and what the new figures mean?

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

I would like to think I could deliver that, but I cannot commit immediately to the private sector being in a position to give me detailed information for the last 10 years in a comprehensive and meaningful way. I should hate to produce misleading statistics, but to the extent that we can produce information which is helpful to understanding the argument I will do so. I would point out the fact is that we are providing funding to improve the opportunities for apprenticeship both in the

private sector and the public sector and I believe that that is the objective we should be looking at rather than trying to get historical information which is of perhaps relatively limited use but simply an additional cost burden we can well do without.

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

### **The Bailiff:**

Very well, I am afraid that brings questions to the Chief Minister to an end. There are no matters under J, so we come then to K, Statements on a Matter of Official Responsibility. The Minister for Health and Social Services will make a statement regarding the pandemic flu outbreak.

### **5. The Minister for Health and Social Services will make a statement regarding the pandemic flu outbreak**

#### **5.1 The Deputy of Trinity (The Minister for Health and Social Services):**

I know it is a long statement but it is an important one, so I hope Members will bear with me. As Members will be aware, pandemic flu - swine flu - has spread across the world rapidly and has reached our Island. Swine flu is highly transmittable, but even so it has surprised the international authorities as to how quickly it has spread and continues to do so exponentially. On 11th June the World Health Organisation declared a pandemic and it was the following day, 12th June, that the first case of swine flu was confirmed here in Jersey. As I now speak to Members, the number of confirmed cases of swine flu in Jersey was 24 but as of 9.00 a.m. this morning the number is now 38, although the number changes, as I said, almost daily. It has now been confirmed that the United Kingdom is one of the countries of the world with the highest level of infection, so much so that the Chief Medical Officer of England announced last week that the policy of his government is no longer one of containment but one of treating people as they become sick. This high level of infection together with this change of government policy on the mainland does not bode well for the Channel Islands given the transportation links and the pattern of travel between the jurisdictions which is likely to lead to further infection. As Members will readily appreciate, my department is tasked with leading on the management of pandemic flu. My department has been planning for the outbreak of pandemic flu for a number of years and we all envisaged that the pandemic threat would take the form of avian flu, H5N1. I must at this stage thank Members for voting significant resources for the pandemic flu preparedness plan which contained the States response to a pandemic focusing on getting ready to respond robustly to a human variety of avian flu. The decisions taken by the House then were very wise and prudent. Resources made available and the plans that were coming into place at that time have been redirected to this new threat. Many of the products which we have been able to purchase, the purchase of Tamiflu being the most noteworthy, are now being deployed to tackle this H1N1 threat. Again with great prudence we have entered into what we technically term advanced procurement agreements with 2 of the global pharmaceutical companies which will mean that when the H1N1 specific vaccine is manufactured Jersey will be one of the first jurisdictions to receive it. I will speak further about that specific vaccine later. An important task for clinicians and managers has been to predict what will be the pattern of infection here in Jersey. This is of vital importance if we are to plan effectively. Unless we can predict the pattern then we cannot plan for it; it is just as simple as that. It has been a very difficult task to predict the pattern of infection because patterns of previous pandemics here in Jersey and elsewhere cannot easily be transferred to what now might befall us. Of course, as cases increase across the world, the international authorities are coming to understand more and more about the scope and nature of this pandemic. Here in Jersey we are constantly updating the predicted pattern and will continue to do so. The prediction of the pattern of infection here in Jersey is something I want Members now to consider. What our experts believe, with some caveats

and qualifications given the uncertainty of what they are predicting, is that the most likely scenario is that cases will present in low volumes throughout the summer and then we will see a significant level of infection in the September/October period. This will last for 4 to 6 weeks' duration. I shall be making a further statement on the detail of this pattern at a later time. I will now turn to advise Members of the nature of our plan to meet this predicted pattern. While the U.K. Government has now decided to abandon its plans of containment, here in Jersey we will continue to contain the infection. I trust that we will be as successful in future weeks as we have been in the preceding period. Containment means that we will ask Islanders to stay at home if they have flu symptoms and that Islanders who are deemed to be suspected cases are administered the antiviral drug Tamiflu as are the close contacts of those suspected cases. I am very grateful to those Islanders who have either been suspected or confirmed of having swine flu for the high level of community responsibility they have shown in following this policy. The entire Island benefits from this behaviour. It is the department's intention to do what we can to contain swine flu until a pandemic specific vaccine is manufactured and delivered to Jersey in such quantities that all Islanders will receive it. It is possible for us to contain swine flu until that pandemic specific vaccine is available and administered to us all. This represents the best possible outcome for the Island as it confronts this illness. While this is our department's plan, other contingency plans exist in the event that this prediction is incorrect. The House will expect such contingency plans in such circumstances given the magnitude of what will confront us. Of vital importance to the containment of swine flu is the extensive campaign which Members will now be aware of. The basic message is to catch it, bin it, kill it. This extensive campaign is focused on adults and upon children at school. In this regard, I would like to place on record my thanks to the Minister for Education, Sport and Culture, his officers and the teachers for so ably and comprehensively delivering this message in schools well in time for the summer recess. We should all set an example by following that campaign and ensuring that we catch it, bin it, kill it. We should all be pleased and proud of the fact that the Jersey pandemic flu preparation plan is one of the most comprehensive in the world. We have stockpiled Tamiflu and other similar drugs. We have purchased equipment such as masks and breathing apparatus. We have plans to both mobilise the community and the general hospital and we have received tremendous support in this regard from Health and Social Services staff, G.P.s (general practitioners) and such other organisations as Family Nursing and Home Care. Very specific plans have been put in place to manage the demand which we believe will be placed upon the general hospital. In this regard, may I draw Members' attention to the written question put forward by Deputy Rondel. My answer is something that I would ask Members to consider and reflect upon. While a great deal has been done and we have a high level of preparedness, we should be in no doubt that managing the impact of swine flu will be a difficult task. If the predicted pattern of infection is confirmed, then my department as well as other important services such as Education, the Parishes and other supportive charitable agencies will have to work very hard, well beyond the call of duty, for a considerable period of time if the impact is to be minimised. It will be my intention to ensure that Members remain informed of developments throughout the summer months, and I shall be making a number of significant statements on exactly what we might expect, but I am confident of the facts and feel confident that I can share them with Members and the rest of our community. Thank you.

#### **5.1.1 Deputy R.G. Le Hérisier:**

I wonder if the Minister could say if it is to break out from this containment policy what planning is being done in co-operation with the Parishes and the Emergency Management Office should there be a high degree of absence from work by people like essential employees and so forth?

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

I would like to thank the Deputy for that question. I start with saying that is why it is so important that we all try and maintain the containment period. The pandemic flu planning group meet very regularly, not only with other staff within Health and Social Services but with Family Nursing

Services, the police and the Parishes and other charitable organisations, and good preparedness is in place.

**5.1.2 Connétable J. Gallichan of St. Mary:**

Bearing in mind the emphasis that is still being placed here on containment and the second part of the phrase “Catch it, bin it, kill it”, will the Minister go so far as to recommend the use of disposable tissues over and above handkerchiefs which, presumably, continue to harbour germs throughout the day and act as vectors for the spread of the disease?

**The Deputy of Trinity:**

Yes, I do. That is a very important message: “Catch it, bin it, kill it.” The use of disposable tissues is paramount in trying to maintain that.

**5.1.3 Deputy K.C. Lewis:**

I believe the Minister said that at the moment the cases are 38. Heaven forbid this should escalate to vast proportions, but are there plans to maybe close schools and public buildings should this turn into a real epidemic?

**The Deputy of Trinity:**

As you know, the schools are finished this week and we hope to continue that kind of public health education throughout the summer. If it is looking likely that schools may be closed, that will be done with full negotiations with everyone involved, including the Minister for Education, Sport and Culture, because that is a very big step.

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

I would like to congratulate the Minister and her department on getting the message out, as we discussed last time this Assembly assembled. Her Assistant Minister pointed out that any Islanders with flu-like symptoms should phone their G.P. for a home visit. I just wonder if she could reiterate and confirm that message by saying not only should they not go into their G.P.’s surgery but nor should they go into the accident and emergency with such symptoms; they must stay at home and call their G.P. for a home visit.

**The Deputy of Trinity:**

Absolutely, and I thank the Minister for bringing that up. That is extremely important that people should contact their G.P., stay at home and not go into the surgery and certainly not go into the A. and E. (Accident and Emergency) department.

**5.1.5 Deputy J.B. Fox:**

Not specifically to the Minister but to the Emergency Council which includes the Minister, with the increase that appears to be escalating, has the Emergency Council and the Minister considered the valuable skills that many retired people have in this Island and whether they will be drawing up a list of these skills which might benefit us all as a whole later should the situation get worse?

**The Deputy of Trinity:**

I am sure that the pandemic flu group have considered this. I am very much aware that there are added skills around the community and some of them may have now retired, and their skills can certainly be used. There is a community officer who will organise all that in the community.

**5.1.6 Senator A. Breckon:**

In her statement the Minister mentioned Tamiflu being used and also a specific vaccine becoming available. Can she explain what the difference is?

**The Deputy of Trinity:**

The Tamiflu is a drug that you give once it is confirmed that you have swine flu. Some patients, for whatever reason, are unable to take those tablets, because it is in tablet form. There is a drug called Relenza which is more of a vaccine but is very specific.

**The Bailiff:**

Does anybody else wish to ask questions? Very well, then just before moving on to Public Business could I draw Members' attention to 2 documents which have been presented. First of all, Draft Residential Tenancy (Jersey) Law, Projet 74, an amendment to the comments lodged by the Minister for Housing; secondly, Corporate Services Scrutiny Panel, Deemed Rent: Response to the Minister for Treasury and Resources.

**PUBLIC BUSINESS**

**6. Draft Sea Fisheries (Satellite Monitoring) (Jersey) Regulations 200- (P.56/2009)**

**The Bailiff:**

We move on to Public Business. The first item is the Draft Sea Fisheries (Satellite Monitoring) (Jersey) Regulations, Projet 56, lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Sea Fisheries (Satellite Monitoring) (Jersey) Regulations 200-; the States in pursuance of Articles 2 and 29 of the Sea Fisheries (Jersey) Law 1994, and having consulted with and obtained the concurrence of the Secretary of State, have made the following Regulations.

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

Can I ask my Assistant Minister to be rapporteur?

**6.1 The Connétable of St. Clement (Assistant Minister for Economic Development - rapporteur):**

Satellite monitoring of fishing vessels is an integral part of fisheries management throughout Europe and, indeed, the only area in Europe where vessels currently do not need the system is in our own territorial waters. We have an obligation under our agreement with the United Kingdom to mirror European fishing management legislation and these Regulations will help to put our house in order. Even Guernsey has similar legislation in place. The requirement to have the equipment fitted applies only to vessels over 15 metres and all Jersey boats of this length already have the system fitted so there are no financial implications for the fishermen. There is a full report attached to the proposition, so I propose the principles.

**The Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? The Deputy of St. John.

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

I notice the Minister mentioned that all our local vessels over 15 metres are fitted with these, which is good to hear. I just would like to know whether or not the measurements are taken by the Board of Trade or whether they are done by the Harbours Department, given that the Harbours Department appear to have a different measuring system to that of manufacturers, et cetera, when it comes to measuring vessels. If the Minister could confirm that the measurement is done off Island I would be very happy.

**6.1.2 Connétable D.W. Mezbourian of St. Lawrence:**

The Assistant Minister said that this legislation will have no financial impact on the Jersey-registered fishing fleet. However, in the report it does state that Jersey-registered vessels were able to apply originally for a subsidy from the Island in order to fit the equipment when it became necessary. Will he inform the House how much it has already cost the Island for this, please?

**The Bailiff:**

Does any other Member wish to speak on the principles? Very well, I call upon the Connétable to reply.

### **6.1.3 The Connétable of St. Clement:**

Quite honestly, I do not know who physically measures the fishing vessels, but I am quite happy to go with the Deputy and a measuring tape and check on any over which he is doubtful. To the Constable of St. Lawrence I would say these monitoring devices were fitted to the Jersey fleet many years ago and were subsidised by the Agriculture and Fisheries Department as part of the agreement. The amount that was invested at that time I really do not know, but I can find out for the Constable. I maintain the proposition.

**The Bailiff:**

All those in favour of adopting the principles kindly show? Those against? The principles are adopted. Now, this matter falls within the Economic Affairs Scrutiny Panel. Deputy Higgins, do you wish the matter to be referred to your panel?

**Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):**

No, Sir, we do not.

**The Bailiff:**

Thank you very much. So then we turn to the individual Regulations. How do you wish to take them?

**The Connétable of St. Clement:**

I would like to propose them *en bloc*. They are technical in nature reflecting the U.K. Regulations and I would simply wish to propose them and attempt to answer any questions there might be.

**The Bailiff:**

Very well, so you propose Regulations 1 to 20. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? Very well, all those in favour of adopting Regulations 1 to 20 kindly show? Those against? The Regulations are adopted. Do you propose them in Third Reading? Are they seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading kindly show? Those against? The Regulations are adopted.

## **7. Draft Sea Fisheries (Miscellaneous Provisions) (Amendment No. 5) (Jersey) Regulations (P.57/2009)**

**The Bailiff:**

We come next to the Draft Sea Fisheries (Miscellaneous Provisions) (Amendment No. 5) (Jersey) Regulations, Projet 57, lodged also by the Minister for Economic Development. I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Sea Fisheries (Miscellaneous Provisions) (Amendment No. 5) (Jersey) Regulations 200-. The States in pursuance of Articles 2 and 29 of the Sea Fisheries (Jersey) Law 1994 and having

consulted with the Secretary of State and obtained his concurrence have made the following Regulations.

### **7.1 The Connétable of St. Clement (Assistant Minister for Economic Development - rapporteur):**

As I mentioned just now, under the terms of the U.K./Jersey Fisheries Management Agreement we are obliged to introduce certain Regulations concerning the management of fishing effort. One such Regulation relates to the need for all commercial fishing vessels to operate under the authority of a fishing licence. The existing local Regulations concerning licensing only relate to the activities of all vessels in the Jersey territorial sea and Jersey vessels in part of the French territorial sea. It is, therefore, possible currently for a vessel to fish in areas outside of those covered by the Regulation and land catch in Jersey without the need for a licence. In terms of international fisheries management this leaves a loophole in the licensing framework and at a local level it creates a requirement for considerable resources to be deployed in order to secure a conviction against a fisherman suspected of unlicensed fishing in local waters. So this will close the loophole, and I propose the principles.

#### **The Bailiff:**

Are they seconded? [Seconded] Does any Member wish to speak on the principles? Deputy Le Hérissier.

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

In the report it says the U.K. Secretary of State's approval has to be gained. I wonder if the Assistant Minister could say whether in his view this is an interference with Jersey's autonomy.

#### **7.1.2 Senator A. Breckon:**

Regarding these Regulations and the policing of them, I wonder if the Assistant Minister could comment. I have received a number of reports recently about trawlers working in pairs in and around the coastal waters being fairly vigorous in what they are catching. Would these Regulations in fact ... and are we equipped, bearing in mind the earlier questions about the Norman Le Brocq and its activities, to police this if what people have said to me is correct?

#### **7.1.3 The Connétable of St. Lawrence:**

The report tells us that the Regulations effectively create an offence for a fisherman to land and sell catch from an unlicensed fishing boat. It also tells us that to license a fishing boat it is a significant cost, but it does not tell us what that cost is. Will the Assistant Minister advise the House, please?

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

Could the Minister tell us what happens if satellite fishing boats are used and all the produce goes on to the mother ship given the satellite fishing personnel may not be carrying the licence but the mother ship is?

#### **The Bailiff:**

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

#### **7.1.5 The Connétable of St. Clement:**

Yes, on the face of it Deputy Le Hérissier could be right, this looks like interference from the U.K. authorities, but in fact it was part of the agreement when our territorial sea was extended to 12 miles that any fisheries legislation would be approved by the Secretary of State for Constitutional Affairs before coming to the States, and that is simply why this has to happen and why sometimes it takes many years before draft legislation comes to the House. That was part of the agreement we had to make when we had our territorial sea extended. This has nothing to do with pair trawling I would say to Senator Breckon. The vessels he is talking about, of course, would be licensed, would

have their quotas and everything else, and so providing they are sticking to their quotas and so on there would be no involvement with this particular legislation. We are talking here about unlicensed fishing vessels. The cost of a fishing licence would depend on the size of the vessel, but it could be anything between £15,000 and £40,000 depending on the type of vessel involved. To the Deputy of St. John, again it has nothing to do with the previous legislation of satellite monitoring.

**The Deputy of St. John:**

Can I re-put the question? I am talking about satellite craft, in other words a number of craft feeding the main vessel.

**The Connétable of St. Clement:**

If this was to happen, if an unlicensed fishing vessel was feeding a licensed fishing vessel, an offence would be committed because under the current legislation, which would remain in place, fishing from an unlicensed vessel is only permitted for recreational purposes. So an offence would in that case be committed and clearly would have to be policed. When we have our Norman Le Brocq back it will be policed extremely efficiently. I maintain the principles.

**The Bailiff:**

Very well, all those in favour of adopting the principles kindly show? Those against? The principles are adopted. Deputy Higgins, do you wish this matter to be referred to your panel?

**Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):**

No, Sir, again.

**The Bailiff:**

Very well. There are 2 Regulations here, Assistant Minister. Do you propose them *en bloc*?

**The Connétable of St. Clement:**

I propose them *en bloc* and will attempt to answer any further questions but I think they are self-explanatory.

**The Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on either of the Regulations? All those in favour of adopting Regulations 1 and 2 kindly show? Those against? The Regulations are adopted. Do you propose them in Third Reading? Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading kindly show? Those against? They are adopted in Third Reading.

**The Connétable of St. Clement:**

In view of those Regulations having been adopted, could I take this opportunity to withdraw Projet 58, the Bag Limit legislation. Now that we have this in place it is not so essential.

**The Bailiff:**

So you are withdrawing the Bag Limit Regulations?

**The Connétable of St. Clement:**

Yes, Projet 58, I believe it is.

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

In that case, could I take the opportunity to withdraw 106, then, please?

**The Bailiff:**

Very well, 106 is also withdrawn.

## **8. Television Licences for Persons Over 75 (P.100/2009)**

### **The Bailiff:**

We come next to Television Licences for Persons Over 75, Projet 100, lodged by Deputy Tadier. I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion (a) to agree that all persons aged 75 years and over living in domestic accommodation should be eligible for free television licences from 1st January 2010 and to request the Minister for Social Security to take the necessary steps to amend the current means-tested scheme to implement this proposal; and (b) to request the Chief Minister, in consultation with the Minister for Treasury and Resources, to make adequate provision in the Draft Annual Business Plan 2010, and to then make appropriate provision in future Annual Business Plans, to meet the cost of the scheme.

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

Members will be perhaps slightly bemused at the fact that I have been passing some information out. I am not trying to indoctrinate any Members by any means. There is a concrete reason why I have taken the liberty, for listeners at home, to hand out my Deputy's manifesto for the District of St. Brelade No. 2, for which I stood in November last year. There is more than one reason that I bring this proposition today. I know it is not a new proposition and Members I hope will be pleased to hear that I do not intend to speak for too long. I believe that the arguments are fairly well rehearsed with this particular proposition. I also believe that at the end of the day it is a simple political decision to make. Nonetheless, there are some arguments that need to be made so I will keep it to a bare minimum. The reason I have handed out the manifesto partly is to show how much I have aged in the last 6 months. It is a phenomenon which besets all politicians who start off looking young, like Bill Clinton, Tony Blair, and then within a few years they end up with grey hairs, something which is already starting. I trust with that the wisdom will come along. On a more serious note, the reason I have disseminated this information is largely because I believe as States Members we have a duty to the public to maintain our integrity. We know that in Jersey there are low turnouts at elections and one of the reasons suggested for this is because simply the public do not have confidence in politicians. We have seen this being manifested in the U.K. at the moment. They simply do not trust what one says. So, if nothing else, it is really just to draw Members' attention to the back of the pamphlet where I set out what I would like to do and what my values are. The fourth point down below population growth, below the need for reform and after the point where I highlight my opposition to G.S.T. (Goods and Services Tax), I say quite simply I will fight for free T.V. (television) licences for all senior citizens over 75, and that is what I am doing here today. Win, lose, at least I will be keeping my promise to the electorate of St. Brelade No. 2, which I hope that all Members would take seriously. If you say something in your election manifesto, for example if you say you are against G.S.T, do not change your mind 3 months later and say: "Well, I am not really against G.S.T. anymore. Let us vote to keep exemptions", that kind of thing. So, hopefully at least I am doing what I have been elected to do. Whether other Members agree with that or not is a different issue. So, moving on to the main part, I do not want to reinvent the wheel here. I have written a fairly concise report, so if Members will indulge me I will simply proceed to read that out and embellish where necessary. Before I do that, let us just say that there are 2 main arguments which I can see against adopting this proposition. The main one would revolve first of all around means testing. Those who are in favour of means testing would obviously not want to support this. The second perhaps topical argument against it would be to say that there is not enough money available at the moment. I do not want to talk in

clichés about the current economic situation, but what we should be talking about really is that we either have the money or we do not, and I suspect that will be a strong argument which is put forward perhaps by Members who would in other circumstances be supportive of this type of proposition. Those are fair points, but I will try to counter them as best as I can. Of course, as I mentioned, the question of whether or not over-75s in Jersey should receive T.V. licences for free is not a new one. There have been several propositions in different forms brought to the States in the last few years and, as I have said, the arguments are well rehearsed. It has been said in the past that it is not fair, for example, that a millionaire should receive a free T.V. licence when they can well afford to pay for one, with this ethos being applied more generally as an argument in favour of means testing. Of course, while this argument does hold a superficial attraction it should be pointed out that the States have already set other precedents against means testing. I will give 2 here and even venture to give a third. The first one, of course, is the provision for childcare which I believe was passed last year, I think, or certainly very recently, when the States voted to support free childcare for all 3 to 4 year-olds for up to 20 hours a week. Again, this was not means tested. I believe that was quite right that it should not be means tested, but that is often an argument which certainly the old lobby, if I can call them that, probably should try and find a different phrase. But certainly Age Concern have expressed their concern at that insofar as on the one hand we seem to be saying that we are quite happy to give 3 and 4 year-olds free childcare even if they have millionaire parents, presumably, but on the other hand we are not willing to give an across the board benefit to people who, let us face it, are not 65 year-olds. That is not what we are talking about. We are not talking about giving free T.V. licences to all pensioners. We are not even talking about giving it to people over 70. It is people who are 75, been working hard for big portions of their life, may or may not have paid tax, and we are basically just saying ... my main argument here is that certainly they deserve better than that. The second example is with States Members' pay. From 1st January 2004 Members who were here at the time will remember that means testing was rejected in favour of equal pay for all. Now, this was certainly something which was quite controversial, something I believe was ultimately right. I think it was right that all Members receive the same amount of pay, perhaps for doing different levels of work and that is an argument for a different day, but nonetheless it was passed and I believe that was the correct decision to make at the time. A third example is not written down but let us use it anyway, the example of G.S.T. G.S.T. by its very nature is not means tested. It affects everyone in society. You pay it whether you are very rich or very poor. In fact, that was put forward as one of the positive arguments by proponents of G.S.T. saying that it hits the rich, people who might otherwise be able to avoid tax by the intricate methods that they have to do so. They have to pay G.S.T. Likewise, the poor pay it. So by its very nature the rich in this context are paying G.S.T., they are paying lots of other taxes and they are not getting any benefit in this instance. So, this is not simply a matter of equality or consistency, however. For me this is about how we value and treat O.A.P.s (old age pensioners) and acknowledge the contribution they have made and continue to make to our Island community. It also acknowledges that the needs and sensibilities of our elderly residents are often different from that of the working population. Many over-75s will live alone and the T.V. and the radio, while of course providing information and entertainment, is also a vital link to the outside world. For others it is also perhaps a friend or comforting voice in the midst of their homes. Speaking to the local representative of Age Concern, as I mentioned earlier, she voiced her concerns that the elderly were being attacked from all sides. As pensioners come under increasing financial pressures due to a combination of increasing fuel and energy costs, low interest returns on savings and the added burden of G.S.T, one has to ask the question what kind of message are we sending out to these people, asking them to pay for a service which if living in the U.K., incidentally, would be given to them for free. Incidentally, we all know the lady concerned. She is a very prominent figure and she is very good at speaking out on behalf of those in Age Concern. I believe many of you may know her politically from the past and she may even have signed your nomination papers in some cases, so this is not somebody who is associated normally with the fringe of centre left, as you might call them. This is somebody who is prominent in our society

who is saying these things and saying it is simply not right that we should be discriminating against people on these grounds. Already this year the States has shown that it has a social conscience when it comes to looking after the most vulnerable in our society, and I am confident that once again we will send a strong message of support out to the elderly in Jersey that they are valued. Now, I will draw attention to when we talk about the most vulnerable it is not simply a question of money. I think this is what really misses the point in the context of the elderly in Jersey. It does not seem appropriate, there may be arguments in other contexts for means testing - it is not something I really want to go down that route today - but the elderly by their very natures, as I mentioned, do have different sensibilities and needs. If they happen to have an income which is slightly over the threshold that does not necessarily mean that we should not be giving them a free T.V. licence. The question, I guess, ultimately that needs to be asked is should we be giving anyone free T.V. licences, but if it has been deemed that we are going to give some T.V. licences then it seems appropriate that we make that available to everyone. This proposition is a way of acknowledging the contribution that these members of our society have made and aims to give something back without discriminating on financial grounds or using the tiresome excuse of the current economic climate. So, implicitly what I am saying there is that for the purposes of the debate ideally I would like to banish that particular phrase; maybe if we can try and find other ways to talk about it. As I suggested, instead of using the argument "current economic climate" - as I have said before, there is always a current economic climate - just simply say we do not have the money at the moment, we would like to do that ... or, in fact, say we would not like to do this if you do not agree with it, but let us talk candidly and plainly. So, let us not use that as a convenient way of avoiding what is effectively our moral responsibility. On the back page, I have just made a couple of points there which may help Members in their deliberations as to whether to support this proposition or not. A few bullet points: the first one, U.K. residents over 75 years old currently benefit from free T.V. licences. That is a fact. That is the case as it stands in the U.K. The second point, a T.V. licence costs £142.50 for colour and £48 for black and white, and that is excluding G.S.T. I imagine you do not see many black and whites around, but there may be some people who are forced to make do with that because they cannot afford a full licence. Let us just hope that they do not watch a lot of snooker. All 75 year-olds, a third point, have contributed and continue to contribute to our Island on many different levels. This is a particular point that I would like to emphasise because again I have said that some people for whatever reason may not have contributed in terms of tax, although they certainly are now with G.S.T., but we know that charity shops, for example, for want of a better example, would be crippled were it not for the very good work that elder members of our community put in. They may be 65, but often they ... still 75, we know people of that age are still very active nowadays, and that is something which I am sure the House would like to acknowledge, the very good work that they do, irrespective of what the outcome of this debate is. Again, to emphasise, childcare for 3 and 4 year-olds in Jersey is not means tested. So just ask yourself the question: if Members are going to vote against this, how did you vote in that previous one? How would you have voted? Is it consistent to on the one hand say: "I am quite happy for children to be educated for free at nursery level, it is perfectly good" but are you being consistent in your ideas if you reject this argument? The next point, means testing can lead to arbitrary outcomes with those falling just outside the threshold feeling somehow cheated, and this is a big problem, I believe, because just because someone has a certain amount of income, we do not always know what their outgoings are. They may have particularly high rent. As I have mentioned before, we know that rents in the private sector in particular are going through the roof, and so while you might just be earning ... let us have a look. It is about £14,000 to £15,000 a year. If you are paying the majority of that in rent and on food, then you do not necessarily have the resources available to pay for a T.V. licence. The last point is wealthy residents. It may sound slightly strange for me to be saying this, but wealthy residents will have contributed more in terms of actual taxation, while some low earners may never have had to pay tax. So, logically, it seems strange, therefore, that the latter should get a free T.V. licence and not the former. Surely in a logical world we should be saying: "Well, if anyone deserves a free T.V. licence it should be the

ones who have paid for it through their taxation.” By all means, give the lower income ones a T.V. licence as well, but it seems very perverse, in fact, to be saying: “You cannot have a T.V. licence.” They are the ones who have probably contributed the most for it. It is really just a token. Have we really come to a point where we have to discriminate for the sake of £150 a year or less and say: “You cannot have a T.V. licence. You are 75, thank you very much, we will pay lip service to the great work and contribution. You may have had children and given up lots of your time or contributed to Island life in other ways, but we cannot even do that for you” when it has been done in the U.K. So I would ask Members not to so much think of the money that it would cost; rather, think of the money that we have been saving all these years by depriving these members of society from what has been rightfully theirs. So, in fact, now I am just asking Members to give them what they should be having. We can use the money that we have saved from all those years to start paying for what they deserve now. Just a couple more points. We talked about low hanging fruit earlier on, so I know I will have a second bite of the cherry, but I will try and get the main part of my arguments out before I come to the financial and manpower implications for this. Just to quote a couple of people or a couple of thinkers on the subject of means testing, because I know that will be one of the sticking points, I will just quote: “Means tests create transaction costs which increase the price of accessing programmes and services.” So once you start requiring people to fill out forms providing proof of income, et cetera, you will always discourage some people who qualify for the benefit from applying for it, and this makes it harder for some people who need the programme most to take advantage of it. That is one of the arguments. Also, the same commentator ... I do have the quote, it is something from my research on the internet, various thinkers on it, so I do have the links if anyone needs them. They go on to talk about stigmatisation and that basically there is a great stigma for many people in having to admit that: “Because I earned such a low amount I come under the threshold. I am what the state has deemed poor and, therefore, I must go and claim this money.” If we did not have any means testing - and it may sound slightly contradictory but I will explain why it is not - I believe that all that would happen is that the people who really do need the free T.V. licences would be more inclined to go and claim them because the stigma would be removed. On the other hand, I do not think that across the board you would be getting people who really can afford to pay T.V. licences, your millionaires, I do not believe they would be so cynical or mercenary to just turn up at Mr. Gorst’s desk and say: “I want my £150 T.V. licence” because I imagine when you are that well off, and even when you are not, you value your time perhaps a lot more than you do the hassle of doing these things. I think that is also what happens under the current system. People just simply value their time too much and they do not go and claim what is rightfully theirs. So, those are the bulk of the arguments. Let us just look, as I sum up, about the financial and manpower implications. You will see that there is a tangible cost involved with this. We cannot get away from that. I would say that the figure that has been suggested here, the figure which has to be budgeted for of £559,450, while that may be the actual budget requirement, that is certainly not the figure that it will cost, the reason being that currently everyone who can claim does not claim. Now, I have not been able to find the actual statistics and this has been an issue partly because they are not held within the departments. This is an issue for Back-Benchers in general. I have sent emails about it. We certainly know that everyone who can claim a benefit does not claim the benefit. So, the figure we have here would be if every possible 75 year-old in Jersey did tomorrow or whenever the law was passed line up and say: “I want this free T.V. licence.” So, that is the figure we are talking about. I have been sending emails back and forward between Social Security, between the Tax Department and I have not been able to find the actual figures which at the moment would represent the actual proportion. But let us say 50 to 60 per cent currently claim a T.V. licence. There is no reason to think that proportion would go up. In fact, you would presume it would go down because the more wealthy members of society I suggest would not try and claim a T.V. licence. So I cannot give any concrete figures for the reason explained, but I would just bear in mind that it will be significantly less than that. Ultimately, I believe it is a political and moral decision. We want to be sending out a good, strong message to our senior citizens that while we might have neglected them in the past, while we may have

discriminated in the past vis-à-vis the situation in the U.K., that we are no longer going to do that and we will give them what is just and rightfully theirs and that we will find the money to do so as required. I ask Members to support this proposition.

**The Bailiff:**

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

**8.1.1 Senator T.J. Le Main:**

I do not normally try to stand up first, but I have never heard such a load of waffle in all my life. Well, I have for many years sat on charities, Age Concern for instance, but for goodness sake, we are in a very, very difficult situation at the moment. I have just listened ... well, I just cannot believe what I have heard. I sit alongside Ministers, the Ministers for Health, Home Affairs and Education, where they are taking major cuts at this present time on services that have much more benefits to the people that need them. Major cuts. It has been unbelievable the last few weeks in the Council of Ministers the way that we have been trying to listen to the public. The public do not want any more taxes. The public want us to cut back and there have been some major heartaches by these Ministers, particularly the 3 that I mentioned and including probably T.T.S. as well. It is time that we listened to the public. It is time we learnt that we can only spend what we have. It is time Deputy Tadier and others lived in the real world. We just cannot continue to give it all away. I just ... yes, Sir, I have taken my hands out of my pockets. **[Laughter]** But I really get annoyed sometimes when I hear certain Members, as I say, wanting to give it all away. £559,000: this is the burden that you are considering today if you go with this silly proposition. If you do that, the Members are either going to have to consider Ministers and departments taking it away from their existing budgets or raising taxes. Well, what sort of message is this, particularly in the next 2 or 3 years when we are going to have some further major downturn in the economy on tax income? This is a proposition in my view on the back of a cigarette packet. It just does not make sense to just give it away willy-nilly to everyone that can apply for it, whether they are wealthy or otherwise. I am a great supporter of the elderly and in my role at Housing I deal with elderly people and their problems on a daily basis. But I have not had one speak to me or any of them say to me that they want free television licences. They all recognise, certainly the people that we have been dealing with at Housing over the last few months where we are relocating people into new accommodation around Le Squez and Le Marais, they all understand with wonderment the wonderful accommodation that is coming online but they know there is a cost to it all. The Deputy says about sending a strong message to our elderly. Well, the elderly that I deal with on a daily basis have not been asking me just to give away more and more and more. They are, many of them, very, very responsible people who are living on States pensions and on fixed incomes but do not expect the public to continue to give more and more away. This is the old States of Jersey of years ago when Members used to pop up like that in this Chamber and bring forward propositions, more money, more money, we will give it away. I can remember the most ridiculous transport allowance when it came to the House. It ended up £6 million or £7 million at the end of the day and people were getting it whether they were living in homes, residential accommodation, and everybody was claiming it and the families were benefiting out of it. I urge Members today to take stock of the serious situation that this Island and other places are at the moment in this economic downturn. Yes, there are some people struggling and there always will be, but for goodness sake, we cannot continue to just give it all away to all and sundry. We have to take stock of the situation. We have to make sure that we do not continue to raise taxes. The public do not want us to raise taxes. They want us to cut back. The Ministers, particularly Health, Home Affairs, Education and T.T.S., have major problems on their hands at the moment in containing the demands for people that need their services. In fact, some of the services being provided by those 4 Ministers affect people on a daily basis and they are not going to be able to have the services that sometimes they require because of the cutbacks. **[Interruption]** No, I am not prepared to. At the end of the day,

we cannot continue, as I say, to give it all away. I urge Members to take stock and to talk to those Ministers, particularly the Minister for Health and Social Services and the Minister for Home Affairs and Deputy Hilton, who is in charge of the prison and what have you, about the need to make sure that the money is well spent. I urge Members today that this proposition is absolutely flawed in every way and to continue the way we are doing we are just going to bankrupt ourselves. I urge Members to vote against it.

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

You called me a little earlier than I was expecting. Never mind. I think firstly I would like to admire the good Deputy for his dogged determination to stick to his manifesto even in the face of massive evidence that mature judgment would have been the more appropriate course of action, more reminiscent of the Titanic where the band kept playing while the ship sank. Means testing is not appropriate in all cases. Currently people over the age of 65 get free bus passes and free health provision. I do not believe this is the time to give it to those that do not need it but the time to support those that do need it.

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

As requested by the Deputy, I am quite happy to speak candidly and plainly on this. It is very much a “nice to have”. Speaking to an over-75 year-old, he said to me: “Why should I not have it? I have done nothing my entire life but pay into the system. Why can I not have something back? Why should I not have the T.V. licence?” However, he then added: “But I appreciate that in the current economic situation this is not the time to be considering it.” I will not be supporting the proposition. Thank you.

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

You are probably wondering, Sir, in your first day in the Assembly as Bailiff if this is a repeat as it is certainly something that has been on the Order Paper in my day. I am going to support Deputy Tadier today and I am going to try to get Members to get their heads around a different future than a doomy, gloomy one. My father, I must confess, turned 75 this year, although he does not watch television, cannot stand it and refuses to have one. So, this is not going to benefit him in any way, shape or form. He would certainly be up for free jazz records, though. We have been recently seeing a more mature form of government in relation to consultation, and I would just like to read, cognisant of the time, from an email to a member of the public who wrote in recently about a planning application. The officer from the Planning Department said: “For general information, I have attached a link above to a department press release from a couple of weeks ago. The customer charter and associated documents referred in the release are part of an ongoing process to set out our commitment to customer service and service provision. I am only too aware of the context in which the department is often portrayed and it is perhaps notable that the good news press release evidencing the efforts that we go to in providing a professional, open and accountable service were not covered by the main Island media.” Now, Members might be wondering why I have read that out, especially as we are talking about free television licences for 75 year-olds. I think it is that future that I would like to draw this analogy. Televisions are a form of communication. They are the successor to the radio. In my father’s day there were no televisions; there was only the radio and governments put their message out ahead of the radio in newspapers. We are in a progressing society with a different way of doing things. Television is also changing and shortly it will be going from analogue to digital. There are issues about whether or not the T.V. licence and the BBC services attained in Jersey are equal to that in the U.K. We will leave that aside for another day. What I am trying to make Members focus on is whether or not it is sensible in line with our policies to provide communications to the elderly in their homes that send out the message that we would like them to receive and not relying upon the Island media to get that message out there. Now, we have newsletters from the Minister for Housing that are circulated on different housing schemes and hats off to him for that because he does a good job of informing the tenants in those affected

schemes of what is going on and I applaud him for that. We have that also in communications and question time in the States, statements, and also most recently by the Chief Minister's monthly email that he sends out setting out the state of the nation each month for us, his newsletter. So what would happen if we thought that this was a good investment to give people a form of communication, at the moment in television, that we could tap into and deliver a government service through? Because what we could do is we could give effective communication and full consultation to people within their own home. But probably the most important reason for doing it is that we are talking about people who are over 75. The arguments that are on the floor today are about whether or not they should be means tested and whether or not we can afford it. How many people have we seen discovered in their homes that have been dead for 3 or 4 weeks, or in their flats? What is the policy of the Health and Social Services Ministry right now and what is the policy of the States in general in keeping people in their homes? We are trying to do that more and more and more because we do not have the facilities within the Island or the infrastructure any longer to take people into care, and the more we do take them into care the greater the costs are, and the more onerous the position is for the States of Jersey because of the fact that so many of our Island's nursing homes are being closed and turned into flats. So, if we really want to achieve more people being cared for in their homes with good, effective forms of communication, we need to invest in something like this. Now, at the moment I would agree television is not necessarily the best way of doing that, but it certainly can be adapted and there certainly are communications that funnel their government's information into the homes of people, like Ceefax, for example, where people can access it 24 hours, 7 days a week. So if we have got an important message about pandemic flu and what to do and where to go and who to call, that information would be available to them and they would not be sitting in their home wondering whether or not they should be going to the doctor or A. and E. and we would not be sitting in here repeating the message. We would simply put it on the channel and tell them once and often: "If you want to know what is going on in Jersey, go to information services on channel 123." The arguments that the millionaires will be taking advantage of this are really laughable because certainly there will be people that can afford their own television licence that will be taking advantage of this, but is that all we are concerned about? Is that all we are concerned about, is those people that are getting something that they do not deserve? After all, the converse argument is they are paying so much more for their caviar on G.S.T. these days we are getting more from them in any event. They have paid so much more, because they are millionaires, over the years in taxes, and what is £175 a year for a colour T.V. licence? So, it is a non-starter. If you want to send a good, strong message out there, you have to start thinking differently. When I went to school they told us after our first year that the second year we would be having one computer lesson a month, and we had one computer in the whole school. We were told although we had 4 more years left to go we would not be taking computer classes because the computers would not factor that much in the future. One computer for the school. I went through 4 years with that computer and I was not allowed near it. If the States of Jersey does not start thinking into the future, it is going to be left in the past. This would be an investment into a modern form of communication with the elderly generations in this Island to make sure we are not taking them into care and we are caring for them in their own homes. It is a positive step forwards. Do not be penny wise and pound foolish.

## **LUNCHEON ADJOURNMENT PROPOSED**

**Senator S. Syvret:**

I propose the adjournment.

**The Bailiff:**

The adjournment is proposed. Just before we adjourn, can I inform Members that the Comité des Connétables has lodged the Draft Honorary Police (Repeals) (Jersey) Law, Projet 114. Very well, the Assembly adjourns until 2.15 p.m.

## **LUNCHEON ADJOURNMENT**

### **PUBLIC BUSINESS - resumption**

#### **Television Licences for Persons Over 75 (P.100/2009) (continued)**

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

Does any other Member wish to speak on the proposition?

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

I was a bit surprised and, indeed, disappointed to hear Senator Le Main speak to the House. I thought here we are, the people's champion, but now he is a member of the Council of Ministers he has changed the coat. If indeed he is the spokesman for the Council of Ministers, I am disappointed that such a hard line should be taken: "Now is not the time." In fact, there never will be a time because there will always be a bad time if we want to be negative. At the same time, why is this the right time? Here we are, we can turn a blind eye. We have heard this morning because Senator Le Main was concerned about how it would affect the budget at Home Affairs, how it would affect the budget at Health, and yet here we are quite prepared to spend over a million pound on keeping someone suspended on Health and half a million pounds keeping someone suspended on Home Affairs. Yet we have to have such a hard line that we cannot even think about those people who are 75 and over. In fact, I am a little disappointed also with the Treasury. I would have thought what we would have had is some proper figures to have told us really what the true cost would be. Because all we have here is it could cost in the region of £560,000. Indeed, it is almost like I think when Senator Le Main was talking about the back of a packet of cigarettes. These figures from Treasury appear to be the same, back of a packet of cigarettes. We could have been told exact costs or a much more appropriate cost than what we have got. It seems again a reason for not supporting it is the fear that a millionaire might get the money. What a negative way of thinking about it. The possibility of a millionaire getting something that that millionaire is not entitled to, yet we have heard a good reason from Deputy Tadier which quite makes it clear, millionaires do pay tax, even if they find a way of paying not as much as they ought to. They still pay probably a lot more tax than the rest of us here. Well, some of us, anyway. It could be said - again I am repeating, really, what Deputy Tadier said - how many people over 75 could really do with that even though they may be above the minimum amount? Here we are, an Island. It is unfortunate that the Minister for Treasury and Resources is not here because he wants to deny 75 year-olds something and yet we are living in a utopia. I still remember his speech I think about a month ago: "Jersey is Utopia." Well, Utopia Jersey certainly is not. However, in the U.K., which I do not think anyone would consider to be Utopia, they can give a non-discriminatory or free T.V. licence over there. So, again, it is rather unfortunate that on the one hand we say how well off we are, yet on the other hand we can deny people of 75 and over a T.V. licence on the mere pretence it could well go to a millionaire. I have always been a supporter of free T.V. licences for over-75s and I certainly am not interested in discriminatory legislation and also means testing, so one can obviously guess that I am going to be supporting the proposition and I would hope other Members will do so as well.

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

It is refreshing to be able to start a debate on what has become a chestnut of a topic once more. I too wish to start by referring to the Minister for Housing, Senator Le Main. He said when he rose to his feet: "It is not often I speak first in a debate" and then gave his reasons why we should be glad that he does not. Here he is, a man of the people, our very own Jersey cross between George

W. Bush and John Prescott. It was enlightening to hear him outdo Deputy Tadier on the waffle contest and he certainly topped Deputy Tadier by a country mile. However, what I want to do is thank Deputy Tadier as part of his introduction by bringing in his manifesto. How refreshing. I note not only point 4 that he referred to: "I will fight for free T.V. licences for all senior citizens over 75" and here he is doing exactly that, but I would point Members to bullet point 3 on his manifesto which says: "I have consistently opposed G.S.T. on the basis that it is a regressive tax" and he then promises to vote against G.S.T. and he did so. How many of us in the Chamber can do likewise? Why it was important that he referred to a manifesto is because indirectly what he was referring to when he talked about looking after our over-75s was promises made some time ago, and perhaps before Deputy Tadier got involved directly in local politics, where Senator Walker effectively promised as part of his manifesto - but not in print - to deliver exactly this proposition today, free television licences, non means tested for those over 75. He then reneged on it. How often that happens when we run elections in this particular small Island. What I would like to do, though, just briefly is to focus Members' minds on this idea of means testing. Now, Deputy Tadier pointed out and said: "Well, if we do give something free to the over-75s who happen to have savings and happen to have a relatively high income, what does that mean? The likelihood is they are still paying tax and, therefore, they are just getting back something that they are paying for or have paid for." Certainly that is an argument which can be used. What I would like to point out, too, and I refer to - this is a new version, it is not the well-thumbed that I have carried around since 2002 - the income distribution survey in 2002 which points out the fact that for pensioners either alone or together two-thirds of all pensioners on the Island are in the bottom 2 quintiles of the income distribution survey. That means that they are either not paying tax, they are too poor to pay tax, their income is not high enough, or they are just into the second quintile, which is when tax starts to be paid. So, two-thirds. If you are looking at means testing, what are we talking about? Two-thirds of pensioners are already means tested. They have low incomes. We know this. Sixty-six per cent in 2002, probably more now because the gap between the rich and the poor has undoubtedly got wider over the past few years so that is probably higher than 66 per cent. For evidence of that, we have to simply look at the household expenditure survey which was done in 2005-2006. That breaks it down further into the over-75s. What we see there in table 5.3 is that of the over-75s some 85 per cent, in fact, are in the lowest 2 quintiles. So, 85 per cent of the over-75s we know, without any means testing, without any forms, are the poorest in our society. They are in the bottom 2 quintiles. They are either not paying tax or just into paying tax. So we do not have to worry too much about means testing this benefit. The over-75s we know are in low income situations. So we can be fairly sure that without a means test we are directing this benefit, should we choose to direct it towards the over-75s, to the right areas. So, please, let us not hear this argument brought out and dragged around and given one more outing that we are somehow giving loads of money to the relatively wealthy. We are not. Over-65s, two-thirds; certainly over-75, something like 87 per cent of those are in the bottom 2 quintiles. So it has already been means tested. We are not giving away handfuls of money to the relatively wealthy. We know that the vast majority of the pensioners involved are relatively poor and, therefore, we can safely direct this benefit to them.

#### **8.1.7 Deputy T.M. Pitman:**

My speech will be very short if not so sweet, as Deputy Southern has nicked half my speech, but there we go. He said it very well, probably better than I could, so I will not really focus on the means testing issue because I think he has put that across very, very well. We are not ganging up on Senator Le Main, but when he talks about waffle and how we just cannot give things away, I do have to comment. I am not quite sure what the Senator based his criteria on here, but in my recent memory I seem to recall Senator Le Main and his department wasting twice what Deputy Tadier is on about with the contract mess down at Le Squez. So what a shame we cannot be a bit more consistent sometimes. Television, as Deputy Le Claire has mentioned, is for many older people the only communication they have with the outside world. Even more so, I would suggest the

television is often - and this is a very sad indictment of our society - the only friend many elderly people have. Yes, there is a financial cost and we are in difficult times, but some things I would suggest and on some occasions are worth more than just the obviously apparent financial outlay. This I believe is one of those cases. Certainly more so than the head in the sand do nothing approach that we have just seen with payouts to fat cat directors of Jersey Telecom. All I would really like to say in closing is that it is good to see Deputy Tadier confirming himself as a Centre-Left politician, i.e. someone who believes in trying to stick to what he said in his manifesto, as has already been alluded to. It is certainly worth voting for just on that sheer novelty value because, let us be honest, it does not happen here certainly once people become Ministers. Again, let us just look at this fact. G.S.T. exemptions, if only people had stuck to their promises there, some of these people who would benefit from Deputy Tadier's proposition would not be so badly off if some of those Ministers and Assistants had kept their word. The U.K. can do this, let us not forget, and I have to say if a Minister brought this proposition from Deputy Tadier it would go through without a blink, and I strongly suggest everyone supports it.

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

I am again, as I was last time, confused by this proposition, in particular the random nature of the proposer's choice of 75 years old. Why not 74? Why not 76? The Deputy tells us to be the same as the U.K. 75 would be a standard. In fact, why has the proposer chosen this mechanism of a person's age to determine whether they should be in receipt of a T.V. licence? Why, for example, does the Deputy not propose that a person over 6 foot 6 should be in receipt of a free T.V. licence? **[Interruption]** Or left-handers be in receipt of T.V. licences? The proposer has spoken and he will have an opportunity to reply, I understand is the protocol. I would prefer not to be interrupted. Why the random nature? I genuinely do not agree with Deputy Southern when he says that the majority of over-75s are desperately in need of free T.V. licences. I think it is too random a mechanism to identify those in need. I would prefer to use this over £500,000 and target it where it is needed, not in the random confetti-like nature. I say confetti-like nature because I liken this to standing on top of the steeple of St. Thomas' Church on a wedding day with a bag of confetti hoping to hit the bride and groom with some of it on a windy day. Maybe one or 2 pieces will hit them, but the rest will go to waste. I cannot support this. Deputy Hill and Deputy Trevor Pitman said we should support it because we are good at wasting money elsewhere. Deputy Trevor Pitman says the contracts at Le Squez, the "mess" he describes, or the "fat cat directors" Telecom bonuses, good example of waste of money so we can waste more money here as well. Deputy Hill said we are wasting money on suspensions so let us waste some money here as well. Two wrongs do not make a right ...

#### **The Bailiff:**

The Deputy of St. Martin, I think it was.

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

The Deputy of St. Martin. No, I cannot support this proposition. I am sorry, because I want - I genuinely want - to assist those in need. But this is not an efficient practical, viable way to do it; this random approach to supporting people is not the way to do it. I urge the House, do not take this route in order to assist those in genuine need and ask the House to reject this in short shrift.

#### **Deputy T.M. Pitman:**

Can I just ask for clarification? Is English the Minister's first language because it seems to suggest to me not, from what he has just said?

#### **8.1.9 Deputy A.K.F. Green:**

I am staggered we are talking about wasting money. I do not see it as a waste of money to support our elderly folk, many of which went through the occupation. I see it as giving them support. We have charged them G.S.T. on their food, which is immoral. Their savings are depreciating and the

interest from it is depreciating all the time. Their energy costs have gone up, I know the rest of the community, but do not forget the elderly folk use more energy than most of us because they are in all the time, so their energy costs have gone up in excess of 20 per cent. We can pay the compensations that we have talked about to investors, we can pay for loyalty bonuses but we cannot support the over-75. I think it is a disgrace. I will be supporting this proposition, I know that there will be a few people getting it that perhaps could afford to buy it and we could afford to pay for it, and I will tell you how we will pay for it; we will pay for it by some of the money we put aside for the pay awards for the public sector that we are not going to use. That is how we will pay for it and we will still have some left.

#### **8.1.10 Senator S. Syvret:**

I had not planned to speak in this debate but I am prompted to do so by the speech made by Senator Perchard. I mean, he made a lot of really rather strange assertions about why, as he called it, the random nature of this. Well, I mean, the age of 75 is a kind of ballpark age that is used in other jurisdictions and indeed here in some contexts for these kind of benefits, which is why the age of 75 has been chosen, and to compare it to possibly defining a benefit as being available only to our left-handers or people who are over 6 foot 6 is manifestly facetious. Senator Perchard also made another rather strange assertion in that he said he just did not believe Deputy Southern when the Deputy claimed that the majority of people over 75 are poorer, the poorer people in our society who do struggle. Now that was not a figure just plucked out of the air by Deputy Southern, that is the figure that is in the States of Jersey Statistics Department Income Distribution Survey, so it is quite clear that the significant majority, a very substantial majority of the over-75s in Jersey are poor, and that is the product of the Statistics Department, not of Deputy Southern. So I am afraid the Senator's analysis is quite wrong there, which is why this is, in fact, a good way of targeting a benefit at these individuals. Even if some of the people with a little more wealth get some of the benefit, well, I find the greater objection to that being expressed by some Members to be deeply inconsistent with certain other policies we have adopted. I mean, we have just heard from Deputy Green a couple of examples and as we can find, apparently without a moment's hesitation, a very substantial sum of money to compensate investors who gambled and lost. You know, it is sad for them, it is unfortunate but these things happen in life, and we are able to find bonus money for fat cat directors and yet here again we have people that have worked hard all their lives, who are elderly, who are the less well-off and we are having another one of these absurd arguments about how we cannot support this proposition to provide free T.V. licences. Well, it will be interesting to see how the vote goes on this. I mean, I am fully expecting and supporting the very enthusiastic and robust support for the proposition from Senator Routier, who did after all, conveniently before the recent elections, announce that all prescription charges would be cut simply on a total basis, quite regardless of any kind of need so that the millionaires can benefit from free prescriptions, and that apparently was just fine and dandy. Now, no doubt the Senator will say if he has changed his mind again: "Well, that is different because that is the Health Insurance Fund and people have paid into it." Well, you know, this is the Island's tax revenues which also people have paid into and they have a kind of claim on it for that basis. So it is the utter inconsistency, that here you can have a major and fundamental break with established policy in the Health Insurance Fund, suddenly giving free prescriptions to everybody, quite regardless of need, without even having undertaken a survey to see whether that was the most effective spend, the most efficient use of any surplus in the Health Insurance Fund. So again the inconsistency and the contradiction is quite remarkable. While this is going back a couple of years, 2 or 3 years, perhaps before some Members were in the Assembly, I remember one of the greater G.S.T. exemption debates and I was told that: "No, no, no, we could not possibly exempt food and things of that nature from G.S.T.", when I was attempting to get those changes through, because it would benefit the wealthy as well as the poor and yet, at that moment in time, although I succeeded if in nothing else in embarrassing them into changing their absurd position, but at that moment in time the Treasury position was they were going to exempt from G.S.T. property maintenance. So you could be dirt poor and you would be

having to pay tax on your bread and your fruit and your apples, you could be a multi-millionaire, be spending money on having your conservatory restored or your swimming pool fixed and you would get G.S.T. exempt treatment. It is just absolutely ridiculous. We also have a huge raft of tax breaks which are overly generous and able to be abused by the wealthy. They do not really need these kind of tax breaks, there is not a proven evidenced need for them nevertheless we are quite happy to have that system in place. We are happy to do things like massively rezone huge tracts of our countryside, quite out of step with the revision of the Island Plan causing huge incoherent damage and unjustified damage to our environment, yet we are happy to do that on the basis of assertions that there is a desperate need for retirement homes for elderly people in the countryside without any research being done whatsoever into the actual genuine need of this supposed cohort. How many of them need that kind of State intervention, that rezoning of the countryside. We just do not know, but I suspect a very substantial portion of them will take advantage of that particular policy simply as a means of liquidating their assets, downsizing and realising a capital sum. Yet, we are happy to engage in that policy even though it is just a benefit to the wealthy, by and large. The inconsistency frequently exhibited by this Assembly is absolutely remarkable. One of the things I think that perhaps sums up the performance of the States over the years and over the decades in these matters were the speeches delivered by Senator Le Main and the Constable of St. Peter. Both Members criticised Deputy Tadier for having come to this Assembly and making an attempt to fulfil and carry out one of his manifesto pledges. I find that quite a remarkable state of affairs where it can be seriously regarded in the eyes of some Members that somehow it is wrong and inappropriate and just not the done thing to come here, having been elected by the public on the basis of what you promised to do for them, and then be criticised by Members because you are trying to carry out your manifesto pledges. To try and say that they do not matter ...

#### **The Connétable of St. Peter:**

Point of clarification, I actually said I admire the good Deputy for his determination of sticking to his policies.

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

Yes, indeed, that is absolutely true. The Constable did say that but then he said that the Deputy was wrong because circumstances had changed and he ought to change his manifesto pledges with them because sticking to his manifesto pledges was like moving the deck chairs on the Titanic. That was what the Constable of St. Peter said. Now, I think there is something quite revealing in that attitude in that it reveals a kind of contempt, a disregard for the intelligence of the voting public. It kind of assumes that the voting public will vote for, well, just things that they might like to have when they vote for candidates in elections but the public just really do not understand the issues, and they are not really capable of making an intelligent informed decision. Once you get elected you have got to forget everything that the public chose when they were electing the Members and just go off and do your own thing instead, and cast aside your manifesto pledges, as indeed some Members do quite brazenly. Indeed I can see a couple of them smirking very cheerfully over there in the back row. It will be interesting to see what the electorate make of their betrayal of their manifesto pledges next time they are up for election. But I personally think that the public should be treated with a degree of respect. When they have elected Members on the basis of unambiguous promises there has to be a reasonable expectation that Members will in fact stick to those promises, and we cannot just abandon everything. We cannot just keep on being in the habit of casting aside the contract, because that is what it is, the contract of trust that we make with the voting public when we go to the polls. The position of the establishment Members in this is wholly inconsistent, as I have already described. One can find contradiction after contradiction after contradiction in their attitude to this kind of policy. The inconsistencies are simply breathtaking and likewise, personally, I think it is good that Members come here and do stick to their manifesto pledges and do try to carry them out. I will certainly be supporting the proposition.

#### **8.1.11 The Connétable of St. Mary:**

I just want to stick to the actual focus of what this is about. In other contexts recently, we have heard about the 3 Ts, timely, targeted and temporary. Well, this certainly is not temporary, it is not timely in the financial situation that we find ourselves at the moment, but most importantly I do not feel that it is targeted, and that is for several different reasons. I find it very hard to countenance spending £500,000 on what someone else has already described as a nice to have, it may be very important but it is not essential, when there are some things that we are failing miserably to provide for in the States at the moment. I am thinking, I have one simple example, the provision for the care and long term future care of children on the autistic spectrum. We are failing there, I believe, and that is the sort of targeting we should look at. But also, as regards to - and Deputy Tadier has pointed out quite rightly - for many elderly people that television is an incredibly important link with the community. It is their friend, it is always available night or day, whenever they cannot sleep, whatever. I am concerned as to what will happen in 12 to 18 months' time when we have the digital switchover. Will there be funds available to be targeted to helping the people who really need help to come to terms with the new equipment, perhaps even purchase new equipment or to find out how that is going to affect them. Because personally I would much rather see that we keep money targeted to the people who really need it, and we have a system at the moment that ensures that people who definitely really do need help with this are getting it. To see whether if there is any money that can be found in the Business Plan we can target it to make sure that they have continuity for something that has been said is a vital part of their life. I think targeting goes 2 ways. We have to make sure that not only we are using our money wisely, but also that if we give something to people and they get used to having it, for example, that the television licence in this case and the system that is already in place, that we have a way of continuing that, even if technology or circumstances change. So I do not feel that this proposition is targeted in a way that I can support, for that reason I will not be supporting it.

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

I would just like to pick up on a point that Deputy Southern made and repeated by Senator Syvret, referring to the outcome of the Income Distribution Survey carried out a few years ago, which suggested that 85 per cent of those over 75 were in the bottom 2 quintiles of the Income Distribution Survey and used that as justification for saying this was a good idea. Now, it strikes me that if that were the case then I do not see that the numbers make sense. But, in any case, what that does then suggest is that we ought to be targeting this benefit to those members of the population who are in those bottom 2 quintiles. I think this misses the point, that there is in existence at the current time, a scheme to help those people on low incomes who are over 75, there is the existing television benefit scheme, so in extending the scheme who does this benefit? It does not benefit those on the low income because they are already covered. It benefits those who are not on the low income scheme. In other words it delivers or directs its targeting totally in a contrary direction. It directs the targeting to those who are not picked up by the scheme at the current time. I think that that is, in the current climate, not the way we should be going. I would also point out that when the original scheme came in at least the proposer of that scheme identified a funding stream from which this could be met. It did not always meet with approval and was not always particularly logical, but at least he came up with a funding solution, whereas this has no funding solution other than to spend another £500,000 this year, next year and every year thereafter. Now as the Constable of St. Mary said, if we have £500,000 to spend additionally, which we do not, then I can think of far greater priorities at the current time than giving it to a selection of people over 75 who might want a television licence. I think this proposition is misguided, misplaced and should be rejected.

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

May I ask a question of the Chief Minister, I know I have spoken.

#### **The Bailiff:**

Do you want to seek clarification?

**The Deputy of St. Martin:**

Yes, the Minister mentioned about the sum of money being set aside when this came to the House originally. I was in the House. It was my understanding, the money was going to come from an extra penny or tuppence on a pint of alcohol and in my speech I said it was unfortunate we did not have a breakdown about the figures but is the Chief Minister in the position to say how much money has been raised each year from alcohol to pay for the licences? Indeed, is there more being raised from the sale of alcohol which would then pay for the licences or free T.V. licences?

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

I do not have the figure offhand. It is in the States accounts, I might be able to dig it out but certainly the increase in duty was meant to be the sum equivalent to that required to meet the £200,000-odd that this current scheme uses. So I think it would be on a like for like basis. I can try and find out the exact figure for the Deputy, but I do not have it immediately available.

**8.1.13 Senator S.C. Ferguson:**

Senator Le Main mentioned the collateral damage. The transportation allowance, this was targeted very carefully but the proposition was amended by a States Member so that instead of costing £600,000 a year it escalated to £6 million. We have got a situation here where, yes, it is very laudable but what is the increase in the number of over-75s. It is a bit of an unknown factor. Deputy Tadier reckons that we need to find around about £500,000. Health and Social Services spend around about £500,000 a year on smoking substitutes, patches, and so on, and if you are giving up smoking at £5-something a packet and you are buying gum at £13 a packet, why do we need to spend £500,000 a year on the substitutes? Yes, that could be used in this instance. The only problem with that is that it deals with the cost today and, as I have said, this unfortunately is an open ended open cheque. I am not at all certain that the line we should not be taking, which is one that is starting to be taken by the U.K. at the moment where they are questioning the value for money from the BBC. I hasten to add not our local station but the expenses at central office. You talk about fat cats here, look at the salaries and expenses that they are getting at the headquarters of the BBC. I mean, frankly, just because they do something in the U.K. does not mean that we should follow like sheep. Do we really want to be in the same state as the U.K. with their particular level of debt? Do we want to be the sort of society which taxes people in order to pay benefits? Frankly, it is better to leave money in people's pockets to spend as they wish. So before you vote on this ad hoc proposition think of it in context of the overall position of the Island. Frankly, I do wonder whether this should have been brought as an amendment to the Business Plan. I really cannot support such a proposition, it is extremely well meaning but it is just adding to spending without considering the context.

**8.1.14 Deputy M.R. Higgins:**

There are a number of Members of this Assembly who profess to have a social conscience, especially before the elections. But every time a matter such as this comes before the States where there are measures for the less well-off, or the needy or the disadvantaged, they always come up with the grounds: "We cannot afford it or the economic conditions will not allow it." Or that there is something more needy that needs to be provided first. With regard to the latter I look forward to the Constable of St. Mary's proposition to help the group that she wants to help. I do have a social conscience, a genuine one. I believe that we can afford it and, that as others have already demonstrated, Ministers can always find money for their pet projects or have wasted money repeatedly. Now, I do not believe, unlike Senator Le Main - I think it was Senator Le Main who said it - that it is a waste of money providing these licences because as others have said, many elderly people are not mobile. They are isolated in their homes away from the community and their only contact with the outside world is through television. The elderly already believe in this Island

that we do not care. They believe they are marginalised, and I really do believe it is time for this States to show we do care and I urge Members to support this proposition.

**8.1.15 Deputy A. Breckon:**

I think some times elderly people and others listening to some of these debates think that we are a bunch of skinflints because we have heard in questions this morning, I think there was about £700,000 came from under the radar for what it has cost for the police chief and something else. I mean, where has this money come from? It is not that long ago that the Council of Ministers had a proposal as to means test the Christmas bonus, and again that came and went without being implemented. I think they were embarrassed at the time. Part of the reason they were embarrassed, it was at the same time that a resident of Grouville was generously giving £100 to everyone over 70. So there we had the Executive of the Island debating about how they could punish a few pensioners who might be getting a Christmas bonus who perhaps they thought did not deserve it. Then we had somebody else out of their own pocket giving without means testing. I can say that some people who qualified did not collect this. They said: "Thank you very much, it is a nice gesture." Others did. With this what we are talking about is putting something in place. If people have the means and do not want to, it is quite simple, they need not apply for it. Perhaps we could leave it to the discretion of those over 75 who are in that situation to use their own discretion. If they want to take it they can, if we approve it. If they do not, they do not. It is a shame sometimes when we seem to be scurrying around with things like this and then things emerge with public expenditure that do us no credit whatsoever, and we have Member after Member standing up making excuses that we will target this, do that. We do not target States Members expenses, I would remind Members, that is given without any means test. It used to be means tested, it is not anymore. Perhaps we should start doing that. If we are so keen to means test things, then maybe we should start with what we do for ourselves. So I hope that Members will give this due consideration. I can well see the merit of it and I know that many elderly people, as others have said, do love their television. It is a bit of company for them, they do not see many other people sometimes. Many people live alone and this to them is something, it is a gesture. It is £142.50. When it is accumulated it is a few pounds but I think we can always find money for pet projects, and I think what the Deputy is proposing is well worth Members' consideration and I hope Members will test their own consciences and vote accordingly.

**8.1.16 Deputy J.M. Maçon:**

I will be very brief. I just want to say that just because you are old it does not mean that you are poor. It does not mean that you have not got any money. Yes, television to the elderly is very important but that does not mean that every elderly person cannot afford it. I am very much for means testing and I think that it is appropriate. If the current threshold on providing this benefit is too low then perhaps it needs to be addressed, because, as Deputy Green pointed out, inflation, G.S.T. and electricity has gone up, so perhaps that does need to be looked at and readdressed, but that is another proposition. Giving a benefit to the wealthy just goes against everything in my grain, and I will not be supporting this proposition.

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

I just want to pick up on a quite important thing that Senator Le Main said some time ago, and then make a few points more specifically narrowly about the proposition. But the point that Senator Le Main said was really very important in terms of the way we look at this in the context of other things that we do. He referred to the Council of Ministers making major cuts in services over the last 2 weeks. Major cuts in services over the last 2 weeks. Now when I asked the Chief Minister just before lunch to say which was going to be more important, sticking to the commitments in the Strategic Plan, and there are expensive commitments in the Strategic Plan, and rightly so, to protect our children for a start, and there are many, many others that obviously I will not go into. But those commitments are there and serve our heritage. The Chief Minister did not say we are going to cut

all these commitments. I do not remember that. Yet we have Senator Le Main telling us, maybe letting the cat out of the bag, that over the last 2 weeks there have been major cuts in services discussed at the Council of Ministers. So I have a **[Interruption]** ... well, you did, I wrote it down ... sorry, the Senator did and I wrote it down. That is the context and it bothers me because we are getting 2 different stories of the same events. Then the good Senator went on to link that to listening to the public. We should only spend what we have got, was his version of what the public are telling us, and we should not continue to raise taxes, by which I think he means to increase tax rates. Now, in fact, the reason that the public would hold that view, if they do, is because there is a drip drip of, I would call it, propaganda in this context in our local media, particularly one. I am referring to the public purse exercise which so angered me when I saw it, and I saw the way that it was couched, and the *J.E.P.* bless them, ran it for weeks and weeks. "Public purse, how can we save money?" The implication was public spending is bad. There was no invitation to the public of the Island to give praise, to give bouquets, to say such-and-such a service is really good and I am really pleased with it, I am happy and I love walking in Howard Davis Park. There was no outlet for people to say what was being done well by the States or by the public sector. There was only the opportunity to have a good moan. Well, I am sorry, that was manipulating public opinion in the direction of thinking in a certain way we must not raise taxes, we must bear down on public expenditure. Now, I do not disagree. We have to spend our money effectively and efficiently and as an advocate of good public services, of course, I would maintain that most strenuously. But I do think the position that Senator Le Main is attributing to the public is not the position they hold. They want proper heritage. We have seen letter after letter after letter in the paper about that particular issue saying: "We want our sites preserved. We want access to well-preserved, well-presented heritage sites. We want proper schools. We want a system for grants to people wanting to go on to higher education. We want a hospital that delivers good safe healthcare. We want systems that deliver sound financial management. That does not come for nothing. It will cost, but of course we will save money in the long run. There are 2 aspects to what I think the public do want, and it is a bit more nuanced than Senator Le Main's version. I think they demand good services from us. I think they want to feel safe when they go to hospital, they want their children to have the best possible education. But they also want good sound financial controls and management and they want to know that we are doing that job, which we are resolutely failing to do, as we have seen from the C.&A.G.'s (Comptroller and Auditor General) report and a lot of comment about that. So that is a more nuanced approach. It is not just people sitting out there saying we should not spend - I nearly said should not spend a penny - should not spend anything on public services. It is not like that. It is more nuanced than that. So that is the envelope in which we should be looking at this request for spending a little bit of money, and it is an additional £500,000. Now, there are 4 points specifically about this proposal I want to make, and people have forgotten, I think, to mention the value of older people. I think one or 2 people have mentioned it. But I want to reiterate that. I had, I think it was a phone call on my mobile, and somebody really had a go at me saying ... I forget exactly in which context and what proposition it was, but she said: "Do you not value older people? We are the ones who made the Island what it is" and then she carried on. I had forgotten that. Yes, indeed. Everything we see that is not the natural world, everything that is put there by human beings has been put there by previous generations, i.e. the people who are now old. It looks pretty ill, I think, to say: "Well, actually, we do not value you." So we do have to think about the message we are sending out. The second point I want to make is stigmatisation, which I think only the good Deputy mentioned in his opening speech, I think one person mentioned it. It is really important. Do we make another barrier? Do we make another thing where people have to crawl through and say: "Well, I am really poor so please can I have this?" I think we should be removing stigma not adding to it. There is something there about human dignity which we should look at quite carefully. In the context of what Deputy Southern said, that in fact most of the people over 75 are in the poorer two-fifths, so the removal of this stigma would not cost that much extra because I think a lot of people are not claiming at the moment. That seems to be borne out by the way the figures pan out. The third thing is free. There

is something attractive about things being free, and I think we sort of miss this. I see some puzzled looks but if I walk across the Royal Square, it is free. All that environment, and I remember looking out the last sitting we had and it was glorious sunshine and it was packed, absolutely packed, with people just sitting in the, sun walking across the Square, but that Square cost money. It cost money to lay that beautiful paving, it cost money to maintain, it cost money to keep the trees looking right, it costs. It is something we all provide for all of us and it is free. When I go to, for instance, there is the summer sunset concerts at Mont Grantez which are free, and it is a real buzz to go and have something just because you are entitled to it. You live in Jersey, you can go, and why not? I think there is something about that here as well. I am not saying make everything free, but there is a value in saying to people: "You can have it." There is something nice about that. The atmosphere apparently at Durrell yesterday was amazing because it was free. I mean everybody and their dog ... not and their dog actually. Everybody was at Durrell yesterday except me I think. But I had reports of it from the rest of the household and they said it was fantastic. Absolutely fantastic, and it was special because it was free. A final point I want to make, as I have made already, is that this does reach those in need because of the 85 per cent factor, which I did not know, from Deputy Southern. So I think for those 4 reasons I did have doubts about this proposition when I came to the Chamber and I told Deputy Tadier, I said: "I was not sure about this one" but I think on listening to the arguments, really, we should go there, and I hope Members do.

#### **8.1.18 Senator P.F. Routier:**

I believe I have a conscience which I have shown over many years to ensure that people who are, as Deputy Higgins talked about, the less well-off, the needy, the disadvantaged, those are the people that we want to help and I will support free T.V. licences for those people, certainly. But I will do that by supporting the proposition which comes next, which is the increase in the levels of which people can apply for that. That proposition is what we have ... we have had this system in place which is a system that does help those people who are in need to have a free T.V. licence. I have to congratulate Deputy Maçon on his very forward thinking and understanding reasoning behind deciding not to support this proposition, because that is how we came about this original system, the one that follows. Certainly the mechanism we have in place to support people is there and I will be supporting that proposition when the time comes, but rejecting this one.

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

I know that this proposition is not necessarily directly related to my department but if it is successful it would call upon the Social Security Department to administer any universal scheme, should it be approved. Of course as a responsible Minister, should it be approved, as I understand funding would need to be approved again in a Business Plan, but of course we would make ourselves available; however, as Deputy Southern is quite often keen to point out, we are short staffed and there would be a cost implication on the staffing front. I just want to say that I feel one or 2 speakers have been somewhat unfair to Deputy Tadier and, particularly about this proposition. As Senator Syvret said, it is incumbent upon all Members to try and bring forward propositions which deal with issues which they have stood on the election platform and said that they would support. So I think it is somewhat unfair for Members now to accuse Deputy Tadier or, in effect, say he should not be doing that. I also believe that he has the best interests of the older generation at heart, and it is important that we listen to that and weigh up and ask ourselves whether we believe that the use of this money in this way does help that generation, that sector of our society in the way that Deputy Tadier believes it does. I think it is totally inappropriate for us to challenge him in the way that some Member have done. Having said all that, when I ask myself that question unfortunately I find my response in the terms of how Deputy Tadier would like me to respond, as wanting. I spent the day on Saturday speaking - not the full day even though I am a politician - but the morning speaking at the Alzheimer's Friendship Group and I then went into visit some elderly people in the afternoon to see the conditions in which they were living. I have got to say that if it was given to me as an individual now - I take off my Ministerial hat - if the House were giving me

this money I would not spend it in this way to help this particular section of society. I do believe that the older generation in Jersey requires more support. I know that the Council of Ministers are aware of that but I do not believe that this is an appropriate or would be my priority in using this money for this particular sector. Having said that, I just wanted to pick up a point that the Deputy of St. Martin said with regard to costs, and I think he said that the costs are not accurate. I think what Deputy Tadier was trying to say earlier in the day was that the costs that my department gave him, which was ... if one looks to his proposition, benefit for households of £669 and then another few items added on top of that, the Treasury then deducted the current budget and made the difference. Those costs are based upon everyone or every household with a 75 year-old claiming this free benefit. So the costs are accurate. What Deputy Tadier was trying to say was he does not believe that everyone will claim that benefit and therefore he believes that the costs will be less. I have to say that, while understanding Deputy Tadier's motivation, while recognising that we as an Assembly do have more work to do in regard to looking after the elderly community, particularly those who are most vulnerable, particularly those perhaps who are suffering from illness, then that is where I would like to see that money targeted and I believe that the Council of Ministers and the Minister for Treasury and Resources are cognisant of this fact, so bearing that in mind I cannot, at this time, support this proposition. I do not think I will regale Members with what my views generally are in regard to television, but not being a television owner I hope people can read between the lines.

**The Bailiff:**

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

**8.1.20 Deputy M. Tadier:**

First of all I would like to thank all Members who spoke. It has been an interesting debate. In particular I would like to thank the previous speaker for his kind and eloquent words. They were certainly kinder and more eloquent than other speeches I was on the receiving end of. So where to start. It is always nice to come back after lunch. There is a different atmosphere in the House. I trust all Members have had a good lunch. We are all sated after an hour and a half break, more or less. Now the lunch is a very interesting thing, is it not? It is an opportunity for Members to all get together, whoever they are, whatever social background they come from, and have a little natter with other States Members, although invariably the plates seem to get moved mysteriously before people go down there. But the point is we have all had a very good lunch. I do not hear anyone here complaining about it. Was that a means tested lunch? Does anyone know? Do they ask Members how much they earn before having the lunch? I just grabbed a sandwich and went to see a constituent at lunchtime down the harbour. They are very good lunches that we have. Not only are they not means tested but certainly we just sit here talking about the fact that we are in an economic crisis, we have to tighten our belts, whereas in fact what we are doing is having to loosen our belts while we get fat at the taxpayers' expense. We put out another notch: "I will have a crab salad, I will have the salmon." Crab costs about £5.50 a time, I think. The salmon costs about £4.25. Sandwiches on average work out about £2.50 per Member. The soup and the cheese, add it all up with dessert. So I think we are getting a very good free lunch there which is not means tested, which will probably come to about £15 a head, each time. If you multiply that throughout the year **[Interruption]** ... quite easily £15 if you include everything and the service that goes along with it. Multiply that through the year, certainly more than £150, that I am asking Members to consider giving to 75 year-olds so that they might be able to watch television, like we have already decided to do. Let us talk about ... another thing which is not means tested, we heard some very passionate speeches. Bus passes: any Member in here have a bus pass? Let us make it a bit interactive. Put your hands up if Members own a bus pass and they use it. I believe, indeed, Senator Le Main is the proud owner of a States bus pass and he uses it everyday. Senator Le Main for Housing uses the bus pass everyday, good luck to the guy. I think it is important that we all contribute to the public transport, keep cars off the road.

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

Could I interject? Yes, I have a bus pass. I have managed to use it once. I got where I was going but I could not get back because there is no buses in St. John. **[Laughter]**

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

I thank the Deputy of St. John for his intervention and there was an equally fast riposte there from Deputy Southern, for Members on the radio, who said he should have stayed in and watched his telly. The serious point here is the bus pass itself is not means tested. Now I have not heard Senator Le Main standing up to his feet banging on the desk in his customary fashion saying it is an absolute disgrace that we give rich millionaires who can quite afford to take the bus a bus pass, and indeed probably fairly well paid States Members as we are, we all get a bus pass, that is deemed to be right. I have no problem with that. But there seems to be a lack of these propositions forthcoming to counter from people who are in favour of means testing. Where are all these propositions that should be here? We have heard again lucid arguments, talking about how the money might be better used, for example, to support autism. Again, that is something I would support. But where are the propositions to reallocate the money to these very worthwhile projects. They are just not forthcoming. They are hollow words. There was mention of a Titanic before implying that the situation has changed. The only difference is, of course, before I got elected to the States I already knew that I was getting on to the Titanic. So I did not have a problem. **[Laughter]** I believe the electors knew. I put it there in black and white. I said: "Effectively take it or leave it. This is a policy which I believe is right and I believe it is what people want" and I was judged by that. So I do not really have a problem with that, and I do not want to dwell on that too much other than to say that I reiterate it is important for Members to stick by what they say in their manifesto when they are elected on that basis. The underlying issue here, of course, is about how we use money, what we use money for. Several Members in the usual way have said that it is a laudable thing. Basically he has got the right idea, he is trying to do the right thing here, but he is misled, or that this is a nice to have. I particularly want to pick up on that idea it is a nice to have. Some people certainly cannot afford to have nice things because they have to be very selective, they can only buy the essentials, but in the international context surely Jersey, we are told, time and time again Jersey, internationally, must be one of the richest individual jurisdictions in the world. I do not have the figures to hand but I certainly know in Europe it ranks up there in the top 2 or 3. So what we are saying is we are very rich but it seems on the other hand that we cannot even find money, while we are giving our States Members very good lunches, it has to be said, to support over-75s across the board. The question was asked why the figure 75, as if this has been somehow randomly plucked out of the year. This is not my figure, of course. The figure of 75 years old already exists, and that is why I tried to interject before with Senator Perchard, to say he did not need to carry on with his speech. I could have sorted him out there and then, so to speak. But simply it is the States in the past which has chosen the age of 75. The only difference between my proposition and the status quo is that I am asking for it not to be means tested so sure we could stand here and debate the age. We can make it 86 or we could make it 65, which would perhaps be more sensible because that is the age at which bus passes are issued. But I have not asked for 65 because I think 75 is less controversial, and it is something which we can all sign up to. Remember people who are 75 today were born, if my maths is correct, in 1934 or earlier. So these are people who have probably lived through the occupation. The issue I have with means testing is that in the case of the elderly, it is testing the wrong thing. We should not necessarily be testing means. We need to be testing other things, and I believe we are age testing so that we are discriminating, in a sense, already. We are saying you are older, as I have said before, your sensibilities are different to those of others who are perhaps more mobile, if they can take advantage of their bus pass, but of course many of the elderly over 75, or some, are not able necessarily to leave their homes easily. So this is what takes into account that fact. For all the money in the world, if you do not have your health then you are bound to be at home. Money is not very good for you. We have had some fantastic comments today, and they started back very early about efficiency savings, and I did not

get a chance to question the Minister for Economic Development, who is not here at the moment, because he is a very busy man, we had these fantastic statements earlier on which basically said: "While my department is being run very efficiently I believe that there are always efficiencies that can be saved because I believe the States is not very efficient." But presumably his department is the only one that is efficient. This is a whole myth of course because you can only cut back so far. If you image going for a haircut, you could say: "Well, we can always get a bit more hair off" but of course you cannot because there is a finite amount of hair. I will stop with that analogy before certain Members get embarrassed. But you could transfer the analogy to sheep of course. Now if you want to get the maximum amount of wool you can shear a sheep for as long as you want but you are only going to get a certain amount of wool from one sheep before you start to cut into the skin and the blood and it all gets very messy. You do not want to go there. So what you do, you move on to the other sheep. You start looking at other sources of getting wool. That is what you need to do in Jersey. If you are finding that you need money, and I am sure Ministers will be here for the next 2 and a half years, when I am here, knocking on the door asking for money, complaining they do not have enough money, while at the same time they pass the Strategic Plan, which has resigned them to the fact that they have no money. So go figure, as the Americans would say. If you vote to have less money then by the very nature you will have to cut back on services. But efficiencies is the political word for cutbacks, and we know what gets cut back first of course. So basically this is a nice to have in some ways but I believe that it is also just that we do not discriminate on terms of wealth. We have heard lots of talk about the current economic climate. Really we should be talking about the current election climate. I hope I will not be accused by Members of electioneering here. I have been very sure that I brought this towards the beginning of my term so that I do not have to bring it towards the end of my term, and also it is a bit of a tick list, in that sense, that I want to make good on my promises from early on. I suggest that if this was being brought perhaps 3 months before an election and it was done to save the job of a failing Minister that we would certainly be giving it full backing to try and get that failing Minister off the hook, but of course that is not the case here. There is nothing underhand going on with this proposition. I will not keep Members too much longer, but the issue of ... because I do not want to be accused of waffling again, but perhaps I could benefit from some of Senator Le Main's wisdom. I am sure I would be willing to go round to his place for a cup of coffee and some biscuits and he could impart some of his linguistic eloquence to me, which I would be certainly willing to learn. But the point is, for the figures, it has been very difficult for me to get a genuine figure of what this would cost because by the very nature whenever you start having non means tested things and Senator Wimberley of St. Mary ... the Deputy of St. Mary. I see him as a Senator in my eyes. But the Deputy of St. Mary quite rightly said that we do have free events in the Island, be it the zoo, be it the open air concerts which everyone can benefit from, which I guess a lot of them will be picked up by the taxpayer and presumably if everyone turned out to an early morning solstice, or whatever it might, at Grantez, and the cost implications of that would be phenomenal. But of course one does not budget for that. One has to be realistic. The difficulty with this is that while the maximum we think it will cost will be £500,000 more or less, the point is that not everybody is going to claim this. What I have tried to find out as best as I can is what is the current rate of claim for the current figures, which I have been given at the last minute today, and it works out that currently the total amount of people who could claim is 672. That is what I have been told by Income Tax. I was told I had to go to Income Tax, and that is the total amount. It is a ballpark figure but that does not stack up with the figures I have been given from Social Security. For last year we were told that a total of 1,476 people did claim a free T.V. licence but, on the other hand, the figures I have been provided that only 672 people were ... I will give way to the Minister for Social Security.

**Deputy I.J. Gorst:**

As I said, the Deputy very accurately included in his proposition the full amount should everybody over 75 claim the benefit. What I understand the Deputy is referring to now is the number of

claimants that we have under the previous scheme, for which he has the numbers. He has tried to correlate those with the Income Tax Department, the Income Tax Department has issued him numbers of live - that is live rather than alive - potential people on their system who could claim, i.e. they are under the threshold. But what they have also confirmed to the Deputy, and I appreciate this is only at lunchtime because I only became aware of this issue at lunchtime, is that they archive people who in their opinion, because of the current level of income, are not at any time in their lives going to be liable for income tax, and therefore they are not able to give an accurate number along the lines that the Deputy would like.

**Deputy M. Tadier:**

I thank the Minister for his intervention. The point is though, for over a week now I have been trying to get accurate information to try and present Members with an actual figure rather than just the maximum figure of what could happen maybe if everyone in Jersey all suddenly descended down La Motte Street knocking on the door saying: “We want a free T.V. licence” because that is meaningless. The fact that we are told that the potential figure is £500,000 is meaningless. What I was trying to find out was how many people that can claim do claim at present, and I was told we do not have that information. That is basically the scenario we have. As a Back-Bencher it is even more difficult, I suggest, to be able to get hold of any reasonable information. There are certainly reasons why the figures do not correlate but that is no use to me and it is no use to Members, but that is where we are at. Some very good comments, I believe, from Deputy Southern who pointed out that the actual lower quintile, by the very nature, pensioners and over-75s in particular, do tend to be the poorer ones. Deputy Maçon said that being old is not the same as being poor. Quite right. It is not necessarily the same but taken as a general group that they are poorer. That is a fact. I believe they are one of the poorest groups, and it is borne out by the statistics in the quintiles, like we heard earlier. As I said, they may not be poor but they are old, and that is the key that we have to tailor ... they have different needs to the rest of the population in many ways and we should be accommodating that. So let us sum up. I believe there are good reasons to abolish means testing in this respect. We have seen that there are precedents all over the place. States Members pay is not means tested. States Members lunches - and by the way enjoy your lunches because they will be going. There will be a proposition at some point. We cannot basically carry on having a laugh at taxpayers’ expense. If we are really serious about having to pull our belts in then States Members are going to have to put their money where the food that they put in their mouth used to be, because it is simply not satisfactory anymore. So that is going, and I am sure you will all support that. We can all afford to pay for our own food now there is a recession on, and hopefully we can put that money towards the T.V. licences among anything else. Just for a gesture of goodwill, if we all pass this today I will give a grand of my salary, we got a pay increase this year, I will put a grand towards it, into the pot. I know it is only a drop in the ocean, but I think it is symbolic. There are certainly ways that we can find to contribute. I leave it at that. There are good reasons to support this proposition. Think about the message you are sending out to the elderly in the community. The Constables, in particular, I am sure you know more than any of us very personally the members in your Parishes, you know who they are, and I have certainly been approached by people who said it is disgraceful that we live in a very rich Island. There is so much wealth going about and that old people are always being seen as a problem, and that we do not recognise the contribution they have made. This is simply a very small token and the money can be found, and I would urge Members to support this proposition, and I ask for the appel.

**The Bailiff:**

The appeal is asked for in relation to projet 100, Television Licences for Persons over 75. The vote is therefore for or against the proposition of Deputy Tadier. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 21</b>		<b>CONTRE: 28</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Senator T.A. Le Sueur		

Senator B.E. Shenton		Senator P.F. Routier		
Senator A. Breckon		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator T.J. Le Main		
Connétable of St. Lawrence		Senator F.E. Cohen		
Deputy R.C. Duhamel (S)		Senator J.L. Perchard		
Deputy of St. Martin		Senator S.C. Ferguson		
Deputy R.G. Le Hérisssier (S)		Senator A.J.D. Maclean		
Deputy J.A. Martin (H)		Senator B.I. Le Marquand		
Deputy G.P. Southern (H)		Connétable of St. Ouen		
Deputy J.A. Hilton (H)		Connétable of Grouville		
Deputy P.V.F. Le Claire (H)		Connétable of St. Martin		
Deputy S.S.P.A. Power (B)		Connétable of St. John		
Deputy S. Pitman (H)		Connétable of St. Saviour		
Deputy K.C. Lewis (S)		Connétable of St. Clement		
Deputy M. Tadier (B)		Connétable of St. Peter		
Deputy of St. Mary		Connétable of St. Mary		
Deputy T.M. Pitman (H)		Deputy J.B. Fox (H)		
Deputy T.A. Vallois (S)		Deputy of St. Ouen		
Deputy M.R. Higgins (H)		Deputy of St. Peter		
Deputy A.K.F. Green (H)		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy J.M. Maçon (S)		

## **9. Draft Social Security (Television Licence Benefit) (Jersey) Regulations 200- (P.64/2009)**

### **The Bailiff:**

We come next to the Draft Social Security (Television Licence Benefit) (Jersey) Regulations, Projet 64, lodged by the Minister for Social Security. I will ask the Greffier to read the citation.

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

Social Security (Television Licence Benefit) (Jersey) Regulations the States, in pursuance of Article 1 of the Social Security (Television License Benefit) (Jersey) Law 2006, have made the following Regulations.

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

I do have an amendment as well. I am not sure if that can be taken together.

### **The Bailiff:**

We need to do that when we come to the particular regulation but you have got to propose the principles first.

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

In 2006 the States, during its budget debate, approved Senator Mike Vibert's amendment to fund the payment of television licences for people who had attained the age of 75, were on a comparatively low income, and lived in a domestic dwelling. The amendment further proposed that an income bar be introduced and that the relevant income levels be £12,770 for a single person

and £20,720 for a married couple. The Regulations came into force in 2006. Although this was present in the Regulations, although it was backdated, in effect, to the 1st of January 2006, these Regulations expire in 2009 and, as such, it is necessary that the Regulations be renewed if the scheme is to continue. This Regulation, therefore, does just that. While also making these Regulations I have taken the opportunity to slightly increase the income thresholds to align with 2009 income tax thresholds, as well as allowing future upratings by order. I hope, therefore, that Members will support these Regulations.

**The Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles of the Regulations? Very well, will all those in favour of adopting the principles kindly show? Those against? The Principles are adopted. Minister, would you like to propose Regulations 1 to 6 then? Before we do that, I beg your pardon, Senator Breckon, the Health, Social Security and Housing Scrutiny Panel, it is a question whether that panel wishes it to be referred to them. The chairman, Senator Breckon, is not here and the vice-chairman is Deputy De Sousa, who is excused. Is there any other member of the panel here? Is there any other member of the Health, Social Security and Housing Scrutiny Panel in the Assembly?

**Deputy G.P. Southern (Health, Social Security and Housing Scrutiny Panel):**

Yes, I believe it is me.

**The Bailiff:**

Do you wish to have these Regulations referred to the Panel?

**Deputy G.P. Southern:**

The issue I do not believe has been discussed in my presence while I have been at the Panel, however, I am fairly confident in saying that we do not wish to call it in.

**The Bailiff:**

Then, Minister, Regulation 7 is the one you wish to amend, so I suggest you take Regulations 1 to 6, propose the first and then we will come to Regulation 7.

**9.2 Deputy I.J. Gorst:**

Yes, if I could just propose those *en bloc* I would be very grateful. They are more or less lifted from the existing triennial Regulations which are in place, so they are the same as that, so I propose them.

**The Bailiff:**

Are Regulations 1 to 6 seconded? **[Seconded]** Does any Member wish to speak on any of those Regulations? All those in favour of adopting Regulations 1 to 6 kindly show. Those against. Regulations 1 to 6 are adopted. Now, on Regulation 7 you are proposing your own amendment, I think, Minister, is that right?

**Deputy I.J. Gorst:**

Yes.

**The Bailiff:**

I will ask the Greffier to read the amendment.

**The Deputy Greffier of the States:**

On page 15, Article 7(a) in paragraph 4(b), for the amount “£14,110” substitute the amount “£14,638”; and (b) in paragraph (5)(b), for the amount “£23,220” substitute the amount “£23,748”.

**The Bailiff:**

So, do you propose Regulation 7 as amended, then?

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

Yes, these amounts were unfortunately not the correct amounts in the first draft, therefore, I propose this amendment. The thresholds, in effect, are the 2009 tax thresholds, plus an amount that one would have to earn to equal the amount that they will receive in value of the television licence.

#### **The Bailiff:**

Is that seconded? [**Seconded**] Does any Member wish to speak on Regulation 7 as proposed to be amended? Deputy Le Hérissier?

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

Just an administrative question; we know that some people object deeply on principle to means testing, other people, as we have just discovered, feel it is the way forward. Is there any way that the Minister has been able to come up with a system whereby the tax system, for example, notifies people that they are able to benefit from this, rather than having to put in yet another means-tested form. As you know, because he, in a sense, is the king of all means tests with his great form, is there any way the system can be rationalised?

#### **The Bailiff:**

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

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

The Deputy is quite right; the department should always be looking at ways in which they can work more closely together. I think, potentially, a problem here is that some of these individuals, as I tried to explain to Deputy Tadier when he was raising questions about numbers, are not liable for income tax and the Income Tax Department have, in effect, to use their terminology: “archived their record” and, therefore, they would be having no contact with the Tax Department at all. I am, however, quite prepared to make sure that this is the case and that there would not be any synergy that we could avail ourselves of in order to help in this situation. The Deputy did make comments to the Income Support form and its length. This has been an ongoing issue. I would remind the Deputy that it is, and I use these words advisedly, only 26 pages. If a recipient were to be in the United Kingdom and try to access income support, which is a much smaller benefit and does not have the same reach that income support has, I believe that their form would be well in excess of 50. Anyway, that is way off the point, I am surprised you have not brought me up already, but I maintain this amendment.

#### **The Bailiff:**

All those in favour of adopting Regulation 7 as amended kindly show. Those against. It is adopted. Do you wish to propose Regulations 8 to 15, then, Minister?

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

Yes, if I could. As I said earlier, they are lifted from the existing triennial Regulations.

#### **The Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak on any of those Regulations? All those in favour of adopting Regulations 8 to 15 inclusive kindly show. Those against. They are adopted. Do you propose the Regulations in Third Reading?

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

Yes, if I could.

#### **The Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak in Third reading? Deputy Southern.

**9.5.1 Deputy G.P. Southern:**

If I may; I probably should have spoken in first reading but I am sure you will stop me if I stray too far from the relevant points. I do believe we have got a financial manpower statement which says no costs to this adjustment. Can the Minister please inform Members what the overall cost of a means tested benefit at this level is, in terms of both resources financially in administering it and in staffing terms, because when everyone introduces a means tested benefit there is a cost. Can he talk in some detail about the costs overall of administering this particular aspect of this particular benefit?

**The Bailiff:**

It ought really to have been on the principles, Deputy, as you say. Does any other Member wish to speak? I call upon the Minister's reply if he wishes.

**9.5.2 Deputy I.J. Gorst:**

I believe, and I do not want to mislead the Deputy, that this scheme is currently administered by a part-time officer and I believe that that officer is a grade 7. The Deputy, perhaps, will know more than I about the salary scales there but I believe it is a grade 7. I maintain the Third Reading.

**The Bailiff:**

All those in favour of adopting the Regulations of the Third Reading, kindly show. Those against. The Regulations are adopted in Third Reading.

**10. Draft Residential Tenancy (Jersey) Law 200- (P.74/2009)**

**The Bailiff:**

We come next to the Draft Residential Tenancy (Jersey) Law, Projet 74, lodged by the Minister for Housing, and I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Residential Tenancy (Jersey) Law: a law to make more detailed provision about residential tenancies of 9 years or less and for other purposes. These States, subject to the sanction of He Most Excellent Majesty in Council have adopted the following law.

**Senator T.J. Le Main:**

Could I ask Members that my Assistant Minister will be the rapporteur for this Tenancy Law?

**The Bailiff:**

Very well, yes, the Assistant Minister.

**Deputy S. Power:**

My Minister has volunteered me.

**The Bailiff:**

It is that type of volunteering, is it?

**The Deputy of St. John:**

Can I declare an interest in this, being a landlord?

**10.1 Deputy S. Power (Assistant Minister for Housing - rapporteur):**

Because this is a fairly weighty piece of draft law, what I propose to do, with your approval and the approval of the House, is to run through the principles first and see whether I have support from the Assembly and then run through the Articles.

**The Bailiff:**

Yes, that would be the correct procedure, Deputy.

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

I imagine the Deputy of St. John is not the ... all Members are expected to declare an interest in relation to whether or not they have a direct pecuniary... I have residential property which I let out but I do not think that debars me from taking part.

**The Bailiff:**

I think my own view is that it would not be a direct pecuniary interest, but I think anyone who is a landlord should declare it as an interest but then they can remain and stay and vote.

**Deputy J.A.N. Le Fondré:**

If I can make a similar declaration...

**Connétable J.L Gallichan of Trinity**

Can I declare an interest also?

**The Deputy of St. Ouen:**

I would like to also declare.

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

I do have residential property but it is of the non-qualified nature. Would that mean that I would ...

**The Bailiff:**

No, that is not caught by this law if it is not qualified.

**Deputy S. Power:**

I have an interest as well. [Laughter]

**The Bailiff:**

Well, it is just as well I ruled then that you do not have to withdraw, is it not? [Laughter]

**Deputy S. Power:**

My Minister for Housing might be in trouble. This Draft Residential Tenancy Law is a much-needed piece of legislation. Despite the fact that over one third of the Islands' population live in rental accommodation, there is not one comprehensive law setting out landlord and tenant responsibilities. This is the purpose of this law; it sets out a modern framework of responsibilities and rights for both the landlord and the tenant in one law. It does not, and I want to make this clear in the first few minutes, establish a tenants' deposit scheme at this stage. It will enable one to be set up to a separate regulation after this law is approved and I will deal with that later. I would like to refer Members to current relevant legislation which is the 1919 law on notice periods and the 1946 law on eviction, however, if I may be allowed to say, it is fair to say that they are outdated and they are not easily understood. Even though they are written in French, and there is nothing wrong with that, I think it is time for us to update these 2 laws. Some notice periods take account of the size of the property under these laws and eviction procedures do not explain grounds to be considered when making an eviction order. Only issues of notice periods and evictions were covered. Some Members will recall that the States, as long ago as 1998, adopted the proposals of a report on security of tenure put forward by the former Senator Corrie Stein. The working party had

reviewed the 1919 and 1946 legislation and put forward a series of recommendations including greater security for tenure for tenants, greater clarification of procedures involved in an eviction and a requirement for written statements of the main terms of tenancy agreements. This draft law before you today addresses all of these recommendations, however, it does not fully repeal the 1919 and 1946 laws as it was decided that it would be simpler for tenants and landlords dealing with residential property to have issues affecting them in one law, dealing only with residential tenancy matters and not in a law dealing with commercial issues also. A review of the 1919 and the 1946 laws as they affect commercial property is a separate matter and it will have to be addressed in the future. The need for the adoption of the current Residential Tenancy Law proposals is no less important now than it was in 1998. Jersey does rely heavily on the rental sector to provide accommodation for its residents, and it would appear that the economic downturn is likely to increase the numbers who rent even further. May I remind Members that 18 months ago banks and building societies were lending money at extremely favourable rates to borrowers. Since the autumn of last year it has become very difficult for individuals wishing to purchase property to obtain preferential rates so many, for the moment, are temporarily renting. With low interest rates, many with money to invest are choosing, for reasons of their own, to buy property to let but investing in property, and particularly residential property, carries with it social responsibilities. It is not the same as investing in the stock market. We all hear the phrases “good” and “bad” landlords and we also hear “good” and “bad” tenants, but we have no comprehensive legislation that provides those in the rental sector with any guidelines as to what the responsibilities of both landlord and tenant should be. This Residential Tenancy Law will help clarify these issues. The law, I hasten to state, is not biased in favour of tenants. It is not overly prescriptive. It is drafted in a way that still allows the parties to an agreement to include their own terms and conditions so long as they are not in contravention of the law itself. I will be taking Members through the detailed provisions of the draft law shortly but the key principles are as follows. It is a law that will apply to agreements for residential tenancies for 9 years or less. The law does not apply to commercial tenancies which will still have to be dealt with, as I referred to earlier, or those contract leases for more than 9 years which will still need to go to the Royal Court. The Residential Tenancy Law will apply to all landlords offering residential accommodation, including the States and the Housing Trusts. Protection under the law is granted to those who rent a unit of accommodation that satisfies the definitions in the law of premises that include a shower or bath, a washbasin, a kitchen, a sleeping space and a lavatory, to which the occupants will be granted exclusive use. There are exceptions but these are limited. Bedsits offered on these terms will be covered. The law includes provision for written agreements with signed copies being retained by the parties, clear requirements regarding the payment of rental and deposits, an inventory of movables, fixed notice periods for both landlord and tenant, new provisions enabling either party to terminate an agreement upon breach of its terms and clear guidance on eviction processes and matters to be considered by the court. There are also provisions allowing for order-making powers and the introduction of regulations. Orders, for example, allow for reports about the condition of a property prior to the signing of the agreement, the forms to be used under this law. There is a regulatory-making power to establish a Tenants’ Deposit Scheme. The law does not establish a scheme as it is presented to you today. If the law is adopted, it will be possible then to establish a Tenants’ Deposit Scheme using a regulation-making power. Indeed, the Minister for Housing made a statement last year in response to a proposition brought by Deputy Southern that he intended to bring such a regulation to the States once this new law was in force. Work has been going on in this regard and the Minister for Housing will be making a full statement after the summer recess on progress in this area. The report that accompanies the draft law explains the rationale behind the current notice period proposals, and I will elaborate further as we get into the next part of this. However, as a result of the consultation feedback, an order-making power has been included in the draft law that will enable the Minister to vary the notice periods that are prescribed. Those points I have just made relate to the Residential Tenancy Law itself, however, before I conclude on the principles, I ask Members to take into account the following broader context of this law which has

to be set and which will play. In 2005 the States adopted the migration policy. One of the aims of that policy was to reduce the disparity in living standards of those who live on these Islands. The second round of consultation on the migration policy, which discusses the new categories of residential status and proposes better rights with regards acquiring and retaining housing qualifications, are currently taking place. If the new migration policy principles are adopted, it will mean that the Housing Law is repealed. This will mean the repeal of the provisions that currently prevent those without housing qualifications from entering or leasing property. The combination of the Migration Law and this law will mean that in future if a unit that is being offered to rent satisfy the criteria laid down in this law, so long as the property itself is classified as registered or unqualified, people will be able to rent and will be entitled to a lease. But the introduction of these 2 laws, the Residential Tenancy Law and the migration policy, will logically lead to a review of other related legislation and these will include the 1946 Dwelling-Houses (Rent Control) (Jersey) Law and the 1962 Lodging Houses legislation, both need review to make any updates felt necessary as a result of the introduction of this draft law and the migration policy.

**Deputy G.P. Southern:**

Could I seek a point of clarification?

**Deputy S. Power:**

If you must, Deputy.

**Deputy G.P. Southern:**

I am afraid I must. I believe the Deputy just said: "... if it applies to registered" and I think he said "or unqualified" did he not mean "qualified"? Did the Assistant Minister not mean "unqualified", because surely this only applies to qualified properties?

**Deputy S. Power:**

I was talking about how we link this Draft Residential Tenancy Law and the Migration Law to further enactments as they will take place. This does not apply to the unqualified sector as yet, but it will do under separate regulations. The final piece of law that has to be changed is the Standard tenancy agreement brought in by regulation under the Rent Control Law 1993. In conclusion, the adoption of the Residential Tenancy Law will provide all those in the rental sector with a clear framework for their responsibilities and obligations under one law. It will also provide support for the development of future policy through a review of other related legislation and that will lead to better security of tenure and standards for those living without local housing qualifications. If I might be allowed to at this stage, there were a number of ... is it appropriate for me to comment on the comments of the Minister for Treasury and Resources?

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

Yes.

**Deputy S. Power:**

I would like refer to the comments made by Treasury and Resources, P.74 comments, because some of the comments are, in my view, not in the correct order and slightly misleading. The Minister for Treasury and Resources comments as follows - and I shall comment on his comments: "It is important to distinguish between the costs of enforcing this law and that of any future Tenants' Deposit Scheme." The comment refers to both matters but does not clearly distinguish between the possible effect on workload as a result of both. Throughout the comment, I also acknowledge that the increased workload may only happen. It is acknowledged that the workload of the Petty Debts staff, and hence the Judicial Greffe staff, may be different as a result of the implementation of this law and I would argue at this stage that it is too early to say whether 0.5 of a full-time employee may be required. It may be that clarity provided by this law will mean that not so many applications are filed with the court. Some figures that the Minister for Treasury and

Resources pulled out is that there is an increase in evictions from 14 to 30 in the period 2007-2008. This figure is misleading as that is the only year between 2000 and 2009 where there was a difference in figures. The number of evictions in 2000 is 29, 2001 29, 2002 28, 2003 31, 2004 23, and so on, almost identical every year until 2007 it dropped to 14 and in 2008 it went up to 30; so it has been very consistent every year, so the point that the Minister for Treasury and Resources makes is misleading. It must also be noted though applications are filed they do not all proceed to hearing. In 2008, for example, 54 applications relating to tenancy matters were filed, with only 26 going to a hearing and so far, in 2009, 17 have been filed with only 5 going to a hearing. I wanted to make those points clear. I think there was one other thing I wanted to say. This law has had very serious consultation over the past period of time and court staff advise on what procedure is the case in regard to a problem and, indeed, the Citizens Advice Bureau have a legal clinic every Wednesday at lunchtime to deal with such matters as this. Those were the points I wanted to clarify with regard to the Treasury and Resources comment. There is one final comment and it regards costs, Standing Order 168 and the issue of costs, and to me and to the department, it looks like it is a matter between the Greffier and P.P.C. (Privileges and Procedures Committee) as to how costs are treated with regard to Standing Order 168 and the range of tenancies that are covered in this. In conclusion, I would ask Members to consider the principles of this draft law and support the proposition.

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

Are the principles seconded? [**Seconded**] Deputy Le Hérissier?

**10.1.1 Deputy R.G. Le Hérissier:**

Given that the rapporteur is going to speak in detail, I still think the devil is in the detail and I wonder if, when one looks at the explanations on pages 6 and 7; he talked about separate facilities. Now, is it at all possible that if a facility was shared, like a bathroom, this invalidated the application of the Regulations and, if so, would this be an almighty way of driving through a loophole? Secondly, when you look at 2(c) as well, what protection is given to people who, over the winter - admittedly it is largely unqualified - are living, for example, in hotel accommodation which is used during the winter in tourism's fallow period? What protection, if any, is given? Thirdly, I cannot find anything throughout this law ... we know that one of the weaker and totally emasculated institutions has been the Rent Control Tribunal, and what role would it play within the context, if any, of this law, because we have all got the impression of late that despite being peopled by excellent individuals, it really has not got much of a role left to play. How does its role relate to this law?

**10.1.2 Deputy G.P. Southern:**

Although the rapporteur said that he was going to return to details around deposit schemes, I do not want him to return to that only in coming to the particular Articles, because I believe that, as he said, having had a lengthy period of consultation and having reviewed much information and data from Citizens Advice Bureau, among others, I believe that the House does require and should demand some sort of explanation as to why any deposit schemes are being brought at a later date by regulation, when it has been fairly clear that the research has been widely done by C.A.B. (Citizens' Advice Bureau) and others as to what way forward is appropriate and, in fact, the absence of any Regulations or any clear way forward on rental deposits is to be regretted, I believe. Secondly, I do believe before we go any further, again, I would like the rapporteur to talk about why orders may be brought to vary periods of notice. Periods of notice are very serious things for tenants and landlords. To bring them before the House as orders, when we do not get to see them or amend them in any great detail and can only either reject them or accept them - and nobody pays any attention to orders - why consideration was not given in terms of varying periods of notice, to bringing them in Regulations when they would have to come before this House to be accepted and we could see what was happening clearly. But my main reservation is about the absence of

anything concrete on a Tenants' Deposit Scheme when, I believe, that should have been contained in this document and should be proceeded with promptly as of now, and, in particular, we have yet to hear of any timescale. We have said that the Minister will come back or his Assistant Minister, judging by today's performance, and announce in September what the timescale is for rental deposits, and I believe that is insufficient at this stage. If we are going to vote for this thing, we need a clear timescale for progress on rental deposits now and not in September.

### **10.1.3 Senator A. Breckon:**

I think it is good that this modernisation of a number of laws is coming forward; I must say it has been a long time coming. If you look at the history there are reports from the late 1980s and the early 1990s, and I think it has caused quite a bit of pain, the fact that there has been nothing in place, and one of the particular issues, when matters were before the court, the tenants had to bear most of the cost. The eviction process itself ... again many tenants are not aware of any rights that they do have and some of - as Housing well know - the advice is sit tight and test matters before the court and do not just move out. I know of a case quite recently where a property needed a certain amount of modernisation and the people had lived there quite a while and they were told: "Well, just move out and we will do it" and he said: "Oh, well, what about moving back in?" and he said: "Do not worry about that, get somewhere else." He said: "Well, hang on, we have lived here for years and now arrangements have been made" and they said: "Have we any rights?" Well, in fact, they do have rights and they can challenge that before the court. There are some grey areas and I must say the court and the former boss of the court and the staff have been excellent in my experience over the years in dealing with some of these matters in a very compassionate and humane way. Members may remember a case of Troy Court where the whole thing was bought and the evictions were granted but the stay was, in some cases, 7 years and more. That was done deliberately and it was a device of the court which backfired on the person who bought them and things moved on and matters changed. But it is an example of how the process does work and, again, in my experience, when an eviction does take place, it is done in camera really, although it is not, it is done in private, and there is a sort of mediation conciliation process when things come together and then it is registered again before the court, but again it is done in a proper way. But I think it is good that we are putting in a framework that addresses some of these issues. The other thing that I think is important is when a lease comes to an end for whatever reason, and one of the things that needs to flow from it is the deposit protection because, as Senator Le Main will know, there has been umpteen cases that we are both aware of where this is a really contentious issue where a landlord or an agent may hold £1,000 or more, there is virtually nothing wrong but they decide to redecorate the place or put some new curtains up, there are all sorts of issues, and the other side of this is not all places are left as they were found; some are better and some are worse, so it needs a non-confrontational way of dealing with this. There is a classic and simple example of doing it; just take 36 photos when you move in, get 3 copies, we have all got one and that then solves a lot of the dispute for about £30 but of course people do not do that, but the general advice is to do that. The other thing that I think Deputy Le Hérisier touched on is rent control. It has been an issue which, I am sure, the learned Attorney is aware of; the Tribunal have strayed on occasions, I believe, into territory perhaps where they ought not to and, on occasions, as I am sure the Attorney will remember in private practice, one case finished up with a judicial review - it might be 2 cases - where the deliberations of the Rent Control Tribunal finished up there. There is a standard tenancy clause but it should not be a device and, again, it is an element where the market will decide. It is a willing agreement between people wanting to rent the property and people wanting to allow that so, again, we need to step back, but there needs to be a safeguard and I think the Tribunal have given that, probably not very often recently, but they are there. I would just like to close by saying that I mentioned, I touched on it there, but I think the Petty Debts Court, although it might seem a "no go" area, the officers of the court are very, very helpful in assisting people through the process and what needs to be done and helping to do that and also those that sit in judgment, again, are very helpful because if somebody is losing their home, sometimes after a

long time, it can be a stressful process. I will also add that the Housing Department as well do assist people through this process and give them advice as do others, like Citizens Advice. But again, if this is an improvement, as I say, it is a long time coming and with a certain number of caveats I think it should be supported and, as somebody said, the devil is in the detail but I think we need to have a modern system in place that we can develop. I think this is a step in that direction. It is part of a process, it is not the end of it but I hope that Members will support it at this stage.

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

Almost picking up very much the theme of previous speakers really at how much we welcome this piece of legislation. In fact, there are 47 pages to this particular proposition and pages 3, 4, 7 and 21 and 29 were the pages that I really had most interest in. In particular, page 3, which says: "This particular piece of legislation is compatible with Human Rights Law" and indeed it is but really it is also a sad day for those people who are being discriminated against. It has taken over 11 years for this piece of legislation to come through, and I will come back to that point later on. It is not a great day for a lot of people in Jersey because it means they can stay and be discriminated against, which is a shame because, again, we should be trying to embrace everyone in this Island. On page 4 it mentions that in 2002 P.2, which Deputy Power did mention about the fact that we had the proposal here to bring forward a Tenants' Deposit Scheme. Nine years on, where is it? Page 7, and of course it gives us a reason for not including lodgers. In fact, it even says here, I will quote it, I will read it out: "... will not apply to those qualified under Housing Law." It will not apply to those classified as lodgers because if lodgers were given the ability to enter into a residential tenancy agreement they would no longer be lodgers by legal definition. In actual fact, if one looks at page 29, there is not a legal definition at all of a lodger. So we have a tremendous number, probably several thousand people here, who are living as lodgers and yet have no rights whatsoever. What a great day for human rights. Then we look at page 21. Now, on page 21 we see the proposals, or the summary of proposals, and I can remember way back in 1998, because there was a very fresh-faced, probably not so grey Deputy Duhamel, who is not with us at the moment, and also a much slimmer Deputy Le Main, who, in those days, or Senator Le Main and the Deputy of St. Martin; all 3 of us were on that same committee and we had a lot of enthusiasm. We were looking to do changes. This was going to be a visionary panel or committee to look forward and it has taken 11 years to get these proposals to the table, and yet some of them are still not here. The sad thing is, throughout those 11 years, with the odd exception, I think, maybe for maybe 12 months when Senator Stein lost her presidency and she was replaced by Deputy Shirley Baudains at the time who, in turn, lost her presidency and was replaced by Deputy Le Main - now Senator Le Main - and throughout that time we have almost had stagnation and that is the sad thing about this; that we have taken 11 years to get almost nowhere and 11 years to get somewhere, and I suppose we should be pleased to think we have got somewhere in 11 years. But what I really do plead is that it is not going to take another 11 years to see that a fair proportion of those people who are living in rented accommodation are at least given some rights, given some security to tenure and, indeed, have some means of living as normal and within their human rights as hereto. So I will be supporting the proposition but really it is a long time coming.

#### **10.1.5 Senator T.J. Le Main:**

I welcome the last speaker and certainly Senator Breckon's support. This is a very important piece of social policy legislation and it is only the first stage. I follow what Deputy Hill has been saying about some of the issues and the unqualified but we need to get this piece of legislation into place now so that the other issues coming up to the migration policy ... if the House approves the migration policy then it will encompass the unqualified, give them more legal rights and the issues in regard to deposits. There is a difficulty at the moment with deposits. At this stage we anticipate, and I am committed, and my Assistant Minister is committed, to bringing forward within this legislation a Tenants' Deposit Scheme. At the moment we have had difficulty, particularly with the unqualified sector, in regard to lodging houses whereby the lodging houses ... we have had no

problem, to be honest with you, it is the non-registered sector there has been a problem basically with the non-returnable of deposits and we need to make sure that, particularly people that are moving the unqualified, when they need their deposit back, they often need it virtually the same day or the same few days to be able to move on or they have decided they want to go back home or something, and there has been a lot of discussion taking place with the Lodging House Association and we would rather hope that once the migration policy comes into being at the end of next year or early 2011 ... migration policy is taking some time and it is up to this Assembly ... the first stages are due very soon but the issue that non-qualified people will have more rights than ever and for the first time they will have rights under tenancy and under lodging; something they have not had for years.

**Deputy S. Pitman:**

A point of clarification? Can I ask why this is being put off until 2011? I do not see the link with the migration policy?

**Senator T.J. Le Main:**

If I may say, through the Chair, the issue is that the migration policy has to be in place to encompass the non-qualified to be able to include them within this legislation. It cannot be done at the present time because lodgers have not got any legal rights on tenancies or signing agreements, so at the moment this is the reason. Hopefully, in the new migration policy, when people are licensed and registered and what have you, then we will be able to install a right for unqualified people to give them some legal rights.

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

I am sorry to interrupt you but States have become inquorate. Very well, you may continue.

**Deputy G.P. Southern:**

May I finish with the Minister's permission?

**Senator T.J. Le Main:**

I would prefer to finish.

**Deputy G.P. Southern:**

Otherwise I will just be getting him up later, when he sits down.

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

Well, it is a matter for the Minister. If he is not giving way ...

**Senator T.J. Le Main:**

Well, I would prefer ...

**Deputy G.P. Southern:**

It is a point of clarification.

**Senator T.J. Le Main:**

I would prefer to carry on and any questions that the Deputy may have I am sure my Assistant Minister will be able to deal with them but **[Interruption]** ... yes, it has taken a long time. It has taken draft upon draft and discussion and discussion and I am sure the Minister for Home Affairs will confirm the great difficulties over the years in the amount of consultation and discussions with everyone concerned and it has not been an easy issue. This Island is often accused of not having legislation on our statute books and for the first time ever this is the opportunity now to have some real social policy legislation. This law will deal with another important sector of our community; those in the rental sector. Now, the rental sector, whether they be the qualified or unqualified, has

needed much attention over the years, and I quite understand where Members are saying it has taken 10 or 11 years and Deputy Hill is absolutely right, we were discussing this 10 or 11 years ago on the Housing Committees and, up to now, it has really been a nightmare. I have to say that without the help and assistance of many people, including the Minister for Home Affairs, when he was the Magistrate, has assisted us greatly in the last year or so in bringing us up to this point today. As the Minister for Housing stated, one third of the Islands' population are in the rental sector, yet it is an area where little legislation currently exists and that which has been a long time in need of review; absolutely years. Totally agree, accept some of the responsibility, if that is the case, but it has been very, very difficult. Perhaps the Assistant Minister may not know more than I do but I think it has been 20, 30 or 40 drafts; it has been an amazing amount of discussions over the years. This law has been designed to update the legislation to make it clear to everyone; landlords, tenants and lawyers alike, what is going to be within that law to protect the tenant and also the landlord, and everyone will understand exactly what it is going to be. With many residents entering the rental market for the first time, either as a landlord or as a tenant, and with many also not having English as a first language, I suggest we, as a legislative body, have a responsibility to provide a law that clearly provides a framework of the responsibilities and obligations of both the landlord and the tenant. It is very, very important. The law is not designed to be over-prescriptive. There is plenty of opportunity for landlords and tenants to include their own clauses and agreements in their tenancy agreements, but the essential social policy issue around the giving of notice and eviction procedures will be simplified and clarified and importantly, as I say, within the next couple of years when the migration policy and this Assembly, as I say, agrees to that eventually, then we will have a huge opportunity for the first time ever to be able to give and to be able to install into this legislation more rights for unqualified people in the unqualified sector; something they do not enjoy at the moment. As I say, there was a working party in 1998. Quite right, that was the time when Deputy Hill was talking about, and I think Deputy Duhamel was on the Committee as well; so it has been going on since 1998. I always remember when the then Senator Stein brought the proposition about deposits to this Assembly and it was supported but up to now it has been an issue where there was a difficulty that the States, and particularly the Housing Department, did not have the staff or the ability, or the cost would have been prohibitive to have set up a scheme. But now with, as I say, there is a scheme in the U.K. that is running now; the people running that scheme are able to and willing to do a scheme in Jersey. The Community Savings Bank, huge opportunity to work with the Community Savings Bank to be able to work with ... they are happy to run with something. So the news is good and I have promised Deputy Southern on 2 or 3 occasions, particularly when he brought his proposition last year, to come to the States and he thankfully - thank you very much - delayed it on the basis that I made a promise that I would run with this **[Interruption]** ... it is all right to say: "Where is it." I am trying to explain and have explained that it is not possible to bring it forward for the unqualified sector until the migration policy proposal is produced.

**Deputy G.P. Southern:**

May I have a point of clarification? He is more confused now than he was when he started.

**Senator T.J. Le Main:**

This social policy legislation put into place today will enable those things that Deputy Southern is wanting, deposits - certainly Senator Breckon and others - to be put into place. The steps are now, if we pass this law today, officers in the Population Office will continue to monitor its impact for one year after its implementation and it will be possible for me or the Minister for Housing of the time to bring in orders that may specify further issues to be considered in tenancy agreements and that has never been possible under the old existing laws. That is an important part. So, Deputy Southern, if he feels very strongly on a certain issue, will have the ability to bring into that legislation an issue. I am not prepared to sit down. I am not prepared and I would like Deputy Southern ... Deputy Southern will be able to ask the Assistant Minister any questions. As I say,

this social policy legislation is of light touch. It is a very light touch. We want to provide security, clarity, but not over-bureaucratic law. As I say, I make my commitment that once this law is adopted, we will work, my Assistant Minister and I, within this term of office, we will work as hard as possible to make sure that the migration policy will come to this Assembly and that a Tenants' Deposit Scheme is put into place. I shall be, as the Assistant Minister said, if you adopt this today, I will be bringing a report to the States in the autumn with proposals for a scheme suited to this Island, and I am very happy for Deputy Southern and others who may have issues to come and talk with us and put those issues to us. I am watching Deputy Southern flapping his hands there like a duck on water. I urge Members today to support this legislation and vote for it.

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

I regret that the Assistant Minister for Housing used the word "misleading" in terms of a Treasury comment. He was, if I may say to him, I think rather over critical. This Assembly does have a history of passing legislation and not facing up to the costs. I am fully in favour of this legislation, as I am sure that most Members are, and I am sure that most Members, hearing from the tone of the debate, are also in favour of bringing in a deposit protection arrangement but Members must be aware that there is a cost associated with it and with the greatest of respect for the Assistant Minister for Housing, I do not think that he is the expert in relation to the court service costs. Treasury have to be independent and we have to report to the Assembly in relation to the costs that are going to be incurred and I have spent quite a lot of time in trying to referee the comment between the Population Office and the court service, the Judicial Greffe, and I have to say that I was persuaded that the facts given to me by the court service of the additional costs were accurate and I would suggest to the Deputy and ask him respectfully to not indicate that the Treasury comment is in any way misleading. It is not. It is the facts given to me by the Judicial Greffe and they are going to have to be dealt with. The legislation has an Appointed Day Act and we are going to have to make additional resources. They are not very significant in the grand scheme of things, but before the Appointed Day Act we are going to have to make available to the Judicial Greffe the additional resources in order to deal with the additional work that flows from that. That is not to say that we oppose it, it is just that we want there to be an absolute clarity in Members' minds about the costs. I fully accept, however, that the legislation before the Assembly today does not deal with the deposit scheme and the comment in relation to that appertained to, I think, the thinking of the Housing Department that it should be, quite rightly, self-funding. With low interest rates as they are, a scheme is not going to be self-funding; we are going to have to ensure that other arrangements, whether that be payments from the centre or payments from the Housing Department, are put in place to bring in a scheme. The purpose of a Treasury comment is to be independent and accurate in terms of the costs. I will be voting in favour of the legislation because I think it is a good thing but also we are going to have to deal with the issue of costs to the Judicial Greffe.

**The Deputy of St. Mary:**

May I just ask for a point of clarification on what the Minister has just said? The Minister has said that in the Tenancy Division of the Petty Debts Court last year there was double the number of cases from the year before but the series over the 10 years, we now know from the Assistant Minister, was pretty well flat. How many years data did the Judicial Greffe give the Minister? Was it just the 2 years or the series?

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

I find it unfortunate that somehow officials advising the Minister for Treasury and Resources are in some way being inaccurate. I went around and about with the Judicial Greffe, asked them in detail, I have not got the amount of years before me, but it is clear that for a variety of reasons there is going to be additional work in the Judicial Greffe, not only just dealing with evictions, et cetera, but

also in terms of dealing with the referring of mediation and other areas, and that is going to have a cost. We just need to face up to that and deal with it accordingly.

**Deputy G.P. Southern:**

May I seek your advice on a point of order? Having made one speech in the main debate and having had a question of clarification refused 3 times by the Minister, where do I seek to get clarity from now, given that he has now confused me and the Chamber and himself? Can I get some clarity from anywhere before I vote on this in principle?

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

I think you have missed your chance, Deputy, because we have moved on to other speakers, so I think you will have to wait and hope that perhaps if you pass a note to the points, the Assistant Minister can clarify in his summing up.

**10.1.7 Deputy J.A. Martin:**

I would just like to say I do welcome this piece of legislation and it is a long time coming, but I do have some very serious questions. The comments from Treasury say that a total of 30 cases, which was just over double the number tabled during the previous year. There has always been confusion about eviction and who can evict, and the main perpetrator of this is the Housing Department themselves; they will write to tenants and say: "We are evicting you and you have one week's notice." I have had to ask the Minister for Housing in this House, would that stand up in court? No it will not. Now, even over this last weekend I have had 2 people - one on Friday and one yesterday - who have told me they have been given one month's notice by a Housing Trust. I am glad the Minister is saying they cannot. This is still happening and you try and tell people that they cannot be just chucked on the street unless it has been to court. Now, why do they not believe you when they can see the lady up the road who is living in the Housing Department is getting exactly the same treatment but getting one week's notice? So I say these 30 cases should be about 300 or 400 cases, because if the people now knew the rights they had, even before this strengthening the law, they would act on them. But they are discouraged; nobody seems to know what is going on. I have a question which also worries me, and I think what Deputy Southern was trying to get at is about the order, and it is in the principles under (g), that the Minister for Housing can, by order, prescribe a different period of notice from the 3 months for landlords or one month for tenants. Now, firstly, I want to know - he is the biggest landlord, the Assistant Minister - does the Housing property follow this across the board, and then when it comes to when we move on to entitled, licensed and registered, in the fourth line it says: "... living in certain types of lodgings should be granted security of tenure under the R.T.L. (Residential Tenancy Law) but not all. So who are the "but not all". This prescribed by order. What Deputy Southern was getting at is you cannot amend an order; you can just reject an order. It can come to the House and it can be thrown out but we cannot amend. So what he was seeking clarification on, this is a very big part of this law and we were seeking - well I am seeking if he was not anyway - that these come back as regulations. It is again a lot of power, some will, some will not. I want to know where they will be. I am very concerned that we have got this in the eviction ... and for anybody listening, and for the media listening, I would really like them to take the point on that anyone who receives an eviction notice from an agent or the Housing Department, or their landlord - be it a private person who may only have one house - it is not worth the paper it is written on if they do not agree with it. They do have the power to go to court already. I really wish that somebody in the media would get this across because I am very upset about people who phone me and think there is nowhere for them to go. So I welcome this, but there is a law at the moment. It is 30 cases, as I have already said. It should have been at least ... I dealt with about 30 cases myself last year. So I am very sorry these ones ended up in court. It was only when I told the people: "Do not dare move, you have rights" that they sat there. Some were resolved, some were not. All the tenants were not angels but certainly nor were all the landlords. So, please, I welcome this but we already have rights and I think it will

cost more money but I still will vote for it because need to have somewhere to go. We are talking about putting people out of their homes and I am very concerned that we have not, somehow, been able to get even registered lodging houses in this, because they are registered they should have rights, they pay their monies and they pay a lot more money than they do in the qualified sector. So where are their rights? Not enough in 11 years. Thank you very much.

**10.1.8 Deputy M. Tadier:**

In many ways following on from the Deputy of St. Martin regarding the human rights issue of this, whether or not it is human rights compliant is perhaps a moot point and what I am referring to, of course, is the omitting of the non-quals from the remit of this report. I would simply ask the question, and hopefully I can get answer from the Assistant Minister in summing up, I simply cannot believe that it was not possible to accommodate the non-qualified sector in this report somehow, at least partly. I would like to get the comment on that. For example, I do not see any reason why somebody in non-quals who has paid a deposit cannot also benefit from the same protection as somebody in qualified accommodation would do. Moreover, I believe that the report does not necessarily go far enough, although I would, of course, congratulate the department on bringing this forward after, it looks like, 11 or 12 years in the making. Interesting how some pieces of legislation which are to do with social justice can take 12, 13 years and when it is to do with, perhaps, finance we are asked to urge things through without even proper scrutiny. Perhaps there is one rule there for one and one for another. Perhaps we will hear more of that later on. But just some suggestions, it seems to me that a problem in Jersey when one is looking to rent, in any of the sectors really, is that you do not know what you are getting for value. So, for example, you may see a 2-bedroomed flat advertised but something comparable in the system in France or in Germany, for example, it is specified. So in France you would have T1, T2, F2 and you know exactly what you are getting for your money. Also in other parts of Europe they tend to advertise for square footage so you are comparing like for like and then the prices would be easier to compare. That would welcome in Jersey and I think that would be something that could be looked at here. So you essentially know what you are getting. That is all I really want to say, but just to emphasise one more point is the non-quals sector in Jersey, who I guess make up a significant portion of the Island, they contribute to us in many ways, they work in our restaurants, some even work in our banks and I do not think we could without them. But conveniently they are often forgotten perhaps because they do not often vote so we do not really think it is worth going after their vote. But I would say whether it is human rights compliant or not, we should accommodate everyone in this and I think that is a sound indictment that after the 12 years this has been around that we cannot even get our act together on that.

**Deputy S. Pitman:**

Just a question for the Attorney General. I would just like to know it is human rights compliant that we are treating non-qualified tenants differently to those that a qualified. Why have the qualified got the rights and these non-qualified have not?

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

The discrimination provision in Article 14 of the Human Rights Convention is in these terms: "The enjoyment of the rights and freedoms set forth in this convention shall be secured without discrimination on any grounds such as ..." and then there is a list of grounds which then follows. The grounds are: sex; race; colour; language; religion; political or other opinion; national or social origin; association of a national minority; property; birth or other status. I think that the position is that none of those grounds would apply to the discrimination between persons who are tenants and persons who are not tenants. Therefore it is entirely the case that this legislation, which deals only with tenancies and does not deal with lodgers, is not discriminating in that sense. The nature of law is dealing with tenancies and not with lodging arrangements. There are many cases of laws which are both in this jurisdiction and elsewhere which distinguish between tenancy arrangements and

lodging arrangements. It has been particularly so in the U.K. with regard to rent control, with regard to rating and things like that.

**Deputy M. Tadier:**

A further supplementary, if I may. Thanks for the explanation, I think that was helpful. Does the Attorney General believe that it is counter to the spirit of the Human Rights Law?

**The Attorney General:**

I am not sure I am responsible for the spirit of the Human Rights Law.

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

I just want to make 4 points. The first 2 have been made by others. I just want to echo what other people have said about lodgers. It is quite clearly not adequate to exclude a quite a large slice of our population from this kind of protection. Of course we need comment on that from the Assistant Minister. The second point is this strange business of the Minister adjusting the notice period, which is a pretty critical element of a tenancy, by order. Many Members would like an explanation; the public would like an explanation, why it is that the Minister has been given this power under this proposed law? The third thing I want to mention is the tenants' deposit scheme. I can remember discussion this at Amos years ago. We just could not believe that this simply scheme was not possible. Why can it not be done? It is such an obvious injustice. We were getting these cases coming to our notice and we could not understand what was difficult about it. Now, we have heard from the Minister that the cost was prohibitive. What prohibitive cost is there in depositing deposits in some form of account and then having them available at the end of the tenancy? Sorry, I do not understand it and I hope the Minister can explain, or the Assistant Minister, just what is difficult about this tenants' deposit scheme and why do we not have it in front of us? In relation to delays, I would like a commitment as to when it will be brought in. This has been going on for years. Since being in the House, it has been promised month after month Professor Whitehead's is going to appear; we still have not got it. The single gateway. There seems to be a problem at the Housing Department. The single gateway has been mentioned, I think, for years - and certainly in all the time I have been here - and, again, it still has not appeared. So that is a comment about the tenants' deposit scheme and delays in simple basic human rights type legislation. The fourth aspect, which no one else seems to have picked up on, and I do not know if I am reading this right, because I cannot believe it if I am reading it right. If Members want to turn to page 22, which is the appendix 2 to the report: "Summary of changes made to the draft law in response to comments received during consultation and further discussion." If Members want to look at the (iii) with reference to Article 19 - and the reason I am mentioning this detail is I think it is of fundamental importance and I want the Minister to comment in the principles part of this discussion: "The requirement that a landlord be under an obligation to provide a tenant with a statement at least once every 6 months during the duration of the residential tenancy showing the amounts and dates of payment of any monies paid to the credit of the landlord has been removed." Now, I understand that to mean that if I am a tenant and I pay my landlord weekly or monthly a certain amount, I will have no record legally, no entitlement to a record, of what I have paid the landlord. I cannot believe this. Are you seriously telling the House that you have removed any legal requirement to have a receipt? Words fail me and I hope the Assistant Minister can answer those 4 questions in his reply.

**Deputy R.G. Le Hérisier:**

I have spoken, Sir. I want to ask the Attorney General a question. I am a little confused. He said that in many jurisdictions there is distinction drawn, as I recall, between lodgers and tenants and jurisdictions therefore go ahead in framing their laws on that basis. But why then is the rental deposit scheme being held up, because at the moment there are difficulties in embracing people in the non-qualified sector? I cannot quite work that out.

**The Bailiff:**

I am not sure that is a matter for the Attorney General, but can you help on that?

**The Attorney General:**

I am not sure I can help the Assembly. I think that is a matter for the Assistant Minister.

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

I would just like to thank the Minister for his kind comments about my own involvement in this law. I think I first got involved with it in the early 2000s and I have to say that the early drafts which I saw were absolutely appalling. A great deal of alterations had to be made. They were at least even-handed because they equally unfair to both landlords and tenants and sometimes in the same article. But I am glad to say that what we have now is of very good quality although there are issues which different Members have raised. Deputy Le Hérisier raised an interesting point in relation to Article 6 which is the possibility of there being shared toilets or things of that nature. He is absolutely right, that would not then be covered by this law. But of course the tenants and the landlords would not be deprived of rights, they would retain the existing rights under the previous law in relation to that kind of situation. It is absolutely right this does not apply to lodgings because, in fact, this law is geared up solely with a view to tenancies and not to lodging arrangements. There are some matters which have been referred to by different Members where there are difficulties. I want to add my own comments to the Member who mentioned problems with the Rent Control Tribunal. I, in fact, was moved yesterday when speaking on Radio Jersey to comment that in my opinion the provision that was brought in in relation to the Rent Control Tribunal whereby provided a lease was in a particular form the tenancy was no longer subject to rent control was one of the worst legislative provisions I had ever seen in my life. I want to continue to say that because we have an emasculated Rent Control Tribunal and I would urge the Minister and his Assistant to do something about that because people should have the protection of a rent control tribunal. Yes, there was a particular law case in which I seem to remember a younger Advocate Bailhache being involved in which a coach and 3 horses were driven through the legislature, but we need to put it right. **[Laughter]** I remember that case, I did quite a lot of interlocutory applications on it at an earlier stage and I think he won some appeals against my decisions along the way. Anyway, enough of that **[Laughter]** in relation to deposits, yes, there is an issue here but it is not quite as simple as may at first appear. The difficulty is this. It is relatively simple to create a system in which deposits have to be deposited somewhere and held and safeguarded but if there is a dispute that does not solve the dispute. You still have the dispute you have to have a mechanism for solving the dispute. Now, I have to say my experience as a judge was that the disputes which came to court involving a deposit were absolutely ghastly to take to trial. They were so complex, there were so many issues involved but, on the other hand, I have to say that they mediated extremely well. The percentage of agreement at mediation was very high. But Members must understand that if there is going to be a deposit system that is going to lock money in until there is a settlement there will be resources ... particularly in terms of the mediation service which is run at the Petty Debts Court, that, I think, will be the primary increasing of costs there. In relation to court costs, this law will, in my view, require the court to do some additional matters but I do not think particularly considerable additional matters with the exception of the mediation issue, which I have already mentioned, because the court already deals with eviction actions. I would thank learned Members, Members who have already expressed their thanks for the way in which the Greffe and the former magistrates have dealt with evictions in the past. In relation to Article 19, a point raised by the Deputy of St. Mary, here I must confess my guilt because it was at my request that the Article 19 provision was taken out. This does not deprive a tenant of a right to a receipt in relation to payments which are made. Indeed tenants very often make payments by standing orders or by cheque and therefore have internal proof irrespectively. If the previous provision had remained in, it would have required a landlord, once every 6 months, to produce a statement setting out what had been paid and when and so forth. My own view is that that was an entirely

bureaucratic and unnecessary requirement, particularly when payments are made by standing order or otherwise. Indeed the experience of the courts was that disputes rarely arose as to the amount which was outstanding. For the very simple reason that if the tenant got behind on their rent the landlord was jolly quick to chase them up for it, therefore you did not require this. So there is an explanation of the Article 19 amendment. I urge Members finally to support this piece of legislation which is a massive improvement and sets out the rights clearly and protects both landlords and tenants.

**Deputy T.M. Pitman:**

A question for the Attorney General, if I may? The Attorney General has just referred to Article 14 discrimination in answer to the question about human rights compliance regarding unqualified individuals. Could the Attorney General also clarify whether this is compliant under Article 8, the right to respect for private family life?

**The Attorney General:**

The Article 8 right is a qualified right and the analysis which has been done in my department suggests that the interference with the rights, which is confirmed under Article 8, with respect for private and family life is proportionate to the objects contained in the legislation. My department has certainly been satisfied that is the case. I wonder, while I am on my feet I might just mention that the reason for the change, the change in 1993 to the rent control regulation - just picking the point that the Minister for Home Affairs has just made - is because of the outrageous attack on the rent tribunal by the private sector in the 1980s and early 1990s. The regulations were changed to give comfort to tenants in that the rent could not go up by reference to market increases, which is what the private sector landlord was seeking at the time, and provided you entered into an agreement which was in writing and provided for a rent which could go up only by reference to the retail prices index once a year then you were excluded from the rent tribunal looking at that particular arrangement. That was the reason for the interference or the change in the arrangement that had been made. I thought it might be helpful to Members to know there was a reason for it and it was only in favour of landlords that this provision was made.

**The Deputy of St. Martin:**

Before I call a truce, could I ask the Attorney General, maybe he could clarify what he means by being proportionate to the law? The Attorney General made reference to Article 8 and it being proportionate to the law, could he explain further what he means by it being proportionate? Does he mean it proportionate that someone without qualifications is not entitled to any means of security?

**The Attorney General:**

No, this law is not concerned with those who do not have qualifications because the law is aimed at residential tenancies and the residential tenancies fall within the existing ambit of the housing legislation. The controls which are imposed by that legislation have been endorsed, if you like, for human rights purposes by the European Commission on Human Rights, in the case of Dunne, for example, and the United Kingdom and others. Therefore I think the Assembly could be satisfied that the existing housing controls are regarded as a proportionate interference with the rights under Article 8 to respect the private and family life.

**The Bailiff:**

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

**10.1.11 Deputy S. Power:**

I thank everyone for their comments and their questions. The Minister for Home Affairs and the Attorney General have clarified some issues, and I am grateful to both of them, but there are a

number of other issues that I need to clarify and I am going to do these in a semblance of order because a number of the same queries have been repeated. If I could go back to the comments that were made by the Minister for Treasury and Resources. My reference and my use of the phrase misleading was both applicable to the estimate of £20-25,000 as much as it was to the use of the statistics which were referred to in the comments. In my view, the Minister for Treasury and Resources' Department's use of the statistics was inaccurate and I have tried to clarify that and I will circulate to all States Members tonight or tomorrow morning the actual figures in terms of evictions as they came before the courts. Neither the Minister for Treasury and Resources nor myself know exactly what the costs are going to be, they may £20-25,000 and they may be less, or they may be slightly more. We simply do not know from where we are today. I would like to make some comments on the criticisms and observations made by Members on the lack of a tenants' deposit scheme. One of the big issues that the Minister for Housing and the Assistant Minister have faced with the population office is that in order to bring this law forward we have to repeal some other law, which is the Lodging House Law. In order to break down what is inequitable, we have to bring in laws that are equitable. Now, a number of comments have been made about the fact that we should have factored in a deposit protection system now in this draft Residential Tenancy Law, but the point I would like to try and clarify with Members - and this will come out in the 6 sections, the 6 parts and the 26 Articles that are coming forward - is that we have to repeal the Lodging House Law which is inequitable and in order to do that we have to bring in a new Migration Law which is ready to come in with Senator Routier after I hopefully get this draft Residential Tenancy Law through the States. Now, part and parcel of a right to lease, the right to a tenancy, the right to a legal document for people who are what we call unqualified at the moment will depend on these 2 pieces of work. We cannot bring in a premature deposit protection law of a kind we want until those 2 pieces of work are done. I will ask Members to bear with me while I clarify this. The point is being made that we have done ... the point I would like to make is that we have done a huge amount of work with regard to a deposit protection scheme and it will be brought in as a regulation. We have been discussing with one not for profit organisation in the U.K. and with the Jersey Community Savings Bank how to bring this in, and it will be self-financing. A large amount of money is involved in this. The Housing Department's estimate is that we are dealing between £3-4 million of tenants' deposits. Allied to the deposits protection scheme is what is the most effective and the most efficient way of logging a unit of accommodation before, during and after the tenancy agreement, and that will probably be done by means of electronic photography. A statement of the condition of the premises before and then a photographic record after. So this has to be brought up and brought together into a regulation. So I would say to Members that if you feel that work on a deposit protection scheme sounds woolly or sounds that it has not been done, it has been done but it has to take ... no, I am not giving way, Deputy, I am not giving way, do not even press the button. A lot of work has been done in that area and if Members **[Interruption]** ... I want to make it clear that a lot of work has been done on a tenants' deposit scheme and that will come forward later. It will become clear as talk and walk you through the articles tonight and tomorrow. So I ask Members to bear with me. The Deputy of St. Mary talked about Article 19 and that a landlord should present a tenant with a statement every 6 months or so for the duration. As the Minister for Home Affairs said, this has the ability to create paperwork that is unnecessary and that if a tenant pays by direct debit or a tenant pays by cheque there will be a record there and there is not a need to generate bureaucracy if a tenant can be sure that his payment has gone through and the landlord is sure that the tenant has paid. That can be done on agreed terms and that is why this new Residential Tenancy Law is a flexible beast. The Minister for Home Affairs has dealt, I think, with Deputy Le Hérissier's comments and questions on accommodation that is not self contained. He has also referred, I think, to hotel accommodation and temporary accommodation, short term winter lets, that type of thing.

**Deputy R.G. Le Hérissier:**

I did not think the Minister for Home Affairs covered that bit. He covered several issues but not that issue, as I recall.

**Deputy S. Power:**

If I may clarify then that the Residential Tenancy Law deals with fixed and periodic tenancies for a prescribed period of time and it does not deal with that type of short term non-specific accommodation. A number of questions have been asked this afternoon about the Rent Control Tribunal and, indeed, the Minister for Home Affairs has dealt with some of it and the Attorney General has dealt with other aspects of it. I can tell Members that I have done quite a bit of work since the approval of the ... reappointment of the members of the Rent Control Tribunal and, indeed, a report, I believe has been lodged with the Greffe, which Members should have tomorrow deals with outstanding matters to do with the Rent Control Tribunal and incorporating reservations that I have, the Minister for Housing has and the population office have in the way it operates and I would ask Members to just bear with me for another 18 hours until that is released tomorrow. I believe it is being lodged, as I talk, as a report. Senator Breckon asked and made some comments about evictions as they were and evictions as they are. One of the points to do with the Residential Tenancy Law is that we will change the way this is done because there has been inequity in the way evictions have been carried out and a great deal of unfairness. I think under the Residential Tenancy Law - again I will talk Members through the articles - the landlord and the tenant will know exactly where they are in terms of the type of lease the sign, the type of agreements they agree to and disagreements. I have already referred the Lodging House Law and lodgers in general and I think it would be wrong to state now what is going to be clearly repeated tomorrow. I think the Deputy of St. Mary again referred to ... questioned the Minister for Housing and his ability to change orders. Sometimes this has had to happen to do with evictions, I think it was, unless I am wrong, and I think the Minister for Housing has had to deal with variations in periodic tenancies, whether they are weekly or whether they are monthly and that is the reason for that. All of the Housing Department's tenancies are periodic. Some Member referred to the Whitehead Review and the delays, I think it might have been the Deputy of St. Mary again. Professor Whitehead was, to my understanding, in Jersey last week. I did not meet her, neither did the Minister for Housing but I believe she did sign off the review and I believe that will be released to the Scrutiny Panel, to Senator Breckon's Scrutiny Panel, and to the Council of Ministers almost immediately, in the next few days. Certainly my understanding is it will be released this week. Unless I have left somebody's critical question out, I do not have anything else to say because I will be covering an awful lot of this in the articles tomorrow. So I ask for the appel.

**Deputy G.P. Southern:**

If I may, before the Minister stands down, you have not been in the Chamber all of the time but I have had 2 points of clarifications that have been muddled somewhat by the Minister. Is the Assistant Minister saying that we can have ...

**The Bailiff:**

I am sorry, Deputy, you cannot make another speech.

**Deputy G.P. Southern:**

I am in the middle of asking a point of clarification, Sir.

**The Bailiff:**

Of the Minister's speech?

**Deputy G.P. Southern:**

Of the Assistant Minister's, because I have already spoken and I need a point of clarification because the Minister spoke and made things more confused. Is the Assistant Minister saying that we can have a Draft Residential Tenancy (Jersey) Law without including those in lodging houses

but we cannot have a rental deposit protection scheme without including those in lodging houses? If so, why can we not do that because we are told we have to withdraw the Lodging House Law. Can the Assistant Minister explain why that is the case? Secondly, he still has not addressed my other question as to why material things in here have been changed, it says here, from regulation which comes before the House to orders which does not come before the House and cannot be amended by Members of this House? Why the need for that level of orders which are less open than regulation in this particular draft law?

**Deputy S. Power:**

I apologise to the Deputy if I appear to have confused him. I did not set out to confuse anyone. The deposit protection scheme is a piece of work which is, I would say, 85 per cent, 90 per cent in hand. It has to be self-financing. It will apply to both the Residential Tenancy Law and to the piece of work that I referred to that is coming in under regulation once the new Migration Law comes in. So it will apply to both sectors. We will repeal the Lodging House Law and we will bring in a new Migration Law and that deposit protection scheme will apply to that sector as well. I hope that makes it clear. That will be brought in by a Regulation by the Minister for Housing, not by an Order.

**Deputy G.P. Southern:**

I am still not clear as to ... we were promised a statement, we were promised action on rental deposits from the Minister towards the end of this year but at the same time the Minister seems to have said that nothing will happen on rental deposits until the Migration Law is in place which may be the end of 2010, 2011. Is that the case?

**Deputy S. Power:**

The migration policy is due to come in with Senator Routier this year, in the autumn. It is due to come in this year and the deposit protection regulation will come in very shortly after that.

**The Deputy of St. Mary:**

On a point of clarification, my understanding on Scrutiny is that the Migration Law is due to come in in May next year.

**Senator P.F. Routier:**

Just for clarification, the migration policy will be ... sorry, the consultation carries on until September this year, we will be working on the law which will be lodged in the middle of next year for implementation later.

**Deputy S. Power:**

I stand corrected.

**The Bailiff:**

Very well, so the matter before the Assembly is the principles of the draft law. I invite Members to return to their seats. The Greffier will now open the voting pour or contre the principles.

<b>POUR: 42</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy G.P. Southern (H)		
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				

Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

Very well, Senator Breckon, this is a matter which falls within the area of your Scrutiny Panel, do you wish to have it referred?

**Senator A. Breckon (Chairman, Health, Social Security and Housing Scrutiny Panel):**

No, Sir.

**The Bailiff:**

Then we turn to the individual Articles. Now, Assistant Minister, how would you wish to propose this, in parts?

**Deputy S. Power:**

There are 6 clear parts to this and I would like to take them in that manner. So part one would take Articles 1, 2 and 3 and so on.

**The Bailiff:**

We will propose Articles 1-3 then.

### **10.2 Deputy S. Power:**

I would like to propose Articles 1, 2 and 3. If Members would like me to run through them quickly. Article 1 deals with interpretation, a number of definitions, authority in all matters falling under the law is given to the Petty Debts Court. In this the recommendations of working party proposed that all issues relating to eviction payment will be heard by a division of a renamed Petty Debts Court to be known as the Magistrates Civil Court or Tenancy Division. It defines the landlord and the landlord is defined as the person who grants the right to occupy. There is no specific definition of a landlord but Article 1(2) does advise that the landlord include a landlord's heir, executors and administrators and assigns that also; (b) refers to the Minister is responsible for matters arising under the law and that is the Minister for Housing. The law is not prescriptive but it is the Minister for Housing, it is a regulatory measure which will govern all residential lettings. Period is referred to, this is important as it is the way in which a tenancy is defined as being a periodic tenancy or a fixed tenancy that determines the need for notice to be given and a subsequent need, or not, to apply Article 6 and 7 on notice periods. Residential tenancy is defined as a residential tenancy unit under the residential tenancy agreement. Carrying on, the Residential Tenancy Law will apply to periodic residential tenancy agreements that have lasted longer than 9 years so long as the initial was for not longer than 9 years. It deals with areas such as exclusive occupation, one or more natural persons and value. That is Article 1. Shall I take them together Articles 1, 2 and 3? Article 2 deals with premises to which this law applies, Article 2(a) deals only with residential tenancies. The current 1919 and 1946 legislation will continue in force and apply where applicable to agreements that fall outside the Residential Tenancy Law, such as agreements relating to commercial or agricultural property. A residential unit is described as a self-contained dwelling, as such it must offer exclusive use to the inhabitants of a shower or bath, a wash hand basin, a kitchen, a sleeping space and a lavatory and includes 5 units; (b) the Residential Tenancy Law will only apply, as I have previously referred to those under the Housing Law. It will not apply at the moment to those classified as lodgers because if lodgers were given the ability to enter into a residential tenancy agreement they would no longer be lodgers under the law. This cannot be remedied by amendment to the existing Housing Law as the entire foundation of the Housing Law is the exclusion of unqualified persons and that is why it is so important that the new Migration Law comes in. (c) the exemptions in Article 2(3) are included to exempt situations where a tenancy would not be expected to be granted as part of the premises. In Article 3, agreements to which this law applies 3(a): "Applies the Residential Tenancy Law to all such agreements made after implementation of the Residential Tenancy Law and those which, though made before implementation, are varied or renewed after its implementation." Article 3(2) tacit reconduction, as the Minister for Home Affairs corrected me it is tacit reconduction, which is a simple term to explain to continue the same terms on which agreements are continued. So it is a continuation of an existing lease. Article 3(3) states that a residential tenancy agreement can be partly or wholly implied or partly or wholly oral. The provisions mean that an oral agreement can be reached to enter into a residential tenancy agreement and that agreement is still valid until such time as the landlord provides the tenant with a copy of the written agreement. Article 3(3) permits the parties to include additional provisions to those required by the Residential Tenancy Law in a residential tenancy agreement so long as nothing in the agreement contravenes the Residential Tenancy Law. I move Articles 1, 2 and 3.

### **The Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on any of those Articles? All those in favour of adopting Articles 1 to 3 kindly show? Those against? They are adopted. Now, Assistant Minister, in Article 4 there is an amendment, I think, because it refers to schedule 2 so I think we ought to take the amendment at this stage. So would you like to propose Article 4 on its own, together with schedules 1 and 2?

### **10.3 Deputy S. Power:**

Article 4(1) states that: “The agreement must be in writing and signed by both parties. Any variations to the agreement or renewals must also be writing. These provisions meet with the proposals of the working party.” Article 4(2) requires the agreement to include provisions to the effect that those set in schedule 2, as schedule 2 is set out, and that provides a clear framework for essential information to be recorded in a residential tenancy agreement. If you will bear with me. Schedule 1 focuses on the administrative details and schedule 2 focuses on the practical details that an agreement must include between a landlord and tenant, such as allowing for a tenant to remove his own fixtures, allowing for the tenant’s consent not to be unreasonably withheld and allowing that tenants are not required to purchase any fixtures and fittings or pay for any premium or key money in respect of the residential unit.

#### **The Bailiff:**

Is Article 4 and schedules 1 and 2 seconded? [**Seconded**]

### **11. Draft Residential Tenancy (Jersey) Law 200- (P.74/2009): amendment**

#### **The Bailiff:**

There is an amendment lodged by Deputy Le Fondré to schedule 2, which forms part of Article 4 and therefore I will ask the Greffier to read the amendment.

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

Page 45, schedule 2, at the end of paragraph 2 add: “This paragraph shall not apply to the doing of anything that would involve structural changes to, or that could affect the structure of, the residential unit or any building in which the residential unit is located.”

#### **11.1 Deputy J.A.N. Le Fondré:**

As I have said in my report, this is a very minor clarification on the wording of schedule 2. It is not earth-shattering, in my view, whether it is approved or not. There are other solutions but they just require landlords to have better lawyers and to redraft their leases. So it is an attempt to try and simplify matters in my view. It is certainly fair to say that since lodging this amendment I have become aware of the various nuances to schedule 2 and perhaps this Article. These have, to an extent, been identified in the comments which we received late this morning from the Minister for Housing. I do obviously have to emphasise that the Minister for Housing has said on balance they do not support the amendment but we are not a million miles apart. The wording of paragraph 2, schedule 2, states that if the agreement between a landlord and tenant requires consent to be obtained for the tenant to do something then it shall not be unreasonably withheld. My interpretation of this, as a layman, if you like, in law, is that if the agreement requires consent to do anything then it shall not unreasonably withheld. In my view this has the potential to lead to all sorts of arguments as to what is reasonable. What I am basically trying to do is trying to avoid such arguments ending up in court for the area of what I will refer to as structural matters. Now, the nuances I have subsequently become aware of are that if the agreement is silent on the matter then it is unlikely to be caught by the schedule. In addition, if the agreement specifically does not allow something to be done then that will also not be caught by the schedule. In other words, in the agreement if one turned around and says: “The tenant shall not do structural alterations” then schedule 2 will not apply. If the agreement is silent on the matter then schedule 2 will not apply but if you have a reasonable landlord who has a clause requiring consent to be obtained before any structure works are carried out by the tenant, which is also not unusual in a number of leases that I have seen, then we fall into the problem of determining what is reasonable. Now, solutions exist but it just means that leases become harder and tighter and therefore this is trying to avoid inconsistencies in that approach. To iterate the points in relation to the recent comment, and it might help to turn the comments by the Minister, if we take the 2 examples provided by the Minister, in (ii) it is confirmed that if a clause is included in a lease agreement that does not allow

structural changes, then consent can be withheld. Full stop, end of story. In (i) it is slightly less clear, i.e. if the lease includes provision for seeking the landlord's consent but the landlord refuses consent it then becomes a matter for the court to determine what is reasonable or not. That is pretty well what it says in the comments, because paragraph 2 of schedule 2 will apply and this then leads to a determination of reasonableness. In my view that is the problem. So all I am trying to do is reduce the potential for ending up in court in relation to structural matters. If adopted all my amendment would do is have the impact of removing the application of paragraph 2, schedule 2 to structural alterations in the event that there is a requirement within the lease to seek landlord's consent on such matters. It is a relatively subtle argument. Therefore this amendment only applies, just to iterate, where an agreement requires landlord consent and it clarifies the position in relation to structural alterations. In my view it is therefore consistent with the other elements of the law which I support. Therefore I move the amendment.

### **The Bailiff:**

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

#### **11.1.1 Deputy S. Power:**

I spoke with Deputy Le Fondré about this and I think we are dealing with how we arrange words here. I do not think the Deputy and I, or the Housing Department and the Population Office, are in disagreement. What I would like to understate is the following. The principle hinges around whether it is acceptable that a landlord should have the right to unreasonably refuse consent. Our take on this is that landlords are free to stipulate in a residential tenancy agreement that structural changes are not permitted. But where they do not stipulate, what they do require is for consent to be required. The law requires landlords to act reasonably when a request such as this is brought forward. In this way a tenant can enter into an agreement with a landlord with their eyes wide open and where that agreement does not preclude structural changes, the tenant has the right to expect reasonable responses from the landlord. Arguably a property owner should be able to do whatever they wish with their property, especially with regard to structural matters. In this case, I believe that the original format of schedule 2(2) is clearer than what Deputy Le Fondré is wishing for. So I reject his amendment.

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

I suspect that Members will already be getting extremely confused by what we are talking about here so I am going to attempt to simplify it and clarify it but I may, of course, confuse you even further in so doing. There are a number of scenarios here. If a landlord, in his lease, chooses to say that you cannot make structural alterations, that is the end of the story and this amendment will have no effect. If the lease is completely silent then the customary law position, as I understand it, is that you have no right to make alterations. So this only applies to a very narrow circumstance in which the lease says you cannot make alterations without the consent of the landlord. In that case, Deputy Le Fondré's amendment will create a situation in which the landlord could willy-nilly and totally unreasonably refuse consent. Whereas if you go with Deputy Power the landlord will still have to act reasonably. My opinion is that landlords should always be required to act reasonably and therefore I am going to oppose the amendment, although I really cannot get excited about it either way.

#### **11.1.3 Senator T.J. Le Main:**

I follow the Minister for Home Affairs and concur with exactly what he is saying. It is much fairer to stick with the original proposal than the Deputy of St. Lawrence's one. As we have said, the landlord is free at the outset to put no structural changes are permitted and if changes are not prohibited all the law means is that the landlord must be act reasonably if a request is made. The issues, as presented by the population office, by ourselves, is that we should ... it is much fairer,

much better and much clearer if we stick to what we are proposing than what is being proposed by the Deputy of St. Lawrence.

**The Bailiff:**

Does any other Member wish to speak on the amendment? Very well, I call upon Deputy Le Fondré to reply.

**11.1.4 Deputy J.A.N. Le Fondré:**

Thank you. I thought it was going to be a tricky argument to try and put through. As we said, we are not a million miles apart and it comes down to the definition of what is reasonable and what is unreasonable. What I was trying to avoid is that argument going into court for structural matters. In my view, if a tenant wants to do a structural alteration to an extent I rather feel it should be the landlord can turn around and say no. My understanding of the law as presently phrased if the landlord has a clause in the lease which says you have to ask my permission then we get into the argument of is the landlord acting reasonably or unreasonably in saying no. If we clarify that the landlord still retains ultimate control over structural alterations, irrespective of schedule 2. In other words, if the landlord puts in a clause saying you have to ask for my permission for structural alterations then that landlord is still in the position of saying yes or no because it is their property, then that is a better argument than getting into discussions of a tenant coming along and saying: “I think it is reasonable for my style of living to do a structural alteration, you have to demonstrate that I am being unreasonable in my request and I am therefore going to get into a legal argument with you.” It is quite a narrow point. It is trying to follow the path of reasonableness. There are other solutions but they are more time consuming in my view, are great for increasing legal fees and have the potential to make leases far tighter, because all you do is you turn around and say: “We just will not grant you consent” full stop. I have listened to the comments that have been made. I am not too sure if we have enlightened anybody in terms of trying to make the argument. It is trying, in my view, to avoid an argument ending up in litigation on structural alterations and trying to address something in advance. I hope that possibly helps Members and I call for the appel.

**The Bailiff:**

The appel is called for then in relation to the amendment proposed by Deputy Le Fondré. I invite Members to return to their seat to vote pour or contre of that amendment.

<b>POUR: 11</b>		<b>CONTRE: 26</b>		<b>ABSTAIN: 1</b>
Senator P.F.C. Ozouf		Senator P.F. Routier		Deputy of St. Mary
Senator S.C. Ferguson		Senator T.J. Le Main		
Senator A.J.D. Maclean		Senator B.E. Shenton		
Connétable of Trinity		Senator F.E. Cohen		
Connétable of St. Clement		Senator A. Breckon		
Connétable of St. Mary		Senator B.I. Le Marquand		
Deputy of St. Martin		Connétable of St. Ouen		
Deputy J.A. Martin (H)		Connétable of Grouville		
Deputy J.A.N. Le Fondré		Connétable of St. John		
Deputy A.T. Dupré (C)		Connétable of St. Peter		
Deputy E.J. Noel (L)		Connétable of St.		
		Deputy R.C. Duhamel (S)		
		Deputy R.G. Le Hérisier		
		Deputy J.B. Fox (H)		
		Deputy P.V.F. Le Claire		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		

		Deputy S. Pitman (H)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy A.E. Jeune (B)		
		Deputy T.M. Pitman (H)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		

## 12. Draft Residential Tenancy (Jersey) Law 200- (P.74/2009) - resumption

### The Bailiff:

We return then to Article 4 in its original form. Does any other Member wish to speak on Article 4? All those in favour of adopting Article 4, kindly show? Those against? Article 4 is adopted. Assistant Minister, in the interests of efficiency, do you wish to go on to Article 5 and part 3?

### Deputy S. Power:

I am conscious of time. It is 5.28 p.m.

### The Bailiff:

Yes, you could just speak briefly to it.

### 12.1 Deputy S. Power (Assistant Minister for Housing - rapporteur):

Article 5, this is where parties are allowed to introduce provisions that are not consistent with schedule 2 and I think it is a fairly important provision. It retains flexibility for the parties to create their own agreements, enables the parties to introduce other terms into their agreements so long as they are not inconsistent with that schedule 2, examples such as insurance provisions, rent variations, pets, parking, washing line provisions and so on. I move the Article.

### The Bailiff:

Part 3, Articles 6 and 7?

### Deputy S. Power:

Articles 6 and 7. Article 6(a): "There will be no requirement for notice to be given by either party to a residential tenancy agreement for a period of fixed duration to which it applies. A fixed term tenancy is one entered into by both parties with no expectation of it lasting longer than the initial specified period." (b) "The Residential Tenancy Law introduces new notice periods of 3 months from landlord to tenant and one month from tenant to landlord for all periodic tenancies to which the Residential Tenancy Law applies." I have already referred to what a periodic tenancy is. It is a one for an indefinite period which can be determined by a period of notice but can be recurrent whether it is weekly or monthly. (c) "It should be noted that any fixed term tenancy agreement made under the Residential Tenancy Law comes into effect and that continues after the due date of the expiry will become a periodic tenancy based on the recurrent interval." (d) relates to: "Give clarity and certainty to both landlords and tenants when entering into a periodic residential tenancy agreement." I am not quite sure how much detail Members want me to go into in this. I move Article 6 and 7.

### The Bailiff:

Very well, so Articles 5, 6 and 7 are proposed, are they seconded? **[Seconded]** Does any Member wish to speak on any of those 3 Articles?

**Deputy J.A.N. Le Fondré:**

May I seek a point of clarification from yourself, Sir? Is it procedurally correct for the rapporteur to be able to take the rest of the Articles as read?

**The Bailiff:**

He can propose them *en bloc* if he thinks fit and if Members are content for him to proceed that way. Let us just deal with Article 7 and then we will see if Members are content to proceed in that way. Does any Member wish to speak on Articles 5 to 7? Very well, all those in favour of adopting Articles 5 to 7 kindly show. Those against. Those Articles are adopted. Would Members be content for the rest of the Articles to be proposed *en bloc* with the Assistant Minister taking questions?

**Deputy G.P. Southern:**

This is important and I don't think we should be ...

**The Bailiff:**

No? Very well.

**Male Speaker:**

I propose the adjournment.

**The Bailiff:**

The adjournment is proposed and we ...

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

May I make a short announcement, Sir?

**The Bailiff:**

Yes, very well.

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

It is with sadness this afternoon that I would just like to inform States Members that the Chairman of the J.C.R.A. passed way on Sunday. That is the Right Honourable Lord Kingsland Q.C. (Queen's Counsel). Members will be aware that he was appointed Chairman in July 2004 and has acted with some distinction in his role as Chairman and I am sure that Members would join me in passing on our condolences to his family and friends.

**The Bailiff:**

Thank you, Minister. Just one other matter before we adjourn. The Comité des Connétables has lodged the Draft Honorary Police (Amendment) (Jersey) Regulations 200-, projet 115. As Members are aware they are no longer being circulated, all these papers, but they will be in Members pigeon holes. Very well, the Assembly adjourns until 9.30 a.m. tomorrow morning.

**ADJOURNMENT**