

# STATES OF JERSEY

## OFFICIAL REPORT

THURSDAY, 15th SEPTEMBER 2011

<b>PUBLIC BUSINESS – resumption .....</b>	<b>4</b>
<b>1. Draft Annual Business Plan 2012 (P.123/2011): fourteenth amendment (P.123/2011 Amd.(14)).....</b>	<b>4</b>
1.1 Deputy D.J.A. Wimberley of St. Mary: .....	4
1.1.1 Deputy T.M. Pitman of St. Helier: .....	15
1.1.2 Senator P.F.C. Ozouf: .....	15
1.1.3 Deputy G.P. Southern of St. Helier: .....	16
1.1.4 Senator S. C. Ferguson: .....	20
1.1.5 Deputy P.V.F. Le Claire: .....	20
1.1.6 Deputy M Tadier: .....	21
1.1.7 Deputy R.C. Duhamel of St. Saviour: .....	26
1.1.8 Senator T.A. Le Sueur: .....	28
1.1.9 Senator B.I. Le Marquand:.....	29
1.1.10 Connétable M.K. Jackson of St. Brelade: .....	30
1.1.11 Deputy M.R. Higgins of St. Helier: .....	30
1.1.12 Deputy A.E. Pryke of Trinity: .....	31
1.1.13 Deputy R.G. Le Hérissier of St. Saviour:.....	31
1.1.14 Deputy C.F. Labey of Grouville: .....	33
1.1.15 Deputy K.C. Lewis: .....	33
1.1.16 Deputy F.J. Hill of St. Martin: .....	33
1.1.17 The Deputy of St. Mary:.....	34
<b>LUNCHEON ADJOURNMENT.....</b>	<b>37</b>
<b>1.2 Draft Annual Business Plan 2012 (P.123/2011) - paragraph (e) - resumption.....</b>	<b>37</b>
1.2.1 Senator T.A. Le Sueur: .....	37
<b>1.3 Draft Annual Business Plan 2012 (P.123/2011) - paragraph (f) .....</b>	<b>39</b>
1.3.1 Senator T.A. Le Sueur (The Chief Minister): .....	39
1.3.2 Deputy J.A. Hilton of St. Helier: .....	39
1.3.3 Deputy P.V.F. Le Claire: .....	39
1.3.4 The Deputy of St. Martin: .....	39
1.3.5 Senator A. Breckon: .....	39
1.3.6 Deputy T.A. Vallois of St. Saviour: .....	41
1.3.7 Connétable D.W. Mezbourian of St. Lawrence: .....	41
1.3.8 Deputy I.J. Gorst of St. Clement: .....	41
1.3.9 Senator P.F. Routier: .....	41
1.3.10 Deputy M.R. Higgins: .....	41
1.3.11 The Connétable of St. Brelade:.....	42
1.3.12 Deputy R.G. Le Hérissier: .....	42

1.3.13	Senator T.A. Le Sueur:.....	42
<b>2.</b>	<b>Draft Sea Fisheries (Amendment No. 2) (Jersey) Law 201- (P.119/2011) .....</b>	<b>46</b>
2.1	Connétable L. Norman of St. Clement (Assistant Minister for Economic Development - rapporteur):.....	47
2.1.1	Deputy P.J. Rondel of St. John: .....	47
2.1.2	The Connétable of St. Brelade: .....	47
2.1.3	The Connétable of St. Clement:.....	48
	Deputy J.M. Maçon of St. Saviour (Vice-Chairman, Economic Affairs Scrutiny Panel): .....	48
	<b>STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY .....</b>	<b>50</b>
<b>3.</b>	<b>Statement by the Minister for Economic Development regarding Jersey Airport and Jersey Harbours .....</b>	<b>50</b>
3.1	Senator A.J.H. Maclean (The Minister for Economic Development):.....	50
3.1.1	Deputy P.V.F. Le Claire: .....	51
3.1.2	The Deputy of St. Mary:.....	51
3.1.3	Deputy J.A. Martin of St. Helier: .....	52
3.1.4	Deputy M.R. Higgins:.....	52
3.1.5	The Deputy of St. John: .....	53
3.1.6	Senator S.C. Ferguson: .....	53
	<b>ARRANGEMENT OF PUBLIC BUSINESS.....</b>	<b>54</b>
	The Connétable of St. Mary:.....	54
	<b>PUBLIC BUSINESS - resumption .....</b>	<b>56</b>
<b>4.</b>	<b>Draft Amendment (No. 16) of the Standing Orders of the States of Jersey (P.153/2011) .....</b>	<b>56</b>
4.1	The Connétable of St. Mary (Chairman, Privileges and Procedures Committee): .....	57
<b>5.</b>	<b>Draft The Law Society of Jersey (Amendment No. 3) Law 201- (P.122/2011).....</b>	<b>59</b>
5.1	Senator T.A. Le Sueur (The Chief Minister): .....	59
<b>6.</b>	<b>Chief Minister: election by an open ballot (P.126/2011).....</b>	<b>60</b>
6.1	Deputy T.M. Pitman: .....	60
6.1.1	Senator P.F.C. Ozouf:.....	63
6.1.2	Deputy P.V.F. Le Claire: .....	64
6.1.3	The Deputy of St. Martin:.....	66
6.1.4	Deputy M. Tadier: .....	67
6.1.5	Senator B.I. Le Marquand:.....	68
6.1.6	Deputy J.A. Martin: .....	69
6.1.7	Deputy M.R. Higgins:.....	70
6.1.8	Senator F.E. Cohen:.....	71
6.1.9	Deputy J.M. Maçon: .....	71
6.1.10	Deputy G.P. Southern: .....	71
6.1.11	The Deputy of St. Mary:.....	72
6.1.12	Deputy J.G. Reed of St. Ouen: .....	74
6.1.13	Deputy A.E. Jeune of St. Brelade: .....	74
6.1.14	Deputy R.G. Le Hérissier: .....	75
6.1.15	Connétable J.L.S. Gallichan of Trinity: .....	76
6.1.16	Senator T.A. Le Sueur:.....	76
6.1.17	Deputy I.J. Gorst:.....	76

6.1.18	Deputy J.A.N. Le Fondré of St. Lawrence:.....	78
6.1.19	Connétable P.F.M. Hanning of St. Saviour:.....	78
6.1.20	The Deputy of St. John:.....	78
6.1.21	Deputy A.T. Dupre of St. Clement: .....	79
6.1.22	The Connétable of St. Mary: .....	79
6.1.23	Deputy S. Power of St. Brelade:.....	79
6.1.24	Deputy T.M. Pitman:.....	79
<b>7.</b>	<b>Gambling (Jersey) Law 201-: 25% of Fines to go to Jersey Charities (P.124/2011)....</b>	<b>82</b>
7.1	Deputy P.V.F. Le Claire: .....	82
7.1.1	Senator A.J.H. Maclean:.....	82
7.1.2	The Deputy of St. Mary:.....	83
7.1.3	Senator A. Breckon: .....	83
7.1.4	Deputy A.K.F. Green St. Helier:.....	84
7.1.5	Senator P.F.C. Ozouf:.....	84
	Mr. T.J. Le Cocq Q.C., H.M. Attorney General: .....	84
7.1.6	Deputy T.M. Pitman: .....	84
7.1.7	The Connétable of St. Brelade: .....	85
7.1.8	Deputy M. Tadier: .....	85
7.1.9	Deputy P.V.F. Le Claire: .....	85
	<b>ARRANGEMENT OF PUBLIC BUSINESS.....</b>	<b>87</b>
	<b>Senator S.C. Ferguson: .....</b>	<b>87</b>
	<b>ADJOURNMENT.....</b>	<b>89</b>

[9:30]

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

**PUBLIC BUSINESS – resumption**

**The Bailiff:**

There is one matter to notify Members of. A report has been lodged by the Minister for Home Affairs, R.113, entitled “Importation of Fireworks in 2007 for a Charity Event: investigation”, combined report by the Minister for Home Affairs, Planning and Environment and Economic Development. We then return to the debate on the Business Plan.

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

I wonder if I might, as a courtesy to Members, let them know that I may consider the other 2 but I am certainly going to be putting back my proposition, if I may, on the inquiry for the issues in relation to the Committee of Inquiry until after the election. The Connétable of St. Peter is not here. It is P.142, Sir.

**The Bailiff:**

So P.142, thank you. So we can remove that from today’s session?

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

Yes, Sir.

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

May I do a similar thing, P.121, which relates to the petition for Clos de Sables? I would like to defer that. Although it is important, it is not urgent and I do need some more time to consult with representatives and residents of the area.

**1. Draft Annual Business Plan 2012 (P.123/2011): fourteenth amendment (P.123/2011 Amd.(14))**

**The Bailiff:**

Very well, thank you, Deputy. That is Projet 121, thank you. So then we return to the debate on the Business Plan and we come next to Amendment No. 14 lodged by the Deputy of St. Mary and I will ask the Greffier to read the amendment.

**The Greffier of the States:**

Page 2, paragraph (e). After the words “for 2013 and 2014” insert the words “except that the indicative total of net revenue expenditure for 2013 set out in Summary Table E on page 73 shall be increased by £14,801,800.”

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

Last amendment to the Business Plan. We have just in our prayers used the words: “*au bien et au soulagement du peuple*” - for the good and the protection or the relief of the people - and I think that is what this amendment is about. It is about how we interpret those words, what the correct balance is between public expenditure and private expenditure. On a personal note, this is effectively my swansong. Members may be glad to hear this, that this is probably the last time I shall be standing and introducing a major amendment or proposition and I do hope that Members will be nice enough to me to hear me out. **[Laughter]**

**The Bailiff:**

I expect that may depend, Deputy, on how long you take. **[Laughter]**

**The Deputy of St. Mary:**

I thank you for that intervention and I am well aware of this issue. **[Aside]** I do assure Members that this speech will not damage your health **[Laughter]** apart from the fact that your backsides may be glued to the seat but that is a hazard of the seats that we have in the Assembly, but it may change your mind and that is, I suppose, a health warning. I was encouraged by 3 speeches yesterday. The Chief Minister said that the Business Plan belongs to all of us in saying that effectively we had to approve it but we could amend it and he said there may be amendments which will succeed. I have not been keeping a running tally but I am not sure how many did succeed apart from the one from the Minister for Treasury and Resources himself. But nevertheless, I take encouragement from that; there may be amendments which will succeed. The second speech that gave me hope is the Minister for Treasury and Resources saying the debate on Clinique Pinel and talking about capital expenditure in general, we have got to do more. So the Minister for Treasury and Resources also, as well as all of us, I think, after that debate, are aware of the shortfalls of the need to spend more in some way or other. Now, that was about capital expenditure. What I am saying is that it applies to revenue expenditure as well. The third speech that gave me encouragement was Senator Le Main with his passionate plea for Health, for support for Health, for more oversight for Health, a root and branch top to toe review. That implies, of course, resources. So I am confident of the support of at least the Minister for Treasury and Resources and Senator Le Main in this matter and, hopefully, of others. This is not an election speech but the aim is to change the way we look at issues around tax and spending. Will Islanders get good medical treatment? Are the streets safe? Is our environment properly protected and are we ambitious for Jersey or are we despondent, are we saying we cannot do these things? The Chief Minister used the phrase 'can do' yesterday, how we 'can do'. What I want to see is a mature debate around public spending among States Members and the public. We have a good track record on consultation; 1,000, I think, responded to the Health consultation, maybe the Minister can correct me if I have got that wrong but I think it was more than 1,000 responses; 1,300 to the Transport consultation. I was talking yesterday to someone who is visiting from Germany and we were talking about that consultation record and I compared it mentally to the U.K. (United Kingdom). That would mean 500,000 responses going to the U.K. Government on a Health Review, 500,000, can you imagine it? Yet we routinely have that kind of involvement from the public in the way we are going but this issue, tax and spend, what is the right balance is a no-go area and Members might want to ask themselves why that is so. I say it is a no-go area. I asked a written question to the Minister for Treasury and Resources in October last year and I asked what specific consultation was undertaken with regard to the 50/50 split between tax increases and spending cuts. What form did the consultation take, what documents were published as part of the consultation, how were the benefits of public expenditure of different types explained and how were all sections of society reached? The answer was that there was no formal consultation on the C.S.R. (Comprehensive Spending Review) proposals. Now, there were qualifications to that, of course, and ways round it but the fact is there was no formal consultation on this most important of issues. In this speech, I am to look at 2 myths. The first is that public spending is out of control, that the States are wasting public money and so on and we hear that all the time from certain sources. The second myth is that keeping public spending low is key to economic success and, again, we hear that from many sources also. The problem is that if you look at the evidence, you find that both myths are untrue and yet they have a profound influence on the debate and, indeed, the public has absorbed particularly the first one as a matter of fact. That is how you undermine a public debate. You cannot have an involvement of the people, a collective vision for the future, if you set out to distort the facts, deceive the public and so avoid having that proper debate. I am not saying that we all do this. I am just saying that that is the effect of what has happened and I will show that later.

[9:45]

The other strand of this speech, apart from the honesty and the public debate, is what the appropriate balance is between public expenditure and private expenditure. That brings me to the addendum, item 1, and I have printed this addendum so that Members can see that I am not taking

quotations out of context. They can look at the graphs that I will be explaining and exploding, as I say, the myths that many of us believe and certainly many of the public believe. Item 1, Jersey General Hospital, and what a starting point that is. In the *J.E.P. (Jersey Evening Post)* on 2nd August, the front page headline read: "Hospital in urgent need of upgrade" and the text underneath said: "The building has a lack of fire evacuation procedures, raw sewage leaks, a maternity unit with facilities behind those of a developing country and practices still in place which were stopped in the N.H.S. (National Health Service) over 20 years ago." That was on the front page of our local newspaper. "The system is so poor that raw sewage leaks out into the hospital every couple of weeks," said the Hospital Director. That really has to pose serious questions for this Assembly and, indeed, the *J.E.P.* ran an editorial the next day and I think they were right to do so and that is item 2 and I will just pick out a couple of phrases. "The problems that have now been identified have not emerged over a few weeks, months or even years. It is reasonably clear that they have developed over a very lengthy period as a result of a chronic lack of investment." If you do not remember much else of what I say, remember the Jersey General Hospital and remember those comments of the *J.E.P.* editorial: "The problems that have now been identified have not emerged over a few weeks, months or even years ... a chronic lack of investment." That is the situation or was the situation. At the hospital, of course, it has been addressed or is being addressed. Think of what that headline means for your constituents or, closer to home, for your relatives, and Deputy Green said very potently yesterday, talking about Clinique Pinel, think, is this good enough for one of mine, for one of my relatives or friends? I think that is the question. So we have a public sector where I believe we see false economies. We are not reaching civilised standards in some areas; it has failed in others; it is under strain. There are clear and present backlogs and there is a lack of ambition. The question is, I suppose, what is the correct balance on public spending, social wage and I just ask a few questions and ask you to think whether these things are right. Do the public want environmental protection and all these things have been added to budgets over the years? So public spending; and I have referred to the hospital and the appalling situation that our new Medical Director found there and that is the transition from capital expenditure, which is what he was saying. The hospital has been neglected and the fact that we now have a new Medical Director, which is revenue expenditure. A lot of the comment about his salary was all fine and dandy and it is in the past but the fact is that the first recommendation of Verita was a Hospital Director and because we have a Hospital Director, which is revenue expenditure, which is what I am asking for, we find these shortcomings highlighted and we take action. He has also saved ... I had a conversation with the Minister for Health and Social Services yesterday and she explained in more detail about the Oncology Unit and so on and how he has moved space around the hospital to save us millions of pounds because we spent a bit more on revenue. So that is an aside linking these issues at the hospital with the fact that if you spend more on revenue, sometimes you get huge benefit. Moving on to Clinique Pinel. We were told yesterday by a couple of speakers not to look back. What is the point of looking back? Nobody can resist having a dig but we are where we are but the whole point is that if we do not understand how we came to these situations, then how can we put them right? On Clinique Pinel, it is item 4. I do not need to go through the press release but item 4 is the written question I asked. I am not going to go through that again after yesterday but the problems were first highlighted in 2000 and Clinique Pinel's refurbishment was needed. It was twice programmed, twice postponed, and now we have an emergency amendment to the Business Plan. Now, what I am interested in, what I want to bring Members' attention to, is the last paragraph on the addendum page 5 which is the comment of the Directorate Manager of Mental Health in 2009. "Although the care offered at the wards is of a high standard, the building needs work." He went on to say: "We are able to provide good nursing care within a safe environment. However, the environment does not provide the best possible standards that we should be striving for. Patients are not at risk here at this moment in time." So they are not at risk but we are falling short of the best possible standards. We are not at risk but we are falling short of the best possible standards. So we should do something but it is not really urgent. Then we look at the amendment that was brought on Clinique Pinel. I just want you to note the contrast between what the civil

servant reported back 2 years ago and what the amendment brought by the Minister for Treasury and Resources yesterday said. “Consequences of non-approval. Should the States not approve this proposition [this is for the extra £1.5 million] then the environment for people over the age of 65 years with significant mental health issues will continue to be not fit for purpose” and I am now on the Tenth Amendment to the Business Plan, page 5, because we got this recently. “Will continue to be not fit for purpose. This will result in increased risks to clients, staff, visitors and the organisation.” He then goes on to say that evidence-based modern treatment would not be possible and patients will not respond to treatment as speedily and the environmental impact will continue to be negative. So that is the version 2 years later when we are asked for another £1.5 million and the interesting thing is that to me, when the civil servant says: “We cannot provide the best possible standards but there is no risk”, he is indulging in self-censorship. He knows that if he speaks out and says: “We have to change this,” then the climate is not conducive to him saying that, to him or her putting his or her head above the parapet. I wonder how many other situations there are where someone has just modified what he or she would really like to say about a service for needs of self-preservation. How many other grave situations are there? How much other self-censoring is there? Moving on away from the Health Service to the Prison and, once again, it was an emergency reaction. Item 5 in the addendum page 6 and I am only going to pick out the most salient points but I have printed a lot of the Chief Inspector of Prisons’ comments so that Members can see I am not taking out of context. “This inspection in 2005 [this is the inspection of our own prison at La Moye] found some serious defects in the processes and procedures needed to support our varied group of prisoners. Few of the recommendations in our previous report in 2001 had been actioned 4 years later.” Exactly the same as Clinique Pinel. “As a consequence, the safety and security of prisoners and staff and the likelihood of prisoners’ rehabilitation were compromised.” Then she points out that on admission, men and women felt unsafe on their first night and there is a whole paragraph on bullying. The third paragraph: “Crucially, the prison had no reliable prisoner database. As a result, it was unable to assess prisoners’ needs or seek to meet them.” On page 7, going on to education: “There was very little by way of educational training to try to provide prisoners with the skills they might need to gain employment on release and to reduce the likelihood of re-offending.” The second paragraph on that page is about women and the third about children, both groups being failed by our prison. It was a damning report. I remember reading about it in the *J.E.P.* and being shocked. The States, to their credit, reacted but, again, it was a reaction and on page 8, I will not go through it in detail, but you can see the reaction of the States. They found money for a major capital investment. They said that the uncertainty surrounding the budget had to be tackled and finally they said that the Council of Ministers had accepted the key elements of the improvement plan leading to an increase in funding for 2007 and future years. Then: “The overall performance of the prison should reach acceptable international standards” acceptable international standards. We found the money when the finger was pointed at us by Her Majesty’s Chief Inspector of Prisons. So that is 3 cases of where we waited and waited and waited because we did not have the money. We did not wish to tackle these issues. Her Majesty’s Inspector of Prisons reported in 2001 we did next to nothing. She came back in 2005 and she said: “This is not acceptable” and then we acted. Now, if it was just those 3 cases, we could perhaps settle back in our chairs and say that those are isolated incidents. Can anyone think of other examples where we have majorly failed? Before anyone says I only see the glass half-empty - and I will just take a sip - and I never see it half-full, I would point out that a lot of our public services are perfectly adequate. They trundle along, they do the job, the streets get swept, and the children get taught. I am not saying that across the board everything is awful but I am saying that there is an issue with funding. Another example, Children’s Services. Oh, dear, one report after another and finally the States were moved to invest in Children’s Services and children’s protection to the tune of over £3 million. Environmental protection. Bellozanne, I think I just have to say the word, Bellozanne, and I remember the emails that I had earlier. Now, thank goodness, it runs no longer. The woman with her child worrying about the clothes, the windows, the teacher whose life was ruined probably because of what came out of the chimney and I was so angry and I am still angry

that the States failed its people for so many years by not putting in scrubbers in certainly the second stream and the sewage sludge issue. Now, we learned about that in Environmental Scrutiny and we found out that we have been putting sewage sludge on land - and that is a reasonable thing to do - for many, many years but we have not analysed it for many, many years.

[10:00]

My goodness. What are the effects? We do not know. Is it in our food? We do not know. Does it run off to sea? We do not know. I should just remind Members that it is a public health issue; it is an issue about how we regard our environment, whether we treasure the soil that gives us our food but it is also an economic issue and just think of the words "Spanish cucumbers" and what happened when there was a bad batch or there was suspected to be a bad batch. The market simply went to nothing in Germany in a week. We take the greatest care to protect our finance industry and its reputation. That is perfectly in order. Where is the care to protecting our environment and our international reputation and our tourism industry and our aquaculture industry? So those are a series of failures and moving on now to the backlog. The backlog is listed on the Annual Business Plan page 43 and I will not go through the familiar list of the elderly and the property maintenance and so on, but I will mention 2 of them. It is a long list. There are 7 major items where we have to find - even according to the Ministers - major resources in the future. Property maintenance, £125 million backlog. We have over £1 billion of assets but we cannot find the money to look after them. Among those assets are assets donated to the States, and I wonder what the legal and moral position is on the Le Seilleur building given to us and then allowed to rot. Housing maintenance, £75 million adrift. Now, with the fiscal stimulus package, £64 million adrift and is it not ironic that it takes a recession for a stimulus package to come along and do some of the housing maintenance. Then we spend; then we find that public spending is justified. Moving on from the backlog, what is the kind of ambition that we have for Jersey or do we sit in this kind of blocked state where we fail to achieve our potential and the Deputy of St. Ouen mentioned Fort Regent yesterday, I think, and the potential and the fact that we will have to find some investment to unleash the potential of that building. I will mention just a few examples of the negativity that is also due to: "Oh, we have not got the resources." The Tourism Development Fund, which is on page 12 for those who wish to refer to it of the addendum. We voted £10 million for the Tourism Development Fund. So far, they have had £2.2 million and that is the level of support for our major, what is called legacy industry but the fact is it adds an enormous amount to this Island and it adds diversification, of course. But we just cannot find the way to support them adequately and I am reminded of the fantastic gardens of La Chaire and I know that is controversial but the fact is that if any golden goose passed this House by, that was it because Tim Smith was exactly right but we fumbled - I was not there at the time - fumbled that because it was just beyond the horizon of this Assembly. We cannot do exciting things like that. Second example of negativity, this cloud of despondency which means that you cannot really do anything. Liability over potholes. Okay, it is a big issue. It means that we the States cannot guarantee our people that the roads they travel on every day are safe for them to do so. They cannot sue us; we will not accept responsibility. So if someone on 2 wheels swerves to avoid a pothole or a manhole cover that is deformed and they get hit, they cannot sue us because we will not accept the responsibility. Quite extraordinary and we had a debate about that recently. My third example of this cloud of not doing, this cloud of 'not can do' despondency is the cessation of the Urban Improvement Programme. At one point, we had a rolling programme £400,000 a year, quite right, to improve our capital's environment and the results are astounding and then it was cut because we cannot afford to do it. We cannot afford for our capital town to begin to match the standards elsewhere. So that is a picture of where we are in the public sector and I think it is salutary to have a look at that and I now move on to the second strand of this speech which is, why cuts? I do find it very hard sometimes to understand why there is this almost philosophy, this drive, to assume that cuts are the answer, cuts are automatically somehow a good thing. What is it that brings us to this ideology, if you like, of cuts? The first underpinning argument for the cuts is that we must get public expenditure under control because it

is out of control. The most extreme version of this... and this might make Members laugh, it might make them weep, but this is a body funded by us and it is a newsletter from the Director of Jersey Finance Limited circulated in July 2010, and I am sorry this is not in the addendum because when I began, I had temporarily lost a bit of paper but I have found it. This is what the Director of J.F.L. (Jersey Finance Limited) in his newsletter wrote to all of Jersey Finance. This gets wide distribution. This is what he wrote about us and the heading of the paragraph is: "How is it that States expenditure has consistently outpaced inflation over many years?" and he quotes the 6.6 per cent figure, which is wrong but I will come to that in a minute. "Without further in-depth analysis, which is beyond the scope of this article, it is difficult to determine the detailed root causes of the rise in public expenditure but I hope to return to this subject in future articles." Here comes the sentence I want to bring your attention to. "The most obvious explanation is simply that the money was there to be spent" and someone said that yesterday as well. The most obvious explanation is that the money was there to be spent. Yes, it was the Chief Minister. Ministers have a temptation to spend it for the sake of spending it. How insulting is that? We have the Director of Jersey Finance telling the entire industry that we spend money for the sake of it. So that is the most extreme version of the myth that we are just barmy. Right, the second example is the Comptroller and Auditor General, page 12 of the addendum, and this is worth turning to because, after all, it is the Comptroller and Auditor General. The opening words of this page in his report on February 2010: "Although the rate of growth in spending has varied over the past 10 years, in recent years it has exceeded 6 per cent per annum" and there is a table there where he shows the growth in total spending, net revenue and capital net revenue and the capital allocation added together and he shows the annual increase. So there we have the Comptroller and Auditor General, over 6 per cent a year; the Comptroller and Auditor General telling us that we are spending more, 6 per cent a year. That then found its way into a Corporate Services Scrutiny Panel amendment on page 13 where they reproduce his table with no qualifications and the rider: "The table illustrates that the rise in spending since 2001 has been significant. It must be brought under control." So we must have failing despondent public services. It must be brought under control. But the thing is that they reproduced the table with no qualifications. Page 13, P.A.C. (Public Accounts Committee) get in on the act. "Growth in States spending. In 2004, there was a Fundamental Spending Review to a fanfare of 'we will cut spending'" says the Chairman's foreword. Senator Shenton, 2010. The review was in some respects an abject failure. Expenditure increased significantly in the following years despite the rhetoric. Turning to the next page, we have the Small Society group getting in on the act. First a letter sent by a member of the Small Society sent this email to all of us September last year: "States spending has doubled in 10 years." Doubled. Do Members remember the advert in the paper, the full-page advert of Small Society? I think it was even the main headline: "States spending has doubled in the last 10 years." Even the Small Society came back away from that 100 per cent because it was blatantly untrue and when they sent a big paper called *The Big Solution for a Small Society* to all of us prior to a big debate in 2010, they had brought the figure down to 75 per cent, and this is on page 14 of the addendum. "The States of Jersey net revenue expenditure has increased by almost 75 per cent between 2000 and 2009." Finally, Senator Ozouf on page 14: "States spending has risen by 30 per cent over the last 5 years, 6.7 per cent in 2009, a further 6 per cent in 2010." So there we have it. A constant drip, drip, drip, we are spending more each year than the previous year. We are spending a lot more. We are spending 6 per cent more. How strange this is. How can it be that we have these catastrophic failings in Children's Services, the prison, the hospital, Bellozanne, and yet we have been spending money as if it has gone out of fashion? Very strange. The truth of the matter is that the statement that our expenditure is out of control and that it is going up by 6 per cent a year is simply untrue and that is why there is this inexplicable contrast between the notion that we are spending and spending and spending and the fact that we cannot even afford £400,000 a year for St. Helier. I would refer Members now to the chart on page 18 and this is the truth about our public spending increases. It is the growth in States spending in real terms. The Minister for Treasury and Resources is fond of praising the F.P.P., the Fiscal Policy Panel, and he is right to do so. When you read their reports, you see something solid.

You see the caveats and the qualifications. You see the footnotes. You see proper economists writing to inform the public debate and, on page 18, there is the graph I have reproduced of the growth in States spending in real terms, which is the red line which rose up to 2001 on a slightly steeper line and then from 2001 to 2007, it increased, as their text says, by less than 1 per cent a year in real terms. Less than 1 per cent a year in real terms. Since 2007, it has grown more rapidly at around 3.3 per cent a year. When I add 1 per cent, 3.3, 3.3, I do not get to 100 per cent. I do not get to a doubling. I do not even get to 75 per cent.

[10:15]

It is an outright distortion of what is happening. States expenditure has been creeping slowly upwards and from 2007, slightly more rapidly. In 2007, we started to address the prison. Is anyone saying we should not have done that? So where do these modest increases come from? I have already mentioned the prison. There is a constant need to bring in new items of expenditure and it puzzles me when Senator Shenton, for example, can bring in propositions saying: "Slash straight away. Do not even wait 2 years; just do it now," and Senator Ferguson has also brought propositions saying: "Do it now, cut." Do we want the environment to be protected? We have introduced environmental protection or do we think the public prefers the risk? Do we want counselling or support for alcohol and drug users or not? It is not do "we" want: do they want, does the public want this because we have introduced that? Does the public want income support to be boosted for the poorest in society to protect them from the effects of G.S.T. (Goods and Services Tax) which would otherwise be regressive? This Assembly decided that those poorest people should be protected. Was that right or was that wrong? Does the public want prisoners not to have any education beyond the barest minimum, which was the case in 2005? Do they want them to have no chance of getting out the cycle so they go back out and bounce back in again, or do we have a serious attempt at rehabilitation? What did we vote for? We voted for rehabilitation. There is now an extensive education service in the prison. Were we wrong or were we right? What would the public say about it if they were asked? This is slightly more controversial. Do we want to lose money due to an understaffed Treasury Department which cannot do its job adequately? I refer to the euro question and I am not pointing fingers but I am saying that the Chief Minister in evidence to the Public Accounts Committee said that there was an issue with capacity at the Treasury and since then, we have seen the numbers of clever people put into the Treasury to financially manage the affairs of the States better boosted. Do we want that or not? So that is where some of the increase has gone. That is what we mean by emerging pressures. Were we wrong to make those increases or not? On page 15, I reproduced what the Minister for Treasury and Resources said when I questioned his 6 per cent claim. He said: "In the last 5 years, expenditure has gone up 6 per cent a year, 30 per cent in 5 years." How shocking is that? I may remind Members when I am talking about this that the way this translates into the media is: "The States are still wasting money" on the front page of the *J.E.P.* 15th December 2010, ha, and then we have a leader on a few days later: "Lessons to learn on spending. The Government is, in spite of a litany of promises to put its house in order, continuing to waste money. What can be done about this lamentable state of affairs?" The trouble is, it is not a lamentable state of affairs because it does not exist. It is a myth. Who puts this myth about? Why can we not have an honest public discussion based on facts, the facts 1 per cent increase a year, this is where it went, we responded to more people walking through the door at the hospital for outpatients, we responded to more cancer patients, we provided the resources because we had to and then the Prison Inspector told us we had to make the prison better. So that is why the spending has gone up a little bit. I say a little bit, I will come back to that in a minute. So the Minister for Treasury and Resources then explained his 30 per cent figure, oh, gosh, and we find that a lot of it is due to inflation. Out of the £146 million, £68 million is due to inflation: the pay awards, non-pay inflation and increases in social security uprating to cope with inflation. There is transfer from capital to revenue, which is an accounting thing. There are the effects of the credit crunch. Did we really not want to increase support in

income support for unemployed people due to the credit crunch? So it goes on, the list is there for Members to see. So the claim of 6 per cent is simply wrong because inflation accounts for most of it. I welcome the speech of Senator Shenton later. The third point about this myth that our spending is out of control. The first point was inflation, the second point is that the modest increases that the F.P.P. point out that we have made are justified, we are not mad spendthrift daft people, and the third point is efficiency. The implication behind saying: "They are spending it like water, they are throwing it away, they are wasting our money," is that somehow inefficiency is built in to the way the public sector runs. The public civil servants want to run things inefficiently. I do not believe that is true. It just does not match the facts and I quoted yesterday from the Environmental Services Department and it is on page 9 and 10 of the addendum, what they said in their evidence to Environmental Scrutiny. You could see there a department working at being more efficient, working at matching very small resources, tight resources, to a huge workload of protecting our environment and constantly reviewing their processes. I suspect that that is happening all the time anyway and yet we have this myth that somehow we can take an axe, walk into the woods and find some trees that need a bit of pruning. Of course, there are cases where it is a big organisation where things can be improved and certainly on a big scale where whole processes can be re-engineered and I do not doubt that for a minute but when benchmarking was done... benchmarking you see, this is interesting, is it not, benchmarking. How efficient are we? P.A.C. Report 2, 2010 and I am sorry, this is not in the addendum. "Recommendation 2.7" on page 5. This is the Public Accounts Committee. "A robust system of benchmarking should be put in place where appropriate. It should be possible to demonstrate the efficiency of departments through the use of appropriate benchmarking." So if we stand there and make sure that they are being efficient, then they will become more efficient. How odd that P.A.C. should be recommending that we do a study into benchmarking. I have the study here. Benchmarking. Performance benchmarking. Final report. 10th February 2004, KPMG running to 180 pages, department by department finding that some were a bit better, some were a bit not so good but basically a clean bill of health. That is the first point that they make in 180 pages, which cost us a fortune, by the way. The second point they make, because I have had a dip into this, is that it is very difficult to do benchmarking, very difficult to compare Jersey with anywhere really because of the scale of the operation. We are a tiny jurisdiction. To compare us to the U.K. is almost impossible. You have a hospital that does everything for 90,000 people and so on so it is a difficult exercise to do but it is being done and our public sector are not sitting around chewing their pencils. The fourth point is we must not raise taxes and I think this is the nub, if you like, of the amendment, is it not? Let us find another £15 million for 2013 and yes, of course, that raises the issue of taxes. But I do not believe that this is a show-stopper. The first thing is that we have to anyway. We have heard the signals from the Minister for Treasury and Resources yesterday. It is absolutely clear that we are going to have to increase charges or taxes somehow to pay for the drains which need completely replacing, to pay for the new sewage works, to pay for housing maintenance, to pay for this, to pay for that, to pay for the hospital, Clinique Pinel, nurses' housing, whatever. So charges and taxes are going to have to go up anyway. The question is the balance between corporate and individual, which of course we have talked about in other debates. We have just as an Assembly 2 months ago put back £9 million. We said: "Oh, we do not need that money." We will have that later because of refusing to implement the increase which had been put forward by the Council of Ministers in Social Security above the threshold. We could put a tax on land development on the increase in value of land when it is zoned for development and that was pushed off with a nice little shimmy by the Council of Ministers - whoops, bang, long grass - because we do not wish to talk about it. It has been pushed off again recently because we do not want to talk about that before the election and 1(1)(k)s, of course, which we will be talking about later. Could we not just have a little bit more please, just a little bit more? Even the Minister for Treasury and Resources is talking about a little bit more from the finance industry reference G.S.T. So that is the practicalities. I believe it is practical, feasible, to raise a little bit more if we have to. Now for the theory of raising taxes. The argument against doing it is quite consistent and it is expressed on

page 17 of the addendum by guess who, the Small Society, but they represent a lot of thinking in the Island. The Chamber of Commerce certainly think the same as this and what they say in their *Big Solution*, which they sent to us all last year: "The aim." The second sentence of the aim: "Our Island can no longer support continued growth in government spending and at the same time remain competitive and successful. If the economy is jeopardised, the security and benefits we all enjoy will be lost." That is the fundamental position underlying the view that we dare not cut taxes. The thinking goes if we spend too much on public goods and services, then the economy will suffer and if the economy suffers, then we all suffer. The problem is that it is not true and I invite Members to go to page 20. Now, this is not playing about with figures, this is not irrelevant. If we get this right, then, my goodness, it is important. The view put about by Ministers and certainly by their supporters in the Chamber of Commerce and the I.o.D. (Institute of Directors) and so on is that if you want economic success, you have to hold down public spending. That is the mantra and I have not bothered to find 6 examples of people saying that because I know that that is what they say but it is in the Chamber of Commerce newsletter every month. So I invite Members, as I say, to look at page 20 and this is the G.V.A. (Gross Value Added) of Jersey in real terms. How handy it is that we have a Statistics Unit who unpack these things for us. What is the real story of the Jersey economy in recent years?

[10:30]

If Members would like to look at the top line - the blue line - that is Jersey's total gross value added G.V.A. Members will notice first of all that if you look at the peak in 2000 and the peak in 2007, so that is the cycle - the business cycle - the boom and the bust; if you look at the 2 booms, you will notice that they are exactly on the same level. So the economy has not grown at all peak to peak. It has not grown at all. Then I invite Members to look at the finance sector which is the yellow line and the yellow line from peak to peak, 2000 to 2007, you will notice that there is a substantial drop between the 2 peaks. Then if you look at the red line, that is everything that is not finance and that steadily goes up. It does not wobble about; it steadily increases. The last line on that page, page 20, is - I am going to read out - it is from the Finance Policy Panel. Excluding financial service profits, G.V.A. grew by 1.5 per cent per annum (this is Jersey) in real terms over the economic cycle 2000 to 2007. So in Jersey, G.V.A. goes up by 1.5 per cent a year if you exclude finance. If you put finance in, then the economy is flat-lining, not going anywhere. Please turn to the next page and this is about population. The gross figures include the fact that our population has been increasing.

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

I believe we are inquorate. May I raise the défaut on Deputy T. Pitman; then we become quorate.

**The Bailiff:**

I think now that the Deputy has returned, we are now quorate. So, Deputy Lewis, you wish to raise the défaut on Deputy Pitman?

**Deputy K.C. Lewis:**

Yes, please, Sir.

**The Bailiff:**

The Assembly agrees to raise the défaut on Deputy Pitman? The défaut is raised. Yes, Deputy of St. Mary, please continue. I was going to wait for one hour to elapse and then indicate that you had been speaking for one hour and wonder how much longer you were going to be because, as you know, there is a heavy agenda for the Assembly and the Assembly has hovered above being quorate and it is my experience that that is often an indication or a concern about the length of the speech. So, Deputy, perhaps you could bring yourself to move to a conclusion as soon as possible.

**The Deputy of St. Mary:**

I would comment that in my observation we hover above quorate throughout this debate on what is just only the Annual Business Plan of the States of Jersey, but I do take the point and in fact there is not far to go. It is important that we look at this myth which underlies cuts - the philosophy of cuts - because if we can undo the myth, then the road is clear to a modest increase in net revenue expenditure, which I believe is necessary. So if we look at the Jersey economy taking out population, it is even worse. Page 21 gives us our G.V.A. per head or per employee, and there look at the yellow line; finance. Obviously the profits have been declining for years. Once again, the interesting line is the red line and it gives a pointer to why the Minister for Economic Development is so keen to see diversification because the non-finance sectors are basically what is keeping this Island afloat. It is increasing year by year, very slowly, 1.5 per cent a year. Now I would like Members to turn to the following page and this is the chart of Government spending. You see, we are told that Jersey is a low-tax jurisdiction. That is fantastic. It is really good for us. Let us see how low-tax we really are before we look at other countries and their economic performance. So on page 22, there is the famous chart which the Corporate Services Panel had in their appendix written by Dr. Harkness and here we see the public spending of different nations, wealthy nations, as a proportion of national income. Jersey is not on this chart. Jersey is 17 per cent. So I invite you to run your eye along the bottom where the markers go 10 per cent, 20 per cent, 30 per cent, 40 per cent, and imagine Jersey at 17. Just put a dot where Jersey is on your chart and you will see that no other country spends as little as we do. Then I invite Members to run to 34, which is double, and put a little dot at 34 on that bottom axis and then run your eye upward. Slovakia spends twice as much as we do as a percentage of G.N.I. (Gross National Income). Japan, even the United States, more than twice as much as we do. Canada, Norway, Spain, Luxembourg, more than twice. Luxembourg, more than twice what we do. Then I invite Members to imagine a line at 51 per cent, 3 times Jersey's public spending, and run your eye upward and you find that the countries that spend 3 times more than we do are Iceland, France, Sweden and Denmark. Just less than 3 times, Belgium, Hungary, Italy, Austria, Finland and the U.K. Then I invite Members to turn to the next chart, which is the one with all the colours on. This shows growth rates. What I did was I took the top spending countries. I said: "Well, okay, let us take the top 9 out of that previous chart, all the way down to the United Kingdom." To fit them on, I had to leave out Sweden. I just chose Sweden randomly but I can assure you I checked; it is in line with all the others. Look at this chart and look at the year 2000, which is the boom year. That is the peak of the economic cycle and you will see that all the countries are on 3.5 per cent growth and one or 2 reaching up to 5 per cent. So that is how you look at this chart and then there is 2001, 2002 and so on. I invite Members to compare the performance of these high-spending countries on page 23 with Jersey's performance on page 25, which is the next page. You can see both at once just by flipping over, which is handy. By the way, I do thank the Greffe for producing this really wonderful addendum in glorious technicolour. We do owe them a lot. If Members would like to look and compare those 2 charts, 2000, we were on 4 per cent growth. The top spending countries were on 3.5, some of them on 4 and so on, so roughly the same; 2001, flip over, we go minus 3 per cent. Minus 3 per cent. Flip back to the other countries. None of them are negative. The lowest is half per cent and they range from 1.5 up to 3 per cent. Then just do that again for the following 2 years, minus 3, minus 4, minus 1, and none of the other countries are negative or anywhere near it. They are all way above plus, to different degrees. That is total G.V.A. Now go back to the coloured chart and think of Jersey's growth without finance because finance is now dragging us down. Run your eye across the 1.5 per cent line, all the way across. Remember these are the top spending countries. Jersey is on 1.5 per cent a year growth, year on year. That is what these figures are: year-on-year growth. Run your eye across 1.5 per cent and ask whether the other countries are above or below that. Some of them occasionally are lower, most of them are higher and some of them a lot higher. The evidence does not support the belief that if you spend a lot on your public sector, you face economic disaster. So, coming to the amendment, I am proposing an increase of £15 million to the net revenue expenditure of the States in 2013. This is an indicative amount. I am sure we will be reminded that in this Business Plan debate we are talking about an

indicative sum, but I know very well the Minister for Treasury and Resources likes to jump up and say: "This is what you voted for. You voted for that sum." So I am proposing that we increase net revenue expenditure. Helpfully, the Council of Ministers have produced some comments and they first of all have a table which explains the increases in total States net expenditure. That is all very fine and dandy. I am proposing net revenue expenditure go up. I am not talking about capital and it will influence, of course, the figures and the totals. Their comment in the first paragraph under the word "comment" says that: "The Deputy [me] concludes that 2013 expenditure should be increased, presuming that items such as inflation have not been provided." That is not what I said at all. The reason for proposing a £15 million increase on their suggested sum is that what I did was I took 2012, I added 2.5 per cent and came to the figure. What I am suggesting is that the net revenue expenditure allocation for 2013 is, in real terms, the same as 2012. I am not proposing an increase; I am proposing the same. It is just that with inflation, which the C.A.G. (Comptroller and Auditor General), Corporate Services, P.A.C., Minister for Treasury and Resources and Small Society do not know exists, but with inflation I am asking for the same. The same. A lot of what they say is confusing the issue, saying: "Well we are growing some things. Oh, but we are cutting other things." I am just saying: "Cut the cackle. What we need is for expenditure not to be cut." Indeed, they admit on page 2 and 3 that over the period of the C.S.R., States net expenditure has remained relatively flat but seen a significant reduction in real terms. I ask Members whether a reduction in revenue expenditure is appropriate in view of what I have said about our public sector. So, in conclusion, I believe that the 2 main myths supporting the policy which says we must cut, the 2 main myths are firstly that expenditure is out of control. That simply is not true, as the Fiscal Policy Panel's chart shows. The second myth is that if we increase public expenditure - and I am not even suggesting an increase - then somehow this has a bad effect on our economy, and the evidence is completely the opposite. What there is evidence for is our failure as a Government - repeatedly, in different areas - to protect our citizens and to provide the services that they need. We need, I believe, an honest debate. We need to get away from the silos and the spin. By "silos", I do not mean departmental silos because we talk about that a lot. Ideological silos. We just need to talk on the basis of the facts and also on the basis of what the public might be telling us.

[10:45]

If we had an honest, open discussion and the public said: "We want the castles to fall down, we do not really care", if that was really what they thought, fine, but we do not ask. We do not ask. I beg Members to put an end to the years of stagnation, to vote for acceptable standards across the board, to vote against unacceptable risk, to vote against cutting our noses off to spite our faces. This idea that you can always somehow save money but it ends up as more expense later. I urge Members to vote for a 'can do' Jersey, an end to this paralysis where we stagger from one problem to another, shuffling them around, using the word "prioritisation" and never putting down the scaffolding at St. James', never getting the job done, never holding out the possibility of a rejuvenated tourism ... well he is doing quite well at the moment ... but better tourism with more support. Instead we get cut, cut, cut on the basis of 2 myths. I want you to vote against economic danger. There is a danger in continuing to cut at a time of recession. I want you to vote for the morale of the public sector. What must it be like to work in a climate where the less you spend the better, all the time? Of course you want to be efficient, you want to get the job done. Are we saying that people want to waste taxpayers' money? I am sure Members would not be saying that, would they? The effect on morale of this attitude, this miasma of almost despair: "Just do not it. Deal with it as you can." The Environment Services quotes that I put in that addendum say it all. We try to do the job. We want to do the job. Please give us the resources. Please give us the resources. Do not go the way of the cuts. There is no basis in fact for them in evidence and I move the amendment.

**The Bailiff:**

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

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

I will only be on my feet for a couple of minutes. Firstly, it is too late to do malade, but I wish to apologise to the House. Deputy Shona Pitman has gone home. We were up to the early hours last night after receiving threats. I am getting sick of the threats that I am getting and I have to say this Government disgusts me more and more. I have been to the police more than once recently. I will be saying more about this at another time. All I want to say is that is the best speech that I have ever heard in this House. It makes me ashamed when I listen to some of the rubbish coming from the Council of Ministers. What a great loss the Deputy of St. Mary will be. What a great loss he will be. Someone who looks and analyses and he looks at facts. He just does not go with the ideology. He just does not care about a certain section of society. He wants to do the best for everyone. To think the ridicule that he has had from some people in this house, it makes me emotional, it makes me angry. An absolute breath of fresh air, that man has been since I have been in the House. I have followed politics since I was 14 and he is certainly up there with anyone. People moan about his speech; well I have been sitting there waiting to come in for most of his speech but I am quite happy to sit there and I thank the Dean for letting me have his seat. When you listen to the speech and the quality of what is said, without this rhetoric, this rubbish that comes from the Council of Ministers with these right-wing policies, they are not based on fact, they are not based on doing what is best for society and I think I summed this up a few weeks ago and it fits in with what the Deputy said. When I was talking to the Minister for Treasury and Resources about world-famous economist Ha-Joon Chang, what did our Minister for Treasury and Resources, the great economist say? "I do not want to read that, I do not think. Sounds a bit whacky." This is a gentleman who has won awards, based at Cambridge University, and this is why we are in the mess we are. This is why we have seen, since I have been in the States, playing our public sector against the private, all because of the strange ideology of certain people who only want to look after the top tier of society. That makes me angry. That makes me disgusted. I felt very strongly a few weeks ago with what happened to Senator Cohen. I have been getting threats. I know who is doing it, some of it. Police have not done anything, and the Data Protection Commission. This all sums up with where the society is going. People only care about the top and greed. They do not want to listen, dismiss people like the Deputy of St. Mary as some kind of eccentric. Absolutely, should make everyone listening angry. I urge every Member to vote for his amendment and I give great credit to him. He is going to be gone and he will be sadly, sadly missed because he is one person who has the foresight that could save us from hitting the iceberg that sank the Titanic, because we are certainly going to hit it with most of those people sitting over there and I exclude people like Senators Breckon and Le Gresley. Thank you, Sir.

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

We have got a heavy agenda and I am going to be brief in the arguments because I think that they are relatively straightforward and I will certainly attempt to respond in less than 5 minutes. This debate is about increasing spending in 2013 by £40 million. The turmoil that carried along in the global markets this morning is as a result of parliaments making spending decisions that they cannot afford. This Assembly has a track record of sound public finance. We have strong public finances. We are not paying taxes and we are not making any allocation in this Business Plan debate on paying interest on past Assemblies' decisions. We are significantly investing in public services but we are also making savings. We do not have a credit rating because we do not want to pay the £100,000 to get one, but if we do, we would certainly, I am confident, have a triple A star (AAA\*) rating. I do appreciate that the debates in this Assembly are often about the difference between triple A star and triple A. So I believe our community wants us to be prudent in terms of our public finances and they want us to be continuing on the path of making savings and efficiencies. They do not want to see overspends. They do not want to see capital overspends of £8 million or not, I have to say, in relation to police stations. They want to see proper spending and the C.S.R. which the Deputy was very negative about is designed to deliver efficient public services

and public services of a very high standard. I am confident that in 2013 we can deliver £65 million worth of savings because if we go with this amendment, that is certainly a signal to say that we are reneging on the undertaking that this Assembly has given and the contract between the public of asking more in taxes but delivering services more efficiently and delivering better services. I want to conclude by simply saying to Members and to the Deputy of St. Mary that within the 2013 budget allocations are the following additions in terms of spending because I do understand that the public want to see quality public services and they want to see an end to, for example, the fact that we have not invested and we have not dealt with issues such as the health service. In 2013, there is a new £5.5 million for health. There is £2 million for skills. There is an additional for the capital programme of £38 million, an increased capital programme planned for 2013. There is £500,000 additional money for overseas aid. On top of that, there is £6 million of unallocated growth which the future Council of Ministers and the next Assembly would allocate: £6 million of unallocated growth in all the dealing with spending priorities. I am confident of this Assembly's ability to make good decisions, to make the right balanced decisions and not to bequeath to our successors problems which our successors will have to deal with. We are a long way from Greece but it does not take a long way to undo prudent financial management built up over generations. The Deputy of St. Mary is inviting us to take a small but significant step into imprudence and I urge Members to vote against it.

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

We have just heard once again the siren voice of big business communicating to us through the Minister for Treasury and Resources. Make no doubt about it; that was the voice of the laughingly called Small Society which is big business. It is a reaction to the business lobby which gets heard loud and clear by our Council of Ministers and by the Minister for Treasury and Resources in particular. When he talks about: "We do not have a credit rating", we do not have a credit rating why? Because we do not need to borrow, although we could. We have chosen not ever to borrow. If we were to obtain a credit rating, it would be right at the top of the range. We have got a track record that is fine and we would be able to borrow at very low rates, even in that global market that is in turmoil. The fact is, politically - got nothing to do with economics - we have decided not to borrow, full stop, and to impose savage cuts to the standard of living of our ordinary workers on the Island. That is what we are doing. We have chosen a way which, as has been pointed out ... and here I will just take a minute to praise once again the Deputy of St. Mary; he will be sorely missed in this House when he goes. The most intelligent analyst of what is going on and the best presenter, in many ways. I know it sometimes takes the best part of an hour but so be it. What we had today was a fine example of what this Business Plan debate should have been all the way through: principles, practice, what is the evidence, holding people to account, not just in little sound bites. Why have we not heard from every Minister today, justifying exactly what is on their particular pages of this Business Plan? Now we have heard an analysis which points out to the error, the fundamental error which - I do not know, D'Artagnan to the Deputy of St. Mary's Porthos, Athos and Aramis all rolled into one - in my own small way I pointed out from the very beginning, the path we have taken is a miserable and wrong path, but nevertheless we will not hear anybody say there are other ways. We are going to the cliff edge at full pelt and we will not be diverted. This Council of Ministers will not be diverted. Nevertheless, that was the ring of truth and yet we barely had 27 people in the room. Why was that? Because people do not want to listen. They have shut their ears. This response: "People out there want us to cut", no, they want a full explanation of what these cuts will mean because they are all hidden, they are fudged over. "There will be no cuts to front line services." Already the physiotherapy service waiting lists are lengthening. Prime, front-level cuts already happening. What we have to realise is that this is the first step of a package. We always do it this way. Heaven knows why, but we do. Business Plan, there is less to spend so that later on we can set the tax raising measures. The Deputy of St. Mary has said: "In 2013, we should spend a very tiny, moderate, little more than we are planning to. In fact, if we take

inflation into account, it is the same, as he clearly pointed out and I did not hear him properly. Such is my inadequacy.

[11:00]

We are talking about spending and then raising the money to spend on services for our people. Make no mistake, that economy is not just the private sector. It is public sector spending as well that keeps the economy going. When the private sector is in the doldrums, as it clearly is, there is no sign of the end to recession, there is no sign of recovery in any of the indicators yet. Then you have to use your public sector to prop up the economy and this is a very moderate amount to prop up the economy in 2013 to help. If we want to look a bit further forward to examining ways in which we might raise some additional money to afford this by 2013, may I suggest we open our eyes and look at some of the elephants in the room that we keep ignoring year after year after year, and that is the minimum wage. Have we got the minimum wage at the right level? No. How do we know? I will tell you why: because, with supplementation running at £65 million, we are propping-up all of those low wage earners on the minimum wage and slightly above, and there are plenty of them in the “and slightly above” with £65 million. We are further spending around £90 million on income support. Why? That is a good thing, that is an excellent thing but if you want to balance public spending with private spending, business with Government, and if you are determined to cut down, as you say, on the spending then what is income support doing? It is propping-up the minimum wage because people on the minimum wage and above it cannot afford to live. It is propping-up landlords and rents; that is what it is doing. Now, there is £90 million in that and there is £65 million in supplementation. If you want to do something about that and the minimum wage between now and 2013 then we could find that £14 million quite easily. So it is not impossible but I just want to illustrate what that means in terms of this Business Plan, such as it is. Looking ahead to 2012 and appropriately to 2013, and I just want to examine the proposals that are there on pages 184 and 185 of the Annual Business Plan come from Home Affairs, not my specialist area but let us examine what it is proposing. These are the C.S.R. savings proposals, and before I start on C.S.R., the other fundamental mistake, and the Deputy of St. Mary I do not think mentioned it or I may have missed it early on, was this idea that we can do this Comprehensive Spending Review and we can change fundamental services in a 3-year period. Wrong, wrong, wrong and wrong again. Three years is a very tight plan scale as we saw in the scramble for last year’s changes, and we are still seeing today I think, in this Annual Business Plan. If we have said 5 years and beyond and that is the timescale then we might have got some rational sensible changes to our workforce and to the delivery of our services but attempting to do it in 3 years, and we have seen the chaos, we have seen the chaos, we had one hit list come out of Health and Social Services, which was just a shroud-waver. That was completely scrapped. We had another list done by the chief officers of various departments and that all went through. This year we have had a 9-man team working on it and they have not yet delivered all the scoping for their cuts by September of 2011. We are starting in 2012. It is a nonsense. If we had have said 5 years to restructure what we are doing, to reorganise, then perhaps we might have had some faith in it and we could believe it and it might be a rational and sensible approach but 3 years, never, 5 or 7 years, that is a sensible time in which to reorganise. The business editor of the *J.E.P.* keeps telling us that and he is right. So we are in a mess I think, and I just want to point out that if some of this £14 million extra revenue goes in the direction of Home Affairs then that is well and good because I just want to point out some of the risks and targets that Home Affairs, in particular - and I would love to hear from the Minister for Home Affairs later - has set out. So here we are on page 184: “Savings will be achieved by a review of non-staff savings and a review of internal services and processes.” Excellent, sounds brilliant, I think they could do that. “Including the loss of 2 posts perhaps and the reduction in terms and conditions.” This is supposed to be delivering in 2012. “Reduction in terms and conditions for policemen.” Starting the negotiating when? In September? In fact yesterday, September of 2011 for 2012? You are not going to do it. For 2013? Possibly. You might be able to reach an agreement, because you have to negotiate it. The last thing you want is upsetting your

policemen. "As well as reviewing medical contracts." Okay so we will pull one of their benefits; that is about £184,000 I think. "Training budgets, recruitment advertising" oh, interesting: "C.C.T.V. (Closed Circuit Television)"? That sounds like a front line service, keeping ourselves secure. "Policing of events" that sounds like a front line service. "Core security and prisoner transport" blow me, that one again. Well, we can do that; Group 4 will do it. They lost prisoners when they started out doing it; they lost one only 2 months ago, famously. Let us privatise it; that is an excellent procedure. "The States Police is currently undertaking a number of in-depth reviews, internal services, et cetera. The savings will offset a reduction in staff numbers, which could critically affect the capacity and capability of the States of Jersey Police." Now, listen to the impact. You would think the impact of that might be there is a risk with privatising transport, there is a risk with shutting down C.C.T.V. and not doing it. There are risks, what is the balance? Impact. It starts of: "If these savings are not deliverable there will be a need to be a reduction in the police posts in order to deliver compensatory savings and contraction of capability of the services provided to communities will erode." So if we cannot do this, and remember renegotiating the whole pay structure of the police is involved in that, then the services may well erode. Not the risks yet the business case for any of those changes, just, if we cannot do this we will have to sack policemen, we will get rid.

**The Bailiff:**

Deputy, I am sorry to interrupt. This is all 2012, is it not, which is dealt with already?

**Deputy G.P. Southern:**

2012 and 2013, Sir.

**The Bailiff:**

Is it not 2012?

**Deputy G.P. Southern:**

No, Sir, as the pages says: "2012 estimate, 2012 savings, 2013 savings", and I will come on to bits where it says: "We will not be making savings until 2013."

**The Bailiff:**

The point I was trying to make earlier is that the Assembly is already agreed to 2012, Deputy. We are now considering 2013.

**Deputy G.P. Southern:**

Yes, and I am suggesting that the stuff will not be able to be delivered in 2012 but will be in 2013, which this is directly relevant to, Sir, as part of my argument. I am sorry I did not explain it clearly. Page 184 and 185: "Particular functions will either be withdrawn entirely or be unable to perform to acceptable levels and will lose the capacity and capability to protect the public." So, no word about the proposed changes but just, if we do not do that then we are in deep trouble come 2013. Later on we talk about the Fire and Rescue Service: "Savings will be achieved by a reduction in staff costs and non-staff expenditure, and a re-negotiation of pay scales with fire fighters." Here we go. Well, the first question is, is that double-counting? Is that in the £42 million that IMPACT came up with for changing its terms and conditions or is this a new savings, a real saving? But anyway, the same applies. Fire fighters, change their pay structure to reduce their pay. Can you do it? Maybe. Can you do it easily? With difficulty. Can you do it soon? Hardly. It has got to be negotiated, 2013 at the earliest. Impact of this, impact of the changes? Directly, and here is some proper analysis: "A reduced capacity and resilience particularly during larger incidents." Has anybody been to the public and said: "By the way, the changes that we are about to undertake will reduce cover, resilience and capacity especially for major incidents"? So do not get caught in a major fire of whatever nature because we are reducing the capacity. Is that acceptable to you

public? That is what cuts means. That is a front line service, the fire service. Reduced capacity admitted. It goes on: "More management time undertaking administrative functions" et cetera. We want more senior functions tied-up, bogged-down in admin, that is an efficient way to behave but major frontline services dealt with there, and certainly much of it not deliverable until 2013. On to H.M. (Her Majesty's) Prison and interesting there, as part of the criminal justice system, what we are looking at here, H.M. Prison is described as: "Provide accommodation, facilities and care for prisoners." Excellent, and then goes on to say: "Prisoner regimes", 2 little elements I am going to talk about. It does not mention protecting the public from criminals, it does not mention punishing criminals, it does not mention the deterrent effect of prison, it does not mention rehabilitation, which are the 4 prongs of any criminal justice system. Let us look at rehabilitation and here we are, here are the changes: "2012 changes and 2013 changes, £249,000 in 2012 and £340,000 in 2013, with the loss of 7 full time equivalents." Interesting. "They will be delivered by creating a new prison officer grade. Impact, details of negotiations with the P.S.A. (Prison Service Association) this presents an attractive long-term option as it would give increased flexibility for deployment." Well, there is justification for going for it. Are these completed? Will they be completed by 2013? I do not know but again, change of terms and conditions, reducing terms and conditions for prison officers. Easy to deliver? Not at all. "Description, the 2013 savings will be achieved by reducing the prison population by way of repatriation and closing the Young Offenders Institute." That is a major policy decision that is being taken under C.S.R. In 2013 we will reduce the prison population by way of repatriation and closing the Young Offenders Institute. Repatriation has been a thorn in the side of the prison service for the last 20 years. Why do we house other people's criminals basically, and it has not been easy to solve. I suppose that the Minister for Home Affairs says he has got it solved perhaps. This saving is dependent on the implementation of a Repatriation of Offenders Law enabling prisoners to serve their sentence in their home **[Interruption]** ... I can hear the Deputy of St. Brelade very clearly thank you, the other Deputy of St. Brelade ... enabling prisoners to serve their sentence in their home country where appropriate. And the second one, the agreement of the Children's Policy Group, there would then be an impact on the provision of services at Greenfields, which will need to be discussed with the Health and Social Services Department. Admittedly there is a problem, we have 2 centres for young offenders, one is at Greenfields and one is at the Young Offenders Centre but that is a major restructuring that is not an easy thing to do. Anyway, if there are costs it simply transfers costs from the prison on to the education budget. So is it a real saving? I do not know but is that a safe way to proceed? I do not know. Then under: "Prisoner activity" it goes on to say: "Savings will be achieved by a reduction in the breadth of prisoner activity and education." What?

[11:15]

"This would reduce the choices available to the prison population. This may result in prisoners spending more time in their cell due to lack of options to employ the whole of the prisoner population. There may be a prisoner reaction given that this would be a reduction in the regime." So here we are, a civilised society in a civilised world where we reduce rehabilitation for our prisoners thus reinforcing the long term cost of eternally recycling prisoners into La Moye, out of La Moye, into La Moye, out of La Moye, because we are going to reduce the range of options, the training, the education they need and the support that they need in order to rehabilitate themselves. Reduce that; is that really what we want to do? I do not think it is because it is a short-term cut for a long-term spend, for each and every prisoner that we fail to rehabilitate. It is short-sighted in the extreme but we have got to meet our targets by 2013 in this 3-year gap. Well, I for one will be voting for the Deputy's amendment because if one part of the £112,000 that is being saved on this, on page 185, is to be found in an additional £14 million by 2013, and it stops one prisoner from coming back to jail and costing us a fortune again, time and time again, and puts them on the right track and gets them rehabilitated, then it is worth spending and that is what we are talking about. The vast majority of these measures, I believe, are short term in order to deliver longer-term costs.

We are not looking at the whole picture and if that £14 million helps look at the long picture and saves money in the long term then it is money well spent so I will be backing this amendment.

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

I was not going to speak but Deputy Southern has likened himself to Porthos and **[Interruption]** ... yes, well whichever ...

#### **The Bailiff:**

Yes, I think it was D'Artagnan, was it? **[Laughter]**

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

But with the greatest of respect, I rather think of him as Sancho Panza, but as he will recall I was elected on the platform of more efficient, less expensive States so he will not be surprised if I do not support this amendment. The evidence in papers, i.e. of some extremely eminent Harvard economists, is that cutting spending is better for the long-term health of the economy than increasing taxes. The Deputy of St. Mary has correctly pointed out that G.V.A. per head is falling. In other words, the economy is static or slightly declining, so should we be spending more when our overall income is in a declining or static trend? The Deputy also seems to equate high government spending with a better quality of life. Do we really want big Government? It did not work in Moscow, why should it here? The Deputy has omitted to talk about how we got to where we are but that is an economics lesson for another day. I can talk at length on that so I will not. The Deputy says that high government spending is not disastrous. I do not know. Is he aware that the most prosperous country in Europe - to which I think he is possibly moving – Germany, has not indulged in the excessive deficit spending of most of the Eurozone and that is why that country is prospering. There are turbulent times ahead. The Eurozone is extremely rocky. The United States needs to get its act together and it behoves us to be extremely prudent at the moment. Deputy Southern has talked of the siren voice. It is the voice of common sense. If the Eurozone ... I was going to say is restructured but if it collapses, as it quite probably will, then we are in uncharted waters and it behoves us to be extremely prudent and I will not support this amendment.

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

I would like to echo the comments about the standard of contribution from the Deputy of St. Mary, in what I thought has been possibly the best speech I have heard, certainly from him, certainly from this Assembly and quite possibly in over 12 years in this Assembly. It certainly is regrettable that he is not continuing. The political system that we have, and yes this is all politics, the political system we have is not serving the Island well when people such as the Deputy of St. Mary is driven out because of political factions that would rather not have this spoken of. This is precisely the time that we should be holding Ministers and invisible covert political groups to account at election time because they are trying to reinforce their numbers in the Assembly as their support wanes and let us be honest about this. Senator Ozouf says that he believes the community wants us to be prudent in terms of our spending. I believe that they do want us to be prudent and they do not want us to be political. I also think that they want us to be caring, competent and, above all, honest. The Deputy of St. Mary asked us to cast our mind upon things that we could list in terms of inadequately funded services and I am sure Members who know of their own issues... Senator Le Main has been here, Senator Le Sueur, the Constable of St. Ouen, the Constable of St. Helier, Deputy Duhamel, the Deputy of St. Martin and anybody else I may have ... certainly Senator Breckon, they have been in here longer than I, some considerably. They certainly do know of instances, which I will highlight, that they could add to. The prison has been mentioned, Fort Regent, the hospital, Clinique Pinel yesterday. I was on the committee in 2000 when we were arguing for more money and Senator Ozouf, Senator Routier, Senator Horsfall, Senator Walker, Senator Le Sueur, these politicians were on F. and E. (Finances and Economics) and policy and resources as the health committee brought back, as it had to under the Public Finances Law, we

were in danger of breaking the law. Our books were not balancing, we had to come back every budget and put in amendments, and Senator Le Main will back me up on this, and the Deputy of St. Martin, we had to put in amendments just to break even. We had to get money so that we would not even have broken the law, and every year we were breaking the law because we did not have enough money. Those very same years where we were not investing the money in Children's Services we were assured about the extra children that ended up, 3 children costing us about £3.5 million, that are going to be coming back and suing the States, and I hope they get every penny they deserve. We do not put the money in place when we should be putting it in place. The roads, the incinerator, the drains, the sewerage plants; yesterday I gave an example of the airports. It sounds great politically to say that we are managing but they are not competent people, these politicians. If they had have been competent they would have been milking the cow sufficiently during the good years to enable us to build-up reserves. They would have controlled spending during the good years but now they want everything to slowly come down by replacing lost revenue with revenue from the poor and ordinary sections of society. Yesterday I raised the issue - no doubt to some upset - that the ex-Chief Minister had said £200 million is going to be needed for the airport. Within 5 minutes that amount ... in fact within 3 minutes that amount had been reduced to £100 million by the Minister for Economic Development, and within 5 minutes it had been reduced to £3.5 million by the Chief Minister. I said: "£200 million" and within 5 minutes the Chief Minister is on his feet saying: "No, it is only £3.5 million. I was not saying yesterday that I was the one that had uncovered it. I was not saying yesterday that Senator Maclean had not been recognising it. I was just saying what I had had reported to me, that that is the kind of investment we need. We do not have investments and spend in terms of the roads, the housing stock, the police station, the fire station, the ambulance station, the social support systems; our social legislation. Where is the law for the United Nations Rights of the Child? Where is the Mental Health Law update? How many laws can we think of? The Freedom of Information Law, the Anti-Discrimination Law, where are all these laws? Where are all the absent strategies that cost society? The alcohol strategy, the energy strategy, the air quality strategy, where are these strategies? They are not here because the departments that are meant to be bringing them have not got the resources to bring them, or their resources have been affected in such a way that when members of staff go ill there is nobody there to take over. Every member of staff, and this extends now in every section of society, is being given 2 or 3 hats; less people to work with, more responsibilities. Senator Ozouf says, as I say: "I believe our community wants us to be prudent in our spending." What; like Lime Grove House? We set in place for years, systems that we will not have overspends. Where did those systems go when after 20 years of looking for a police station we get to a position where a deal is done then undone and we are all the better for it because we have lost £100,000 and learnt some lessons. I think we are about to go inqorate so I will just caution Members about to leave. Senator Ozouf says again: "We need to be prudent in terms of our spending." What about the housing crisis? That is what the community wants. This is a divided community now, £15 million the Deputy of St. Mary is speaking about; that is 30 average homes. We have a housing crisis, why do we not build 50 homes, sell them; we will have some left over. How is it that we can now say honestly to the electorate that we should support people that know the best solution is to continue to be prudent in the same manner that this prudence has proven to be flawed and fundamentally unsound? Our society has suffered, is suffering and has suffered from a lack of spending and investments over the years because a very small group of highly influential individuals within our community have got the political nous to run the Island.

#### **1.1.6 Deputy M Tadier:**

I am going to move my speech around a bit because I think the message that needs to come through, and the message that I am worried that is going out to the public but also to our hard working public sector workers with this constant drip, drip to which the proposer initially referred, of taxpayers' money is being wasted by an incompetent government, and it is not correct. It is full of contradictions if we think about it because how many times do we quite correctly stand here in

the States and praise the very good work of the States employees across the board? That is because generally speaking they are civil servants, they are there to serve and hopefully they are also civil but they do good jobs. Now, there is an inherent contradiction. If we are saying that Government is wasting money, what we are saying is that the individual departments are wasting money. We are saying not simply politicians but the civil servants, the heads of each department, those in the system are squandering taxpayers' money therefore they must either be bad people and doing it deliberately or they must be incompetent, which I do not think any of us would be saying, so the converse must be true. If our Civil Service by and large is full of very dedicated, hardworking people it stands to reason that they should have a tight grip and be using the money and resources in a good way. If there are any Ministers here by the way who would like to stand up now and say that their departments are being very wasteful and that their staff are incompetent and wasting money I am happy to give way to them because it would be interesting to hear that but I suspect it is usually the other way round. Another contradiction is that we constantly hear Ministers coming back with being frustrated. So, whether it is the Minister for Housing... and I am saying why is it that we have 2 elderly people in St. Brelade who are living in mouldy conditions with an acrid pungent smell as soon as you enter their door, in the twilight of their years, when they should be enjoying their later years? Why is it in Jersey that we cannot afford or we do not have sufficient stock to be providing housing for them?

[11:30]

It is not because we spend too much as a Government; it is because we do not spend enough perhaps. That is the actual stark reality. Why is it that we have long waiting lists at the hospital, longer than certainly we would want? It is not because we have been wasting money at the hospital, it is because we have not been spending enough. The examples could go on across the board for each Minister and each department and it leads us to the position where this is where our low tax model starts to fall down. So let us start from where I was originally going to start. Something that came to me and I have thought about before from the Deputy's speech was that we have to understand the nature of government if these problems and the issues that seem to go on constantly are to make any sense. We hear a lot about public-private partnerships and we have heard of that this week, this is because government is a public-private partnership but not in the sense that we might think. The nature of Government in Jersey and in many western democracies is essentially to transfer public wealth and public resources into private hands. That is the function of Government. Now, whether that is deliberate or not is another question but that is the actual result. I can give Members some examples of that. Sometimes we look at issues and we seem to think that they are completely chaotic, they do not make any sense at all. So we can look at the incinerator, any right-minded person, and this was the case for me hopefully before I was elected, I looked at the incinerator and thought: "Why is it we are building a massive incinerator, which is easily twice the capacity that we need?" People like the good Deputy on my right told me that and I trusted his judgment and I still do in that respect. Why are we building an incinerator, which is twice as big, which costs probably 3 times as much as something, which could do the job, which is more modern, which is greener and which would be more efficient? It does not make sense. We do not have incompetent States Members. But of course when we apply the paradigm that Government is here to transfer hardworking taxpayers' resources into private hands it makes perfect sense. It is a very expedient way to do that. If you buy a small incinerator it is very difficult, there is not really much profit there for the private sector, for the capitalist, to make his money but there is if you buy something, which is completely redundant, which will need to be replaced very quickly in the future, and that is one example of it. Why is it with Le Pas, we gave away a prime piece of land because somebody produced this old bit of paper and said: "Actually, mate, I think I will have that bit of land because I have got this bit of paper, which is written in some kind of arcane language and if you do not give it to me I am going to take you to court?" Then we all bowed-down and I think it was Senator Walker at the time who said: "Well, we had better give him this piece of land because he might take us to court and we are only the

Government, we could not possibly defend ourselves. It is not as if we have got any lawyers who work for the Government and that could possibly defend us in court.” No, so we gave away this prime piece of real estate land. Complete folly. The public think we are all mad, quite rightly, but in fact when you apply the paradigm that Government is here to transfer public resources and money into private hands, it makes perfect sense. Jersey College for Girls ...

**Senator S.C. Ferguson:**

Can I object to that? He is impugning the States Assembly of the day. May I recommend that he read Hansard first?

**Deputy M. Tadier:**

I can justify these. What I am saying is that this is the function of Government. It may not be the conscious function of every Member of this Government but this is the reality whether it is deliberate or not, in my opinion ...

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

Could I ask the speaker to give away for a second?

**Deputy M. Tadier:**

If it is entirely necessary.

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

If the speaker does go to Hansard he will see that most of that debate took place in camera, it is unable to be seen.

**Deputy M. Tadier:**

I was not going to quote Hansard, which I cannot read.

**The Bailiff:**

Could I perhaps ...? Deputy, what happened with Le Pas does not seem to be immediately terribly relevant to this particular amendment.

**Deputy M. Tadier:**

It is relevant because I am trying to build up the case for this low tax model that we have got and the spin and myth that we have a high tax ... we have a very wasteful, profligate Assembly and system, which is not the case at all. What I am saying is that the reason that there is so much resistance to the proposition of Deputy Wimberley but also to a higher taxation or what I would call a fair taxation system is because there is resistance from those Members of the ilk of the Small Society who are doing it for their own interests, so I will not labour the point. But I am saying that there are numerous examples; for example, where properties have been sold off extremely low, which belong to the taxpayer. Who does that benefit? It does not benefit the taxpayer; it benefits very wealthy individuals. The examples can go on, we can look at Portelet, we can look about the natural beauty of the environmental impact that it has on the Island, and Portelet belongs to everybody but we are willing to sacrifice one of the most beautiful and natural spots on the Island simply because it will benefit a minority. I think I have given several examples there and I hope Members at least realise where I am coming from. The other example of course is private rentals. What is the effect if we do not have sufficient affordable housing in Jersey? The effect is that young people cannot afford to buy houses. It is not entirely our fault, it is to do with the economic collapse but it is because we bought into the pyramid scheme, which has been replicated throughout the world, which led to the collapse of that. The effects of young people or anybody not being able to have sufficiently affordable housing, whether that is rental or to buy, is that we are all condemned to paying very high rents for something that we are never going to have, and which is often not completely suitable for our needs. Again, that does not benefit the majority of Islanders;

it benefits a minority of rentiers. So how is this propaganda, if it is not true that we are a wasteful society, how has this propaganda been allowed to happen? It is because there has also been another public-private partnership between the media and the Government. Only this week, I think it was last week, it can only be seen to be what is another fake letter appearing in the *Jersey Evening Post*. This time it has been written from Newcastle, and interestingly this person in Newcastle has just been over on holiday and they have written how Jersey is the perfect model of a small society, and David Cameron would do a lot to learn from that model, which interestingly was an editorial the week before in the *Jersey Evening Post*. Of course the *J.E.P.* have become very ... or whoever writes these letters to the *J.E.P.* and they get printed, they have realised that they cannot use Jersey addresses any more because me and my friend will go and knock on the door and say: "Could we speak to so and so? He does not appear to be on the electoral register but he is writing very political letters to the *J.E.P.*" So they have been found out so now they have to write letters from the Labour heartland of Newcastle to Jersey to say that they think that David Cameron could learn quite a lot about ... because of course David Cameron is not right wing enough for the people who live in Newcastle. So that is one example. Another example is that this media spin ... we had a visiting Labour candidate, it is somebody who when I flick the television on late at night, on to the parliament channel, Chris Bryant - a Labour M.P. (Member of Parliament) for whom I have a lot of respect - he is an up and coming Labour, very erudite, very articulate and a bit of a firebrand I think of the ... not necessarily the old Labour style but he has got some very interesting thoughts to say and he is chairing the Shadow Reform Committee at the moment. He came to Jersey, States Members were not even told about this; we were only told I think via the media when he left. We do not know what he said; I think he met secretly with the Chief Minister and the head of P.P.C. (Privileges and Procedures Committee). I think I and other States Members would have loved to have been able to hear what he said. Of course, when a Conservative M.P. comes to Jersey, and I think he was Daniel ... I did have his name before but it is a Polish sounding name, which I could read out if I had it in front of me. He came to Jersey and it was all very well announced and he got the red carpet rolled out and afterwards there was a great interview, which said: "Jersey is the ideal small society." So we have got this constant drip, drip and, I think, following on from the Deputy of St. Mary's speech, that when you have this constant drip, drip, when you have this constant false information, which is put in the media by the Small Society - which is incorrect because the States' spending has not gone up in the exorbitant way that they were suggesting - it comes back to haunt us because you get people going to the hospital and when they are told there is a very long waiting list, when people go to Housing they say: "There is a very long queue for you, you are going to have to live in your house even though you have got breathing problems and inhale this mouldy air" they will accept it more readily and say: "Well yeah, we do have to cut back, do we not, so I suppose we will just have to all wait." But it is not benefiting anyone. An example I can give now, talking about fair taxation and what that would mean came to me yesterday. I think, interestingly, when we view the public sector, the pay in the public sector and any possible reforms, the States seems to apply a system of almost socialism when it comes to States Members or States workers' pay yet it is completely opposite when they look at the private sector. Interestingly, the Minister for Transport and Technical Services in his capacity as an S.E.B. (States Employment Board) member, yesterday was saying: "We need to be paying market rates." Now my intervention, as a point of clarification, which perhaps went slightly too far, which is why it was not allowed, was that we cannot have our cake and eat it. If we want to apply market rates to the States what we have to be doing is paying minimum wage to the people who go out and clean the streets, which is what our current Council of Ministers and certainly the Small Society wants because they want to have those people not working for the public sector but working for them so that they can have the profit from their labour, which the Government does not need because we are not a 'for profit' organisation. At the top, rather than paying our C.E.O.s (Chief Executive Officers) £250,000 a year, which the public already thinks is extortionate, we are going to have to start paying them £1 million, £2 million because that is the way it works, those are the reasonable wages in the public sector. But of course we cannot operate on that level so we cannot compare private and public

sector meaningfully just because there are nefarious practices in the private sector, which lead to the need for supplementation because people are working on minimum wage does not mean that we should be doing that with our own workers and I hope that ...

**The Bailiff:**

Deputy, you are going to come back to this amendment, are you? It is a very wide-ranging speech.

**Deputy M. Tadier:**

Yes, Sir. The implication for the Deputy of St. Mary, on what he is asking in this amendment, is for more money to be put in the pot, or rather for some money to be retained, which would be otherwise taken out. The obvious implication is there, and from his speech, was that as a society, far from needing to do less and providing less services and have less Government, smaller Government, we need to at least maintain the current Government but the inference was that we need to be doing a lot more for the public who live in our society. The way we do that, we have to change the fact that the 20 per cent tax rate is sacred or sacrosanct as has been said by the Chief Minister more or less, and certainly by the Minister for Treasury and Resources, because we need to deconstruct this. Who does the 20 per cent tax rate benefit? In fact who does the zero per cent tax rate in Jersey benefit? It certainly does not benefit local companies, which are competing. So I am making here the argument for perhaps fairer taxation, which may need to be higher for certain individuals, in order to make the Deputy of St. Mary's vision and amendment viable and this is what is needed. Yesterday, we talked about the trade unions and how there is a problem, is there not, between giving everybody a fixed pay increase, and I think as States Members we know that. We know that people at the bottom would appreciate a fixed sum more than those at the top. Nonetheless, our taxation model is flawed in the sense that we are not taxing disposable income. What we are doing is taxing people at a flat rate across the board so of course a 20 per cent tax rate for somebody who is earning £40,000 but who needs all of that £40,000 to survive in the year, that is going to hit them much more than somebody who is earning, let us say, £250,000 a year because they can afford to take that hit, the 20 per cent of their income, because they have a much higher disposable income. There are also other things; it is completely strange now that we have a social security contribution, which is capped to 45, and I think we have made an agreement to increase it but there is still a cap at 2 per cent so obviously the lower earners, social security is essentially a tax for somebody who is a lower earner because they are paying 6 per cent of all of their income on social security whereas somebody higher up is not paying 6 per cent on all of their income. In fact the more that they earn the more negligible that amount becomes. I think that of course perhaps it will be said that this is not a debate for today; the shift in thinking, which needs to take place in our Island, will not occur today. I think that the Deputy of St. Mary has provided a very good opportunity. I do not need to repeat the kind words that Deputy Southern said but suffice to say they were pretty much the exact words I was going to say. I think the Deputy of St. Mary will be missed. The positive thing about him not being in the Assembly of course will be that our consciences will be pricked perhaps slightly less. We will have to listen to slightly less uncomfortable speeches but nonetheless I am sure he will carry on the good work from an ex-parliamentary point of view. Simply to sum up, I agree that our low tax model is only low tax for certain individuals because what we are seeing is increased taxation for those who are not at the very bottom and who are not at the top. That is a natural consequence if we go back to the idea; government is a mechanism for transferring public resources and public wealth into the private hands because of course that is not sustainable in the long run.

[11:45]

We have to start squeezing people in the middle when the resources start to run out and that is why, in our sense - in the global sense - we do apply the same exploitative capitalist model to our society because we are exploiting the labour of those who work to get it back to those at the top. Government needs to change its attitude if we are to reverse the issue so that Jersey stops simply

becoming a synonym for capital and for big business and we start focusing on the needs of the Jersey society. If it costs some people - those who can pay more - more to do it, then so be it, we need to start doing that and making sure that we do not let down our parishioners, our constituents and residents of the Island.

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

I, along with other Members I suspect, very much enjoyed the Deputy of St. Mary's swansong but I think his approach and his analysis was a little bit too Dickensian, and certainly the solution being put forward was straight out of Dickens: "Please, Sir, can I have some more." I think we are in a much more complicated society and the resolution of these deep issues, I agree with him 100 per cent, will need further analysis and a greater range of innovation to be brought to bear. This is one of the things I want to speak about briefly. He indicated, as other Members have, that there is a general perception that spending is out of control and I think that certainly is the case but there is a nuance to how we say it. I think the spending of the States is certainly out of the control of the majority of Members and this is part of the problem. In the old days - some would say the good old days - this House decided pretty much everything in terms of finance and we did have certain priority rankings and negotiations that went on to tease-out the very things that Members have been referring to as to the worth of the projects that the Island was going to, through this Government, spend its money on. That process, those procedures, have changed and we are piling more and more powers into the hands of the limited number of Ministers and giving them greater control to flex their budgets to determine in their own assessments how these monies will be spent. I think the discussions that are taking place within this Annual Business Plan are just the tip of the iceberg and I think, in future years, will come back again and again to haunt us because people - generally most Members - would like to be able to put their tuppence worth in and to be able to control the overall direction of the spend, which is one of the prime functions of this House but we do not do it and we are doing it even less. For me, the money management side is all about... it is not about cutting resources, it is about seeking an element of control that seeks to get the best out of whatever spend is going to be spent in any particular quarter. So it is very much down to wise use of resources and we are losing the ability of States Members to have their say. I am reminded in the history books - and somebody can correct me if I am wrong, I think it was during the French Revolution - that in order to keep the population happy the people in charge decided to embark on programmes of activity to keep the public happy. So you had the strange situation of teams of persons going out in the morning and digging up the road and then a different team in the afternoon filling in the road, and then the whole process being repeated the day after. I cannot help think that perhaps in looking at the history books we do not really learn anything because if we look at how we undertake our own road maintenance that is exactly what we do. We have service industries who go out and dig up the roads, it costs a lot of money to put it all right, and then within a very short period of time we have got a further service body digging them up again to repeat the process over and over. So what has this got to do with control of spending? Well, in my thinking what it means is that the actual decisions that are being taken by the various bodies that control the maintenance of the roads, or the provision of the roads and the services that lie under them, we have not really got our act together in coming up with the best solution, which requires the minimum intervention in terms of maintenance monies - which we do not have a lot of - to come up with a better way of finding how can we provide those services in a form that minimises the spend into the long term. If we do not move in that direction we end up having to spend monies in unwise ways and this really is what the Annual Business Plan should have been about. It is not, it has not been but I think, I am hoping, that the next Government will begin to redress the situation and to start to encourage greater discussion of the very essences of the arguments that have to be sorted out, to begin to move in the direction of wise use of resources, wise use of cash, and to think smarter. It is not just a case of cutting services although in some instances that might well be the case. I will give you another example, Sir, if I may, and to Members. We have had the Deputy of St. Mary quite rightly pointing out the lack of monies or the stretched resources that we have got

within the Environment Department in terms of the environmental testing. One of the comments that I made at the meeting that Scrutiny held was: "Yes, that may well be the case but the solution is not necessarily to throw more monies into environmental testing if indeed the solutions do not warrant it." I will give you a further example of where I am coming from. At the moment we have got a liquid waste strategy that this House has not agreed, or seen as yet. We have heard whispers that the overall cost is of the order of £200 million, possibly greater. We have got a tentative suggestion that we could find within the body of documentation for this Annual Business Plan, suggesting that it is not the solution to the liquid waste strategy to come up with innovative ways or to query as to whether or not our whole sewerage structure is the best, the most modern or whatever in providing that particular service to our Islanders but merely a comment from the Treasury Department I believe, or perhaps the Minister - but I have not got the document in front of me, that does not really matter - to suggest that the only thing that is under consideration is a funding solution to be found in order to find this £200 million or plus. That begs the question again as to whether or not this House is doing its duty through the Ministers of the relative departments to come forward and to test the thinking behind the services that we have got and to only move forward to provide extra monies to continue in the way that we have done things in the past, if indeed that particular path is the best way of doing things, and will secure the least application of taxpayers' money, or provide or not provide the most efficient way of dealing with things. It is these key arguments that we have to take into account. Indeed, if we did have a different liquid waste strategy... and I am hoping that the documents will be discussed by the House or a future House because these issues must come out again, if indeed the best way to deal with the problem is in what is being proposed then all well and good but if it is not then this House really needs to get to grips as to what type of society we want to be, how we are going to solve this particular problem, and how we are going to solve it within the application of funds that come from taxpayers' pockets, to their betterment and to the overall improvement of the Island in properly efficient ways. But we do not do these things. It may well be that an alternative, more innovative approach might provide a 'clean end of pipe' solution where the effluent coming out from Bellozanne does not need to be tested because it is clean. Indeed, if we go to the U.K., where they drink water further downstream in their rivers, these things are taken into account.

**The Bailiff:**

Deputy, you are going back to the amendment too, are you?

**Deputy R.C. Duhamel:**

I am, Sir, it is about the quality of the decision-making, which I think is at fault rather than a naïve, let us cut the budget or let us find other ways to just raise the monies and spend them without as much thought as perhaps I am suggesting should take place. One other final point is that my department at the moment is at the forefront of the Comprehensive Spending Review and offered up the highest proportion of percentage savings out of all the departments and we have done this to show that it is possible if you take the bit between your teeth, and we are in a position to play the corporate game. Other bigger spending departments have not done that and we have heard of the biggest spenders not offering up as much in savings and perhaps even being given a net growth in their spend. If indeed the Comprehensive Spending Review is going to be delivered, all departments must be playing their part but it must not just be seen as I have said earlier, and I will have to repeat, it is not just a case of making cuts as it is a case of reviewing how we do things, finding better ways to deliver more services for less monies, and if we cannot move in that direction, querying how we should move forward. Although as a Minister or as a States Member, every person in a position of responsibility would dearly love to be given extra sums of money to spend, I do not see it as my responsibility to move in that direction necessarily. There are many areas that will have to be reviewed within the Environment Department and to give you one final example of how the changes will have to come about to reflect this better, smarter thinking in terms of how we deliver services I would just like to finally refer to the insulation grants. A number of

Members support, as I do, the insulation grant but that is a ‘tax and spend’ measure. If monies are tight, as I am being told they are, then there is certainly no certainty into the future in that that I can come back to this House and - although from an environmental point of view - argue my corner that I should be given extra monies to spend on insulation grants. I think I would get pretty short shrift from the majority of Members if they considered that those monies would be better applied for health or some other departmental projects. So that leaves me in the unenviable position that if I wish to, in order to increase the sustainability of the policies that my department are putting forward or to increase the absolutely correct way forward that home insulation is a sensible thing to do within the environmental context, to bring solutions to climate change and all the rest of it, then I have to find a smarter way to deliver. So if I cannot get the monies by taking out of the taxpayers’ pot I will have to begin to think of things like collective discount systems where I can use the Treasury agreed Invest to Save programme, and begin to ask and insist from the Treasury Department that monies be set aside into ringfenced pots, which can be dipped into as long as the monies are put back, in order to deliver the things that would otherwise be paid for by the taxpayer. In the long term I think that would bring about a radical revision to the way this House spends money because it could be a principle that could quite easily be applied across a whole host of departments. It may well be that the Treasury Department might not wish to allow a greater availability of funds, particularly ring fenced funds, to individual departments to begin to act in a more innovative fashion but indeed, if the Treasury Departments are going to pull in one particular direction to suggest that there are not enough monies then we are going to have to endorse, I think, these particular ways of getting more out of less, and there is going to have to be a movement to get agreement that perhaps we can all begin to use these ways to the greater benefit of the Island.

[12:00]

I hope I have covered the main point. It is not just cutting monies. I do not think we have necessarily done that. I think there is a whole host more that needs to be done in terms of providing smarter solutions to how we spend our monies. I do not think that process has gone far enough but just to take another £14 million and put it back into our budgets so that we can let out our belts and braces or whatever, and go and spend extra monies without having made the cases for that spend, I think is moving in the wrong direction. So while I do agree that the Deputy of St. Mary has put his finger on a number of salient points and issues that will need to be looked into in order to arrive at a more satisfactory Annual Business Plan procedure or way of allocating funds, I do not think his solution of just spending another £14 million will do it and on that basis I cannot I feel support his proposition.

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

Yes, I must say I think you have allowed quite a lot of latitude this morning on what is a narrow amendment to a particular part ...

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

I cannot hear the Chief Minister.

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

But, on reflection, it is, I think, quite a worthwhile opportunity for us to revisit our existing policies and to ensure that they are still the correct policies going forward and this amendment asks us to look at the net revenue expenditure for 2013 - not next year but the year after next. It is, of course, about revenue expenditure and certain Members have spoken about new housing projects or hospitals or prisons and so on which are capital expenditure. This is about spending - spending which occurs year on year on year and the last speaker was quite correct when he says that the Business Plan is all about the wise use of resources and that is why we discussed whether these are the best uses to which we are putting our resources. Of course it supposes, and this is an important pre-supposition, that we have the resources to spend in the first place. Because if we do not have

the resources we should not be spending them. Now the fact is that the proposer in his opening speech talks about whether or not spending was out of control and there will be different views about whether spending is out of control or not; that is maybe a subjective matter. In my view spending is not out of control at present, but there is a danger that if we pursue this, the policies within this amendment, spending could soon get out of control. Because the fact is at the present time our spending exceeds our income. Whether our spending is rising at 6 percent or 2 percent is, in that respect, immaterial. Our spending is increasing, our income is not. Our objective remains that of living within our income. So, this is where, I think, Deputy Tadier expressed the alternative point of view quite succinctly, this is where he says the low tax model falls down. This is where the low tax model falls down. Jersey for years has endeavoured to have a low tax/high spend economy. It is not a very easy tightrope to walk. We are now in a situation where because revenues are not increasing rapidly, our spending can no longer be at the high rates that we might have - or the increase in spending can no longer be at the high rates that we might have - enjoyed in the past and we maybe have got accustomed to a luxury we should not have been taking so much for granted. Because the fact is that we have had to constrain our activities in order to live within our means and although Deputy Southern may say this is the voice of big business, I think it is the voice of the people who say: "Look, we do not really like you taxing us more before you have demonstrated you have got your spending under control". And so when we presented the Budget last year we said that in order to get back to this balanced position, we needed a mixture of tax measures and spending constraints and we have seen the tax measures that are in place, the G.S.T. has gone up from 3 per cent to 5 per cent and, as I said earlier in the week, it is up to us now to honour the rest of our commitment which is to deliver on the savings that we have promised the public we would do. We promised that we would deliver £65 million worth of revenue savings over the period 2011 to 2013 and that is why I come back finally to the words of this amendment, which is that the total net revenue expenditure for 2013 should be increased by just under £15 million. In other words, the £65 million which the public expects us to save will be reduced at a stroke to £50 million. That, I think, is not honouring the commitment of the gift to the public, but more importantly that is not enabling us to live within our means in the foreseeable future, that revenue expenditure continues year on year and is not a way we can afford to go down, is not a way we should be going down, we should be living responsibly and living within our means and, as Deputy Duhamel says, making the best use of the resources we have. Needless to say, I will be opposing the amendment.

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

I find this kind of debate frustrating because it decides nothing. We are looking here at an indicative total for 2013. Next year a new States on the proposition of a new Chief Minister backed by a new Council of Ministers will decide on the spending for 2013 to 2015. Then the future figures for future years will be really important, but today we are merely looking at an indicative figure. More frustrating to me is when Members look at items which are work in progress for 2013, misunderstand some of them and then start to criticise them. If Deputy Southern had contacted any of my departments, he would have found that review of medical contracts has nothing to do with police welfare but is about negotiating a cheaper rate for medical examiners of prisoners, witnesses, et cetera; that the reduced cost of running C.C.T.V. is dependent on having a new and better C.C.T.V. system with lower revenue costs; that a number of the prison reduction items are dependent upon a reduction in prisoner numbers, which is an assumption based upon the effects of the law which we passed recently - whose name escapes me; that negotiations are taking place with 2 associations in relation to new pay spines and indeed in relation to a second grade of officer. I have never hidden from this House - from this Assembly - the fact that the proposed total savings in Home Affairs for 2013 will be difficult to achieve. I would remind Members that I committed to £1 million less in cost reductions than I was being asked to do by my colleagues because I was aware of the difficulties. It is a matter of judgment and balance as to what are the appropriate levels of numbers of police officers, et cetera, et cetera. That decision, of course, for

2013 will be made when the person ... by the person who is a Minister from November of this year, who may well not be me. In relation to the Prison Report in 2005, I am grateful to the Deputy of St. Mary - I will be brief on this - for having raised that because it demonstrates how far we have come; I think he accepts that. I think his point was that it should not have been necessary to have waited so long before doing these things. But we have come an awful long way since, that we have a whole host of new buildings, new cells, much better improved, accommodation, recreation facilities. We are working at the moment for completion early next year on the new visitor blocks and the facilities for staff and so on, and we have heard of plans going on into the future as well as the massive improvements in education, rehabilitation, et cetera, training, et cetera. Grateful to have had the opportunity to say that because people might think we have not made all those improvements which we had, but as I say at the end of the day, I am left with a sense of frustration; this debate does give people an opportunity to give their views and a generality but in my view it decides virtually nothing.

**1.1.10 Connétable M.K. Jackson of St. Brelade:**

As Minister for Sludge and Rubbish, I do feel qualified to comment on some of the allegations put by the Deputy of St. Mary and Deputy Tadier. The Deputy of St. Mary alleged mismanagement of the application of sludge to land and I do take issue with this because my department works quite hard on this, and the policy position with regards management of biosolids in Jersey has been under close review for years with a key objective being to take advantage of the numerous benefits for returning a valuable nutrient source back to the soil, hence where we are today with a well managed mechanism for advanced treating of this material and insuring its application to the latest best practice standards. T.T.S. (Transport and Technical Services) over the last decade have made great strides within the budgets we have in how this activity is carried out and we were confident that both the treatment process and the spreading are really meeting the current best practice, which includes the analysis of the sludge. I am expecting a further report in the next few weeks to check this. Moving deeper into rubbish now, Deputy Tadier referred to the E.f.W. (Energy from Waste) plant twice, being twice the capacity needed. This is patently incorrect. It is designed with spare capacity for engineering reasons and to ensure flexibility over its designed life of some 25 to 30 years. My department works within the cash envelope available and judges its expenditure within the parameters of what is available. Just throwing more money into the pot gives no incentive to States departments to reduce spending and I suggest the amendment of the Deputy in practice does exactly that and I cannot support it.

**The Deputy of St. Mary:**

Can I just ask a point of clarification on the sewage sludge? I was not mentioning his department at all, my observations were about whether the sewage sludge had been analysed in the 50 or so years, I do not know; maybe the Minister could tell us how many years has been applied to land and could he confirm that I am right in saying that it has not been analysed for many, many years and possibly has only been recently analysed. Maybe he could clarify these issues.

**The Connétable of Brelade:**

I am happy to clarify it. I cannot give the Deputy detail now but I am content to forward that when I have it.

**The Deputy of St. Mary:**

Can you tell us how many years it has been applied to Land, please?

**The Connétable of Brelade:**

Off the top of my head, certainly, 30 years plus and a constant analysis is taken and I am happy to forward the detail to you.

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

I am going to be very brief because I believe there have been some excellent speeches this morning, in fact I have been sitting in the room just immediately outside the Chamber listening to the speeches trying to get a document finished by a deadline and I have got to say that I thought the speech of the Deputy for St. Mary was the best that I have heard in the 3 years that I have been in this Assembly. His analysis was spot on. What it does reveal is that much of what is talked about in this Assembly is not based on economic fact or the facts, it is based on political dogma and unfortunately there is a real division in this House between opposing views. There are some people who are absolutely convinced you have got to slash and burn almost in terms of public services and trying to keep taxes low. But I question; taxes low for whom? Because the ordinary person in this Island is paying more in tax than they have ever paid before with the rise in G.S.T., where 20 Means 20, and we can expect because of the Zero/Ten policy which, and I am going to take to task here the *Jersey Evening Post* are making out as a great triumph, remember the opposition that came from this House was the original Zero/Ten policy that was being put forward, which had deemed distribution in it, which was highly discriminatory and would never have passed the test of the Code of Practice group.

[12:15]

So what is there now, yes, we all accept is compliant because simply it is not discriminating between those in the Island and those outside the Island, but what we have now then is a tax system which means that the personal individual in this Island, not companies - they are not going to pay tax, financial services companies 10 per cent, utilities 20, but no foreign or local company will pay tax and no remedy from the Minister for Treasury and Resources to try and address that. So what it means is every single man, woman and child who is subject to tax in this Island will pay more. So do not talk about low tax, it is higher tax for the ordinary individual for the benefit of those outside the Island. So I will just finish by saying there is much rubbish talked in this Chamber and a lot of it is not driven by fact, it is by political dogma, and I think that the Deputy of St. Mary - I regret that he is not going to stand in the election - his analysis has been brilliant, people do not like his speeches but they do not like hearing the truth either.

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

I shall be brief because a lot has been mentioned about Health and Social Services and it is really to say that it is not just about money. I know we said that we do need significant investment and hopefully over the next 5, 10 years that will happen, but we need to look at our services first and redesign our services to make sure that they are community-based and the funding options. I just really stress it is not just about money, we need to make sure that what we are doing is right, fit for purpose and fit for the next generation. Deputy Wimberley did make some ... he picked out some of the things from the *Evening Post* about raw sewage, et cetera. Yes, it does happen and it did happen and that was really down to that ... because things change, at the time we should have put ... at the time a macerator could have been put in but macerators to prevent this was not around then so how could we put it in at that time? Regarding wards, we can go back: Nightingale Ward, single rooms. I just want to say Health and Social Services never stop still, so throwing money at it is not always the problem.

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

Just a few comments. I support the view ... I do not support all the views contained within the speech, but it was an excellent speech, went on a bit about the prison and the hospital, of course I think we have been self-flagellated to a considerable extent historically and rightly about that, but an excellent speech and one that should have occurred at the beginning because it would have set the terms of a proper debate instead of moving towards a bit of a fudgy compromise, which is what the Business Plan has been about. I think Jersey is at a crossroads: it may have passed the crossroads and we may have been unaware. It is this conflict between low taxation which, as Deputy Higgins of St. Helier said, is maybe a past dream now, between low taxation and high

quality public service. We have always wanted that compromise, so to speak, and the tensions are now becoming evident that it is becoming increasingly impossible to operate those 2 policies at the same time. There will be a big, big issue because I believe even if ... say we were more equitably to resolve the issues of Zero/Ten as outlined by Deputy Higgins, there is going to be a shift from corporate taxation because of its competitive nature, because of what is the turbulence in that industry and in the world in general, there is going to be a shift to personal taxation and it is going to make it a real problem for the population because we have been accustomed, until fairly recently, to low personal taxation with ... certainly we have expected with G.A.A.P.s (Generally Accepted Accounting Principles) with high public service. So I do not think that can be avoided. The other issue I would raise, while the Deputy said: "Look at these countries, look at Sweden and ...", and I am a great admirer of those models. I am a great admirer of France with its social model, it is a high taxation model but it brings about a high level of service and somehow, in a sort of way, it co-exists with capitalism. But we know that the French are very nationalistic, they would never allow what happened in Britain where that train factory was put under enormous threat because they were allegedly to the letter following European Union rules. We know the French are very canny, they would never allow that to happen in their economy, they would never allow a strategic industry to collapse unless they had fought back to the bitter end. So they are quite canny capitalists underneath this social model that I do admire and I admire it in the Nordic countries, but the good Deputy did forget to mention in that list was Ireland, Portugal, Greece and that the reason they were up there as being major spenders of public money was that it was running on a massively false credit boom which has the ability to really ... well, not bankrupt those countries, to bankrupt Europe unless we get to grips certainly with the Greek situation. So, yes, it is okay taking a static view pointing to a figure, a percentage and saying: "Why are we not there?" but it does bear thinking about that there are different reasons why people are in these positions and some of them are not terribly flattering and some of them do require some fairly painful self-analysis as to why we are there. I am not saying that applies to Jersey, we are about ... I do not agree with the Minister for Treasury and Resources that we are about or could follow Greece, I think that is obviously a long way away, but you have to think about why that situation has arisen, how out of control credit and an out of control banking system led to that situation and you only have to look at Ireland where I know it was said that the civil servants there were paid 25 per cent ahead of the European rate. Massive as I am sure my good friend Deputy Power might wish to elaborate upon, massive ...

**The Bailiff:**

I am not sure that could possibly be relevant to this amendment.

**Deputy R.G. Le Hérisier:**

Yes, well, thank you, Sir. It is relevant in the sense that if you draw conclusions from the way certain countries are operating, you have got to be clear about the rigour of those conclusions and you cannot just say: "Look at all these wonderful countries all lumped together all spending vast amounts on public services, why are we not?" It is not quite as simple. So that is the reason I raise it. The other reason I would bring - the Deputy quite rightly has taken a couple of pokes at me about prioritisation - I was trying to think who was the politician who said: "Politics is the language of priorities", that is the name of the game: we fight for these things, we get what we perceive to be the good things at the top of ... we try and push them to the top of the tree and we try and make sure that they are priorities. But that is the name of the game and if we had probably a more policy-orientated politics in this Island we would have more debates about priorities and they would be hopefully good debates. But, no, I think the Deputy has made overall some very valid points. I think there are reforms to be made in the public service, it is not the be-all and end-all and we should not go at it with a fury, but we should certainly go at it, and I do not think we can just say: "Everything is hunky-dory." I think a good reformer looks at how things are working, looks at how comparable jurisdictions, for example our Civil Service, is paid much more than Guernsey; now why? That is an interesting issue. And so forth. Such a person looks at these issues but as a

presentation of the alternatives, as a questioning of the basic assumptions upon which we are moving forward, it was a tour de force.

**1.1.14 Deputy C.F. Labey of Grouville:**

I will be brief because much of what I wanted to say has been already said and I too would like to thank the Deputy of St. Mary for his very, very well-researched speech and I would like to again reiterate it is one of the best I have heard. It was thought-provoking and it is more akin to the sort of debates we should be having in here rather than polarised black and white-type confrontational debates we seem to have had lately. It was extremely thought-provoking, as I have said, and I would like to see on the agenda some issues like how we are going to raise revenue because it has got to be done. How can it be that we have third world facilities like we spoke about yesterday, Overdale, in a very wealthy Island ... sorry, Clinique Pinel. How can it be that we have third world facilities in a wealthy Island, international finance centre? It just does not sit well together, there is something amiss and we need to have a clear well-researched debate about this with all the facts on the table, not just one report from the Comptroller and Auditor General saying one thing and a KPMG benchmarking report saying another. We need to have these debates and for the future Council of Ministers, I really hope that they can look to the future and look to what is good for the Island and how we conduct ourselves and the facilities we provide. Having said that, I am afraid I cannot support what he has on the table today. I just feel that it is... while I have got every sympathy with him as to why he is doing it, this is just too extreme I am afraid in the current economic climate and with the very, very precarious situation we have in Europe I just feel I would not feel comfortable in supporting this either. But I would just flag-up that we do need to consider all the issues that the Deputy of St. Mary raised in his excellent speech.

**1.1.15 Deputy K.C. Lewis:**

Very briefly. I too regret that the good Deputy of St. Mary has decided to stand down at the next election. He does a lot of very, very good research. However I am a little uncomfortable with some of all the facts-based research he does and there are a lot of assumptions in there that it is “possibly this” or “probably that” and people often bandy around other countries, namely Sweden, as a prime example of something we should follow. I do have connections there, of course, but people often say that that is the model we should follow, but taxes in Sweden are upwards of 65 per cent and one of the car companies there, Saab - which I consider to be one of the best cars and safest cars in the world - have just filed for bankruptcy protection, so we have to be very, very careful which model we follow.

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

Yes, again I will be quite short and brief but again I like to echo those other States Members who have spoken in praise of the analytical mind or brain of the Deputy of St. Mary. I shall miss him for that and ... possibly not the length of his speeches but at the same time **[Laughter]** his analytical brain has been indeed a credit to him and to the House as quite a vision. But again, and it is my colleague to the right, the Deputy of Grouville, is right; I think this is very much a wish list, but what I would hope it would be is a clarion call to the next House that we have got to look at some of the things that we keep forgetting. Everything has to cost something, there is no such thing as a free meal, however, we have got to get that balance right where we are taxing those people who are probably taxed too much and not taxing those who probably have more to give. I cannot support what the Deputy of St. Mary is asking for, but again congratulate him again on his analytical brain and it is not a lot of assumptions, I can assure you, having worked with the Deputy of St. Mary. They are not assumptions: it is fact, and they are uncomfortable. But let this be a lesson we have got... with a new House coming up in December, or whenever it is going to be. For the next 3 years we have got to look at the social issues and how they can be addressed and money cannot always be got.

**The Bailiff:**

Very well, I call upon the Deputy of St. Mary to reply.

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

Thank you, 15 minutes to go, that is fine. I thank everybody who took part in this debate, even though once again we are on the edge of being quorate for what I consider to be an important debate, and I think the public would consider it important as well and we have had many, many good contributions. On the generality of what I am trying to do, I am asking not for more money, I am asking for the same - the same - no increase, so people who have been talking about the dangers or clarion call, you know ... yes, it is a clarion call just to have a bit of common sense. I am asking not to have a cut. And the question we are looking at is what is the right balance, what is the correct amount of public expenditure, have we got it right? On this generality issue, we have heard of Sweden, 65 per cent; 65 per cent tax rate and Saab going bankrupt.

[12:30]

I never held up Sweden as a model of anything. In fact I said it was not even on the chart because I chopped it out because it did not fit. But, quite aside from that, I am not saying we should have 65 per cent rates of tax for the good Deputy's benefit, I am asking for the same in 2003, net revenue expenditure as in 2012, not a vast blank cheque. The only people who challenged my data were 3 people, Deputy Duhamel, Senator Ferguson and Deputy Le Hérissier a little bit. Well no, Deputy Duhamel did not challenge the data, he did not challenge the data although I would have expected him to, he is the resident mathematician and he has not said there is a flaw in the 2 main arguments, one is that our spending is not rising out of control and the facts clearly show that, 1 per cent, that is not clearly out of control and every single increase would be very hard to argue against if we went through them one by one. The other myth, of course, is the one that if we spend more or even the same if we increase, if we go for a model that involves spending slightly more on public sector then economic ruin is staring us in the face. This simply does not match the facts and no one has challenged that except Senator Ferguson, who produced no evidence at all apart from she said that some economists say that: "Cutting spending is better for the long-term health of the economy." Somebody has made some trenchant comments about economists and how if you put them all together in a room they do not agree. But the point is that the evidence of the charts that I have shown you in the addendum does not bear out what these economists apparently - her right wing economists that she picks out of the thousands of economists - cite. The fact is that high spending countries do not have lower growth rates, that is a fact. It is just a fact. So there is something else going on, that is all I am saying, and nobody has been able to challenge it. We have talked about not a blank cheque and in the long term there are more difficult analyses to be carried out and Deputy Duhamel and others have said that and they are quite right. I would like to see a debate more focused on outcomes. We talk constantly about money and I would like to see the starting point being what are we trying to do? If you started, for instance, on alcohol-related issues, well the first thing would be to have fewer people coming through the door in the first place. So how can we reduce alcoholism? How can we reduce the over-reliance on alcohol? What are the factors that lead to that? How can we have a strategy that would reduce the claim on our resources as an Island; to reduce the amount of counselling needed, to reduce the harmful impact? So if you look at outcomes and then you go: "How can we deliver whatever it needs efficiently?" The Minister for Health and Social Services said it is not only about money, and then she immediately started talking about services and service delivery. No, the first thing is outcomes. Do we want a healthy population - presumably we want a healthy population - how do we go about having a healthy population; that would cost less, would it not; that would save us a fortune. But we will not do it by 2013, and that is one for Deputy Duhamel as well. It will not happen by 2013 so I am just asking for the same expenditure to keep our minimalistic public services at the level that they are. Re-engineering processes, yes, we have to do it, but that is something that is ongoing and it will take quite a time, as Members said. The arguments - my goodness - how weak they are; we heard the Minister for Treasury and Resources, the only

argument he seemed to bring against this amendment was that there is financial turmoil in the global markets and so we should be prudent, and he mentioned Greece. Well I do not know what Greece, frankly, and their situation has to do with Jersey and the answer is not a lot. He also said we are significantly investing in public services and I think that is the key, is it not, where are we? Are we investing enough? Are we investing too much? First of all, of course, the charts that I have shown Members show that we are way under the average, and so there is immediately a question mark. Are all these other countries dissolving into chaos? Well, no, they are not; they do have problems - as Deputy Le Hérissier pointed out - some of them, but certainly not all of them. We are significantly investing in public services; so firstly the charts do not show that if we spent a bit more it would do us any harm, and the charts show that we spend less than all other countries. The second point I want to make on "we are significantly investing in public services" is that we are constantly reacting to jabs given to us from outside, whether it is from Her Majesty's Inspector of Prisons or whether it is from the new Hospital Director or whether it is from a woman who goes on the front page of the *J.E.P.* and says: "My relative is not being treated right." Whatever it is, we then react. So much for significant investment. I agree that the direction the Minister for Treasury and Resources was pointing to was the right one in that he said we will have to invest more; but I am just asking for revenue expenditure not to be cut, and I would remind him and Members in the context of that statement "we are significantly investing in public services" where then do the catastrophic failures come from? Where does the raw sewage in the hospital come from? Where does the prison come from? Where do the Children's Services ... where do these failures come from? They come from this process of prioritisation, they come from saying: "Well, we will do that tomorrow. We will do that later." Deputy Duhamel spoke extraordinarily about the stretched resources at the Environment Department; he agreed that they were stretched and then he said about environmental testing that it was not right to throw money at it, but if you have not got the staff you cannot do the testing and the staff obviously cost money to go and do it and there is a limit to how much they are going to do in their own time. He also brought to the attention of Members a very interesting example of spending and being clever, and so on, and that was digging up the roads; and this has long been a point in my mind, the amount of money we have wasted over the years breaking up our roads and then next year along comes a different one and cuts it up again and then the following year, and so on and so on; we all know. The damage that has done to our road infrastructure is millions and millions of pounds. Now, the department have known about that for years but they have not had the resource in terms of bodies, in terms of staff, to tackle it and at last they have got around to it. They did not prioritise it because they could not, because they did not have the resource. The same in that situation has happened with the Hospital Director; once we have got a Hospital Director - which is revenue expenditure - we found out how the hospital could be improved, what was wrong there and what needed to be done. Exactly the same with T.T.S. and the roads, if we had invested in a person or half a person or a quarter of a person to sort out the utilities issue then our roads would be in a better state and we would save a lot of money. So that was a funny example to give of the need for cuts because, in fact, it was an example of the need for a sensible attitude to revenue expenditure. Deputy Le Hérissier pointed out that our low taxation is coming to an end and there is a crossroads; he is absolutely right, that is partly why I brought this amendment, we have to as an Island face the issue that charges and taxes will have to rise because there is such a huge backlog of things that need doing and have to be done; and the sewerage network is an obvious example. I was fascinated when Deputy Duhamel started talking about innovative situations to the sewage issue and I wondered whether he was going to stop us all going to the toilet but, no, in fact the money has to be spent, we have to replace those facilities which are falling apart. But going back to Deputy Le Hérissier, the low taxation is coming to an end, we will have to find more resources, and when he mentions Greece and Italy - again in the same breath as Jersey - well they are rather different places, they have issues with massive tax evasion and huge black economies and I just wonder whether it is right to argue on the basis of those 2 countries that what I say about high spending countries having higher growth rates, it does not knock a hole in that at all. He mentioned there is going to be a shift to personal taxation; well, as people mumbled

next to me in my ear, it has happened already, Deputy, and the shift has already happened; individuals are paying for the right of corporations to shift their affairs where they want and to avoid taxation. That is an issue that is not in the control of this House but it is clearly wrong and very unfortunate for the people of this Island. The Chief Minister came out with the best use of the resources we have and here again we have this notion that somehow we can carry on spending the same amount or less - preferably less - and we can wish it away by efficiencies somehow, as if the public sector is inefficient. That is what lies under that statement; and it is not and the resources are not adequate and that is why I am asking for them to stay the same, not even an increase. Not even an increase. One last point before I do the wrap-up in conclusion is about media; Deputy Tadier mentioned the media spin and Deputy Le Claire talked about covert political groups in this Assembly, and those 2 things go together. I do not believe that the majority of Members in this House want to believe the wrong things; they did not have full perception about what is going. The line that “expenditure doubled in the last 10 years; oops, no, it was not double, it was 75 per cent; oops, no, sorry, that is another lie. It has been going up by 6 per cent a year; oops, that is not true either” is coming from a very small group of people, it is not coming from the majority of Members. We try to find our way to the right answers but we are being fed untruths and that really upsets me. Then Deputy Tadier rightly pointed out that the effect of it is when the voices of the people are reflected back to us they tell us: “We do have to have cut backs. I will just have to put up with my mould on my walls because we do have to have cutbacks because we are in such a bad position.” The voluntary organisations went to Health when they were negotiating, and I remember the Minister for Health telling us this and they said: “Well, of course, the situation is very dire and we will put up with these cuts that you are imposing on us.” That is the effect of this spin that is dominating the agenda and it is shameful. It is absolutely shameful because what it stops is a proper debate; and one or 2 people mentioned that, that at last we are having a mature discussion. So I will conclude by saying ... yes, I have got minus one minute. The first thing that we need is a mature discussion and I really take on, to my heart - and I hope Members do - the plea of the Deputy of Grouville when she said we must have a not polarised debate, we must grow up, we must stop dominating it with spin. She just said: “There is something amiss with being so wealthy and having the problems that we all know about.” There is a false picture being painted about Government spending, it has been painted deliberately and it is crying shame because it stops this mature discussion taking place. The true picture is nearer to this; we have an efficient public sector, there are patches of laziness of course in any big organisation, and there are places where re-engineering of processes could and will save money and that also is always true in a large organisation.

[12:45]

Third thing; there is systemic underfunding and I hope that I have shown that. This is not surprising given that Jersey’s expenditure compared to other countries is far, far lower - less than half most other countries, including even the U.S. (United States). Less than half. Expenditure is not out of control, it has increased very slowly from a very low base. All the top spending countries have growth rates higher than ours. If we do not accept this amendment the cuts that are embodied in the existing figures are unnecessary, they are damaging, they are divisive and they have never been subjected to a proper discussion with the public or even in here. I urge Members to support the amendment.

**The Bailiff:**

Is the appel asked for? The appel is asked for then in relation to the amendment of the Deputy of St. Mary. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 7</b>		<b>CONTRE: 37</b>		<b>ABSTAIN: 0</b>
Deputy G.P. Southern (H)		Senator T.A. Le Sueur		
Deputy P.V.F. Le Claire (H)		Senator P.F. Routier		
Deputy M. Tadier (B)		Senator P.F.C. Ozouf		

Deputy of St. Mary		Senator T.J. Le Main		
Deputy T.M. Pitman (H)		Senator F.E. Cohen		
Deputy M.R. Higgins (H)		Senator A. Breckon		
Deputy D.J. De Sousa (H)		Senator S.C. Ferguson		
		Senator A.J.H. Maclean		
		Senator B.I. Le Marquand		
		Senator F. du H. Le Gresley		
		Connétable of Trinity		
		Connétable of St. Brelade		
		Connétable of St. Saviour		
		Connétable of St. Clement		
		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. Ouen		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		

**The Deputy of St. Mary:**

Can I just thank Members for the kind words; I neglected to say that in my speech. It was a little bit over the top, I think, but nevertheless I am very grateful and I am also grateful for the 7 votes.

**LUNCHEON ADJOURNMENT PROPOSED**

**The Bailiff:**

The adjournment is proposed, the Assembly will reconvene at 2.15pm.

[12:47]

**LUNCHEON ADJOURNMENT**

[14:15]

**1.2 Draft Annual Business Plan 2012 (P.123/2011) - paragraph (e) - resumption**

**The Bailiff:**

Usher, we are not quorate, please summon other Members. We are now quorate. We now return to the debate on paragraph (e), as amended. Does any Member wish to speak on paragraph (e)? Very well, do you wish to reply, Chief Minister?

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

Thank you, I am happy to maintain the proposition.

**The Bailiff:**

Very well, all those in favour of adopting paragraph (e)? The appel is called for in relation to paragraph (e), I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 27</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy P.V.F. Le Claire (H)		
Senator P.F. Routier		Deputy T.A. Vallois (S)		
Senator T.J. Le Main		Deputy J.M. Maçon (S)		
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Saviour				
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 of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
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 A.K.F. Green (H)				

Deputy D.J. De Sousa (H)				
--------------------------	--	--	--	--

### **1.3 Draft Annual Business Plan 2012 (P.123/2011) - paragraph (f)**

#### **The Bailiff:**

Then we come finally to paragraph (f) and I will ask the Greffier to read paragraph (f).

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

Paragraph (f). To approve the legislation programme for 2012 as set out in summary F, page 74.

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

This is the last element of the Annual Business Plan for this year and deals with the allocation of law drafting time. As always, new projects have been assessed having regards to financial and manpower resources needed to implement them. They are also assessed according to their relevance to the delivery of the Strategic Plan. The proposed programme for 2012 is shown at summary table F on page 74 and is an indicative programme. A single allocation of time that is proposed in order to implement the Comprehensive Spending Review changes. I have to say this programme is only indicative at present because we will be shortly having a new Council of Ministers; but much of the initial drafting time in 2012 will be taken up dealing with matters which have started in 2011. The programme is reviewed quarterly so as to make best use of resources ensuring that they are used on the projects with the greatest and most immediate importance to the States. Projects of a lower priority may be deferred. Emerging issues which require urgent attention will have time to go on to the programme, as will those projects which have received the in principle backing of the States so long as the policy is sufficiently developed so that the drafting instructions can be delivered without delay. I recommend the 2012 legislation programme.

#### **The Bailiff:**

Is that seconded? **[Seconded]**

#### **1.3.2 Deputy J.A. Hilton of St. Helier:**

Is the Chief Minister able to tell me when the new Licensing Law will come to the States for a debate please?

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

We did agree in the Strategic Plan to an amendment that I brought on adopting the United Nations Human Rights of the Child and I wonder if the Chief Minister can give us an update as to how we are progressing on that; what, if any, work will have been achieved in regards to that by this programme moving it forward, because we were told when I last asked that it was delayed because of a number of pieces of legislative and regulatory changes that needed to be made. So could he please give as an update now? If he is not able to do so comprehensively right away I wonder if he might circulate something comprehensively for us to be looking into when he is retired.

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

Deputy Hilton just beat me to the start about the Licensing Law, and just to say that this has been on the cards now for a number of years and I certainly know in the time that Senator Ozouf was Minister that it went through the whole of his 3 years without coming through and it is now going to go through the whole 3 years of Senator Maclean. What is the problem? Is it because they do not want a new law? I do want to raise that issue there, and also the anti-discrimination legislation. I know now it has been agreed that we are going to go forward with it but could we have some idea as to when that piece of legislation will indeed come to the House?

#### **1.3.5 Senator A. Breckon:**

First of all I would like to offer some praise to the department, it is perhaps not the most interesting for some people, especially the Scrutiny Panels; but I do know that some tremendous work goes on there and I have seen what can be done in a short period of time. I remember years ago, as a member of the Home Affairs Committee, terrorism legislation had to be produced fairly quickly and there was some intense levels of work. I know that when we come to debate sometimes the Budget, if Members want to propose amendments then it does cause some work for the department and I think praise is due for what they do. Having said that - although they cannot say it and I can - I think sometimes the Law Draftsman's department is frustrated by departmental effort and the briefs that are prepared and licensing is an issue, Sunday trading has been an issue - I wish to declare an interest in it as a Financial Services Ombudsman somewhere in the system - which the Minister for Economic Development has got in his sights. But the other thing is very important because this House can decide to do whatever it wants really, but if somebody is determined enough to frustrate that then they can do that with law drafting. If senior officers are not up to the message and want to delay it they can set up another working party, they consult with everybody and their uncle and I have seen that happening and probably licensing and Sunday trading are 2 issues where that has happened. The reason I am saying this is I think as well as doing this - although this is the shortest paragraph of this proposition - it is very, very important because without the Law Draftsman's department whatever we decide in many cases just does not happen. I think Deputy Le Claire has just touched on something. But without their efforts ... now, the other thing is again if there is some sort of pecking order at this it is important to be at the table when that is done because if you want something in particular or something is deemed necessary by this house then somebody needs to drive that, and it is not necessarily the role of the Law Draftsman's department to that, it is the role of the department that have the responsibility and there is, I would suggest, different priorities of how they service us and others have quoted examples. So although it is short, what I think needs to happen is we need to review where we are because in appendages I have seen over the years it used to list things that were tabled for years ago that were not brought. I know the Minister for Economic Development has brought forward some substantial pieces of legislation that they have worked on, and we do not always appreciate 99 articles, 3 schedules and whatever else; and it is not the easiest thing for us to understand but we do get a significant brief with that. The reason I am saying that is to give some praise to the department because they are there and, for example, the House of Commons and the House of Lords; when these things, what they call, ping pong between the 2 they are working through the night and it happens very quickly but they have got a multi, multi million pound department that does that. What we have here - although it is a stretched resource and there has been pressure on it - well, that is easy, just get rid of a couple of these; but then we have to decide how we are going to go forward and, if we want things on the statute, what they are - and we do not want too much red tape obviously - but things need to be reviewed. So I would suggest to the Chief Minister he takes this on board and perhaps a group could be set up to review what is in the system and where it is, officers could be brought to account, what are you doing about some of these things like licensing, and then it could be reprioritised. I can understand why the Chief Minister is saying tentatively this is the programme because that is the way it is, of course things could change and there might be external factors that mean that we need to introduce legislation and the Law Officers' Department are doing these things but they are unsung really for doing it, but it happens and it appears before us. So I would like to just conclude by saying that I hope Members will have respect for that and be wary of that because it is something that we need to keep up to speed with to get us where we want to be. We can prioritise to some extent but they need to get on and do the work.

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

Can I just raise a point of order? It is not related to the debate; a member of the public asked me just now as I came into the Assembly about the situation with members of the public observing our proceedings and not being allowed to come in with a mobile phone and they were very upset about it. I do not know what the rights and wrongs are, I do not know what Standing Orders says about

this, but they wanted to know under what provisions of Standing Orders they were being excluded from observing our proceedings because they had a mobile phone.

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

Just an observation, on numerous occasions we have heard a mobile phone going off from the gallery, so I cannot see that it has ever been a problem before. They should be switched off as far as I am aware.

**The Bailiff:**

I was not aware of that but the Standing Order refers to equipment being switched off and not being used in such a way to disturb the proceedings. We will take that on board, Deputy, and look into it.

**1.3.6 Deputy T.A. Vallois of St. Saviour:**

I would just like the Chief Minister to clarify for me; Deputy Southern's proposition in July about discrimination legislation, there were talks about it coming underneath the Social Security Department and it is here under Home Affairs. I was wondering if the Chief Minister could just explain how that is going to go ahead and whether it is still going to stay under Home Affairs or go under Social Security to come forward to the House.

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

Having approved the Health and Social Services Annual Business Plan much mention was made in it and in the comments from the Minister to amendment 6 on the introduction of user pays charges for a number of services including A. and E (Accident and Emergency) travel to the U.K. and patient transport services. I see there is no provision made in the law drafting time for the introduction of a new draft charges law, which the Minister alluded to, and I wonder whether the Chief Minister will be able to give us an indication of when that will be brought forward.

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

I just rise to address the issue of discrimination legislation, however, I am sure the Chief Minister could have perfectly ably addressed it. Yes, it is my understanding that the reason that it still remains in the Business Plan under Home Affairs as it does is because the Business Plan was drafted and printed prior to the decision in the Assembly where the Council of Ministers decided that it was far more appropriate for it to sit with Social Security and, therefore, it is not showing as such in the Business Plan because it had already been published, is my understanding. It is going to sit with Social Security; I should have been having my first meeting tomorrow morning about it, unfortunately it is looking most unlikely that I will be able to have that meeting because we will be sitting here, which means that there will be a slight delay. But it is still to be worked on throughout next year and that is the target that the States agreed to and that is the target that my department will aim to keep.

**1.3.9 Senator P.F. Routier:**

My question relates to the Health and Social Services law drafting request. Deputy Le Claire earlier this morning mentioned about the Mental Health Law, which is quite an old law, it is a very, very old law in fact; I would like to have thought that we could have perhaps started to encourage the department to look at updating that law because it is not appropriate for today's modern practices and I would like to think that we could eventually get some work done on that.

**1.3.10 Deputy M.R. Higgins:**

A question on 2 pieces of legislation; (1) just confirmation that we will definitely have the Financial Services Ombudsman Law which has been repeatedly promised, and (2) I see nothing in here about a law covering registration of civil aircraft which we were talking to Guernsey about, but I see Guernsey is going alone. So is legislation coming forward from our States?

### **1.3.11 The Connétable of St. Brelade:**

I would just like to endorse the inclusion of the new Street Works Law, which my department has been working on for some considerable time; and this is an effort to overcome the issues we have with roads and have experienced over the last year or so and strive to an improved situation for Islanders.

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

Just very quickly; where is the Charities Commission Law?

### **The Bailiff:**

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

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

As I said in my opening remarks, this is an indicative programme but I am pleased to say that most of the items raised by Members are covered within that programme.

[14:30]

Deputy Hilton talked about the Licensing Law and that is certainly shown in the Economic Development Department and work will continue on a new Licensing Law. I am told that we are in a stage now where a White Paper is drafted and ready and legislation should be in the course of preparation early in 2012. As far as the rights of the child are concerned, as I have told Deputy Le Claire on various occasions, we cannot sign up to that charter until there are other pieces of legislation in place. They are gradually coming into place but there is quite a lot more still to do; primarily I think in Education, Sport and Culture, maybe a little bit in Home Affairs as well. So that is ongoing work. As far as the Discrimination Law is concerned, yes, Deputy Gorst has answered the questions of the Deputy of St. Martin and somebody else who also asked about discrimination ... Deputy Vallois. Although it is shown in here as Home Affairs it is in the course of being transferred to Social Security. The important thing is that it is in the law drafting programme and that is as it should be. I am grateful to Senator Breckon for his comments about the Law Draftsman's Department. He, like me, has been in the States for a number of years and will appreciate that in the past we have had difficulties with the law drafting arrangements and I am pleased to say that in recent years things have improved tremendously, both within the department and at a political level, with the way that we address law drafting issues. Law drafting is reviewed not only by officers but by the Council of Ministers every 3 months and we check to see what is not on target, what is slipping and why it is slipping and whether other things need to be prioritised. So it is not - as the Deputy might suggest - that officers can delay this. Officers can only delay it if Ministers also connive in that delay, and Ministers will have a different view very often on what is the highest priorities and that is why we discuss them in the Council of Ministers to ensure that is achieved. So I would like to join with him in thanking the Law Draftsman and her team for the work which they do. **[Approbation]** The Constable of St. Lawrence asks about user pays charges and of course that is part of the Comprehensive Spending Review arrangements and that may be covered rather globally in the opening comment about Comprehensive Spending Review implementation. Of course, as the proposals from the Minister for Health for relevant user pays aspects are brought forward, the user pays element of that will come forward at the same time; so that will be within the legislation of the Minister for Health and Social Services. To Senator Routier and the Mental Health Law; yes, I have to agree with him that the current law is in need of an upgrade and I am sure that the Minister for Health would feel similarly; and it is really, I think, a matter of resources and trying to juggle a number of things which need fixing. That is one which I am sure she is well aware of and I can see her responding to that and if it does indeed - at a ministerial level - become a higher priority then we have the wherewithal within the programme to be able to reflect that. To Deputy Higgins, the Financial Services Ombudsman, that is clearly set out on page 74 of the Business Plan so there is no doubt about that. As far as civil aircraft is

concerned, I understand that that the intention is still ongoing, it just has not reached us yet. I am grateful to the Constable of St. Brelade for reminding us about the Street Works Law; and to Deputy Le Hérisier for a Charities Commission. Yes, work is going on with a Charities Commission and I think the approval of funding for a co-ordinator will go a long way to solving one of the issues in dealing with an appropriate level of legislation required for a Charities Commission. We do not want to overburden charities with a raft of legislation which will sink them; we do want to make sure that legislation is fit for purpose and I believe that with the addition of that co-ordinator we are going a long way towards achieving that. So I am grateful to those Members who have expressed an interest in the law drafting programme and gave support for the Law Draftsman's Office. If Members at any time during the year feel that some legislation is not coming forward as quickly as they should, then please they can come forward to the Chief Minister or the Chief Minister's Department and ask that this be reviewed at the next time the Council of Ministers reviews the law drafting programme which, as I say, is done on a quarterly basis. I maintain part (f) of the proposition.

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

May I ask the Chief Minister for some clarification? He stated that if we are not happy with the legislation coming forwards we should approach him and he will be delighted to take it up with the Council of Ministers. In the Strategic Plan, which was approved 2 years ago, we adopted the United Nation's Convention on the Rights of a Child; about 8 months later I asked where it was. Today we have been told that it is waiting for a number of pieces of legislative change and one area mentioned was Education, Sport and Culture, they were waiting for legislative changes from Education, Sport and Culture but within the programme there is nothing on Education. Sport and Culture's table whatsoever. I appreciate the Chief Minister may not be able to answer me at all in detail now but I did ask if he would please update us with a comprehensive position so that I could at least have some understanding as to where this all is; is he able to do that please?

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

I can certainly circulate an update of the position for Members. Can I point out that the United Nation's Convention on the Rights of a Child is indeed just that, it is a convention, an international convention which can only be signed up to once we have legislation in place to enable us to comply with our obligation - in fact with the U.K.'s obligations - under that convention. Now, those parts of legislation which may be required for that may not be so high in some Minister's priorities, or indeed be feasible or accepted by this House. I do recall some while ago we discussed children below the age of 16 working after school hours and that created quite a difficult debate in this House as to the extent to which that can be done. But without the legislation we cannot sign up to the U.N. (United Nations) convention. It is not just in Ministers' hands, it is in the hands of all Members. But I will circulate an update of where we are in respect of the legislation required in order for us to be able to meet our commitments under that convention.

**The Bailiff:**

Very well. All those in favour of adopting paragraph (f) kindly show. The appel is called for in relation to paragraph (f), I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 38</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				

Senator T.J. Le Main				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
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. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				

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

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

I think that does now conclude the debate on the 2012 Annual Business Plan. **[Approbation]** The Business Plan process starts virtually as soon as this one has finished; we will be starting on the next one, it does not really start at the beginning of the year. But it is the last 2 or 3 weeks leading up to the debate where matters really get frenetic and I would like to pay thanks and tribute to the officers not just in my department but also of the Treasury and the Greffe. **[Approbation]** The Treasury in particular do sterling work, not only in advising Ministers on comments to the amendments, but also advising States Members who may wish to lodge amendments and we should not overlook that aspect of their work as well, they are there to help all of us not just the Minister for Treasury and Resources. So I would like to thank the Treasury team and we do not mention people by name in here but those who have been working in the back room for the last few days will be known to Members and I am sure will be appreciated by them. **[Approbation]** Equally, the preparation of a running order in trying to decide what comes before which and giving us a clear programme to which to work is one of the jobs of the Greffe. The other of course is collating all these amendments, usually in the 24 hours before the deadline - but that is the way of life - and I pay tribute to the Greffier and his staff for once again providing this in a very effective and efficient way. **[Approbation]** To all those who have brought amendments, yes, I do welcome those amendments and thank those Members for bringing them because it does enable us to have a discussion about the Business Plan and for us to agree our priorities; and it may be that some people would say it is the Council of Ministers' Business Plan, take it or leave it. The way we do things in this Chamber up to now has been that we have a discussion and we reach a consensus view, which not everyone shares, but which is open to people to air their views. So I would like to thank all Members who contributed in that way; all the Members who have spoken; and of course you, Sir, and the Deputy Bailiff for chairing this debate in your usual calm and constructive way. So to all of those people can I express my thanks. **[Approbation]**

**The Bailiff:**

Thank you very much, Chief Minister. Now, before we move on, 2 matters; first of all 3 items have been presented or lodged, first of all comments on P.144, that is Radon Gas Levels and Cancer Rates in Jersey, comments tabled by the Minister for Health and Social Services. Secondly, P.155 lodged by the Comité des Connétables it is entitled Driving Licences: Theory Test. Finally a report presented by the Chief Minister, R144, on Debt Relief for poorer countries: Green Paper consultation, September 2011. The second aspect, just before we move on, is that as it is a point of order I think it is right to deal now with the point raised by the Deputy of St. Mary. Standing Order 173(4)(h) says that a stranger while in the precinct of the States must not switch on or use a mobile telephone, pager or any other electronic communication device. So the position, in my judgment, is that a member of the public must switch off his telephone when he arrives and can be made to do so

by the security personnel and if he or she refuses then he can be denied admission; but assuming he agrees to switch it off then he should be allowed admission with his telephone.

**Deputy M. Tadier:**

Can I ask from the Chair; presumably the reason members of the public need to switch their devices off is so that it does not disturb proceedings. Now, it may be worth - and you can see considering the interpretation of the current rules for Members - because we do often get interruptions from States Members from mobile phones and it seems that we very rarely get them from members of the public. It is just food for thought for P.P.C.

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

If I may, Sir, I was going to seek the leave of the Assembly to make a statement, if that is appropriate, before we move on to the next item of business.

**The Bailiff:**

Is this statement important, Senator, this is a very heavy agenda, this will be another 15 minutes, is it necessary to make it?

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

Sir, I believe it is, but ultimately it will be the decision of the Members after I have made it if they think that it was justified. **[Laughter]** It is a matter that I did promise earlier in the year that I would bring back to the Assembly as an update and it does allow matters to proceed, officers are waiting to move on with ...

**The Bailiff:**

Very well, you have given notice that you wish to make it and so if you insist then it shall be made. I suggest we make it now.

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

I insist on the basis of the leave of the Assembly, of course, not anything more than that. As Members are already aware a shadow board for Jersey Harbours ...

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

Could we have a copy of the statement? Do we have it?

**Deputy J.A. Martin:**

No, we do not have it. It is not good without a copy.

**The Bailiff:**

Well, what I suggest; why do we not do the Draft Sea Fisheries matter which I cannot believe will take very long, in the meantime your statement can be circulated and then you can proceed.

**2. Draft Sea Fisheries (Amendment No. 2) (Jersey) Law 201- (P.119/2011)**

**The Bailiff:**

So let us move to the Draft Sea Fisheries (Amendment No. 2) (Jersey) Law, P.119, lodged by the Minister for Economic Development and I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Sea Fisheries (Amendment No. 2) (Jersey) Law, a law to amend further the Sea Fisheries (Jersey) Law 1994. The States, subject to the sanction of Her Most Excellent Majesty in Council have adopted the following law.

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

If I may I will ask my Assistant Minister, the Connétable of St. Clement, to be rapporteur.

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

As you implied, Sir, this is a relatively simple amendment to the law and the report attached to it I think gives a good explanation. Members may know that under our current fisheries management agreement with the United Kingdom before Jersey can make regulations relating to fishing in our waters it is necessary to obtain the U.K. Secretary of State's approval. That process can be lengthy and, therefore, does not lend itself to the management of a dynamic fishing industry. What is being proposed is that where it can be identified that a general management measure may be needed but the specifics of that management measure may need to change depending on variable factors, then more responsive legislative framework can be used allowing our Minister more flexibility.

[14:45]

In those cases the regulation will be approved in the normal manner and will either contain full details of the measure - as is current practice - or will set out the scope of the management measure that may be needed, but not the detail. If the latter method is used then our Minister will be able to set the specific details by order at a later date. In practice, for example, if it is decided that a minimum size should be permanently introduced for a species then the existing method will be used and the size prescribed and regulations approved by the Secretary of State in the normal manner. If, however, it is decided in principle that an area of sea should be closed to a specific fishery on a seasonal basis then the regulations would describe the fishery involved and the maximum area and period of closure that are required. The Minister would then be able to close the fishery at the appropriate time by order. French and Jersey fishermen have already agreed an area near the Minkies that they would like to be closed to netting during the spider crab closed season; but they would like the specific area and period to change each year depending on the movement of the spider crab and other stocks. The new method, if approved, of legislating lends itself to that process. Under the existing law the regulations would need to be amended each year and that is impractical in view of the timescale involved. So there are real benefits to this amendment; mainly more autonomy for Jersey to manage the details of our fishing in Jersey waters and also better management and more proactive management of the fishery. The second change this law would bring, because currently fishery officers' powers only extend to those vessels that are fishing vessels, but that can be very difficult to establish in the case with some vessels unless they are first stopped and inspected. In addition some aspects of the law and subordinate regulations also apply to vessels that may not be fishing vessels; typically vessels discharging perhaps into the sea. This amendment would allow fishery officers to board and inspect all vessels, but of course only to enforce the law and the regulations made under the law. These powers are in direct comparison with that of the United Kingdom. It is of course very rare that officers need to use the authority to stop and board any vessel, and the normal process is to ask and be invited onboard. That details what the regulations were all about and I propose the principle.

**The Bailiff:**

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

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

Could the Minister give us an indication of vessels discharging into the sea; what would be being discharged; and does this mean that somebody fishing for a few mackerel with a rod and line is going to be boarded by the fisheries protection vessel to measure the size of the fish he is catching or the leisure users are going to catch? If he could answer that when he sums up it would be useful.

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

Just briefly, I commend the department for bringing this proposition and urge Members to support it.

**The Bailiff:**

Does any other Member wish to speak? Then I invite the Assistant Minister to reply.

**2.1.3 The Connétable of St. Clement:**

In the scenario that the Deputy of St. John describes, that vessel that is fishing for mackerel would be a fishing vessel and, therefore, the power to board already exists and of course boarding would only take place if the fisheries officer suspected some illegal activity. As I said in my opening remarks, they would normally be invited onboard in any event. So, yes, the law would apply to any vessel. As to discharging into the sea; under the Sea Fisheries (Miscellaneous Provisions) (Jersey) regulations the following prohibition exists: “No person shall deposit or discharge or cause to be deposited or discharged into the sea any ash, cinders, oil spirit or petroleum spirit.” If this law is passed, should the fisheries officers come across any such activity they will have the power to board and stop any such activity and that is what the changes to the law are all about. I maintain the principles.

**The Deputy of St. John:**

Can I have some clarification on what the Minister described as a fishing vessel? Currently fishing vessels are identified by way of a J number, so he is referring to all vessels whether they carry a J number or not, correct?

**The Connétable of St. Clement:**

That is absolutely correct.

**The Bailiff:**

All those in favour of adopting the principles, kindly show. Those against. The principles are adopted. I need to ask the Chairman of the Economic Affairs Scrutiny Panel whether the panel wishes to have this referred to them and that is the Deputy of Grouville, she is not here. I gather there is no Vice Chair, is there any ...

**Deputy J.M. Maçon of St. Saviour (Vice-Chairman, Economic Affairs Scrutiny Panel):**

Sir, I beg your pardon, I am the Vice Chair of that panel and, no, thank you, Sir.

**The Bailiff:**

I do beg your pardon. Very well. Do you wish to propose the articles *en bloc*?

**The Connétable of St. Clement:**

Yes, I would like to propose the articles *en bloc*.

**The Bailiff:**

Are they seconded? **[Seconded]** All those in favour of adopting the articles, kindly show. Those against. The articles are adopted. Do you propose the Bill in Third Reading?

**The Connétable of St. Clement:**

Yes.

**The Bailiff:**

Is that seconded? **[Seconded]** Very well, the appel is called for then in relation to the Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 35</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
-----------------	--	------------------	--	-------------------

Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator F. du H. Le Gresley				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
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. Ouen				
Deputy J.A. Hilton (H)				
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 K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				

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

The **Bailiff**:

Minister, would you wish to make your statement at this stage?

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

#### **3. Statement by the Minister for Economic Development regarding Jersey Airport and Jersey Harbours**

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

Yes, please. As Members are already aware, a shadow board for Jersey Harbours and Jersey Airport was formed in November 2010. The terms of reference for the board were approved by the Assembly by P.47/2011. In March I wrote to the Chairman of the Jersey Harbours and Jersey Airport Shadow Board asking for their consideration on matters concerning the potential incorporation of the 2 trading operations. Given the strategic and financial challenges facing both organisations I was keen to establish whether incorporation could provide an element of the solution. Working alongside the executive teams the Shadow Board have now advised of their clear belief that incorporation of both Jersey Harbours and Jersey Airport will improve the financial sustainability of the 2 trading operations. The Shadow Board have recommended the development of a detailed business case for incorporation which clearly identifies the envisaged financial sustainability; costs and benefits of incorporation including any remaining liabilities post integration of the businesses; the viability of incorporating the 2 organisations together or separately; a risk register identifying any social, economic or Island risks; the impact on existing staff and future recruitment. To this end I have today signed a ministerial decision instructing the group chief executive to prepare a business case for incorporation. Both my letter to the shadow board seeking advice and their response are attached to the ministerial decision and will be circulated to Members. In addition, and following a recommendation from the group chief executive, I have approved a proposed restructuring of the Harbours and Airports organisations to deliver immediate benefits, including savings and efficiencies. Finally, I have instructed the group chief executive to engage stakeholders in the development of the business case to ensure an effective plan is prepared, including human resources, the States Employment Board, law draftsmen, law officers, States of Jersey Development Company, Treasury officials and the J.C.R.A. (Jersey Competition Regulatory Authority). When completed, this work will: integrate the structures of the businesses, drawing on best practice and to deliver efficiencies; deliver a vision and strategic objectives for the newly merged businesses; unify commercial strategies under one structure while concentrating operational excellence in specific functions; complete a business case for incorporation for approval by the States. Thank you.

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

I would just like to know which part of the Business Plan this was identified for funding for and also when we had my proposition to call for the Minister to bring the board back for approval from the States, it was made quite clear that it was too late, the board had already been set up by himself and then subsequently he kindly said that we could approve his terms of reference, the last term even being that they could then go on to create new terms of reference. So I asked if we would have an opportunity to examine the minutes and it was agreed by the Minister that he would email us when they met so that we could ask to see the detail of those minutes on a confidential and commercial basis. I do not believe we have received any emails telling us they have sat. They have now made a decision that this is a recommendation for the Minister, which he has signed, there will be significant resource implications to evaluate this business case and I would like him to answer these points.

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

Yes, the Deputy asks about where the funding arrangements are within the Business Plan. What I have announced today is quite simply that we are asking for a business case to be brought forward. The business case will be prepared, there has been a lot of work already undertaken within the budget of Jersey Airport, and for that matter Jersey Harbours, which has called upon organisations such as Vector, Deloitte, Capita Symonds in recent years - this is not just this year - to evaluate the challenges faced by both boards. There is no additional funding requirements above and beyond what is already in the budget, what has already been approved, and as such there is no cost additional that the Deputy needs to be made aware of. As far as decisions are concerned the Shadow Board, as I have previously mentioned to Members, do not make decisions, they simply make the recommendation. I ask for advice and they have given their advice based on that. Copies of both those letters will be forwarded to Members. With regard to the minutes, the Deputy is quite correct, and indeed the agreement that reached was that should Members wish to have the minutes they would indeed be made available. We have had no actual request as such. What I have also undertaken at the time of the debate was that we would publish the agenda, details of the dates of the meetings of the board. I will need to confirm that has been put on the website, and I will confirm that in due course.

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

There are 2 questions. One is this is a very large piece of work as the Minister has made clear and it depends entirely on one recommendation that incorporation would improve the financial sustainability of the 2 trading operations. I would just like him to enlarge a little bit on how incorporation would do that because that is what causes all the work. The second point is can he explain why the third bullet in the business case terms of reference is: "The viability of incorporating together or separately" and yet when completed the work will ... and it talks about newly merged businesses. So I would just like him to clear up that inconsistency.

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

I will take the second item first on that. We believe there are efficiencies that can be driven between both the harbour and airport now, almost under a business as usual basis. The reason for that is there are a duplication of functions in both entities. We believe that would happen regardless of whether they are incorporated as a single entity or 2 separate entities for incorporation. So quite simply it would go ahead anyway this business as usual, so merging certain functions would happen to be more efficient and more effective. The other question the Deputy asked was ... I have forgotten the full detail of his question, so perhaps if he could repeat the first part?

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

I said it is a big piece of work, it all depends on one statement from the board, the Shadow Board, that it would improve the financial sustainability to trading operations which was the advice he sought and I just want the Minister to enlarge on the cause ... on the reason for this big piece of work.

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

The board have given their advice, the Deputy is quite correct. What we are asking them quite simply to do is to draw up the business case which would, in fact, prove the case categorically. Nevertheless the move to an incorporated structure, whether jointly or as one single entity, is believed by the shadow board to improve governance. Of course you fundamentally change the arrangements with the board of directors becoming responsible for the entity but, of course, being in a position to act more commercially does drive certain efficiencies and allows the organisation to benefit from commercial opportunities that perhaps are not available to a public sector body in the same way and without the same freedoms.

**3.1.3 Deputy J.A. Martin of St. Helier:**

Could the Minister agree that what he has just stated is not simply a business case? The last bullet point says: "Complete a business case for incorporation for approval of the States." We have been here before, Jersey Post and Telecoms, we had an in principle debate, they obviously have enough information, the Minister has enough information, I want this brought in principle to the States because if anyone has any concerns at this stage when it is ready for a States debate it will be too late. Why can the Minister not do that now?

[15:00]

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

I do not believe it would be right to bring it here for an in principle debate. States Members very rightly and very often state that they want more detail, all we are simply going to do is we have collated already quite a bit of detail. The Deputy is right, yes we do have some and the board have considered that in order to give their opinion, which they have now presented. The basis of the letter, the opinion that they have given, I promise it is going to be circulated to Members, they will see the response that has come back. That will clearly hopefully outline the position. Members then will have an opportunity with all the facts available by the first quarter of next year, the end of the first quarter of next year, to debate this issue and it will be a debate. Members can either agree to it or refuse it if they do not think it is a viable proposal.

**3.1.4 Deputy M.R. Higgins:**

I must say I am most unhappy with what the Minister has just said. I was going to ask him whether he felt it was acceptable or good enough that he signs a ministerial decision which we have not seen, it has not been sent to us therefore we cannot comment on, and which still has not been sent out to us, so we are totally in the dark about what he is proposing. So not good enough. Secondly, I would like to know, he mentions in his statement: "I have approved a proposed restructuring of the harbours and airport organisation to deliver immediate benefits including savings and efficiencies." Now, what is the proposed restructuring he has approved before the business case has come here? So you have obviously made some decisions, you have obviously ...

**The Bailiff:**

Through the Chair, please, Deputy.

**Deputy M.R. Higgins:**

Sorry, through the Chair, Sir. Decisions have obviously been made, we are totally in the dark and it has just been dropped on us like this. Totally unacceptable. Will the Minister please tell us what he has signed?

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

The M.D. (ministerial decision) has been signed and will be published shortly. Members will see it. The Deputy's point about M.D.s, I sign probably a dozen or 2 dozen M.D.s every week, they are not published or approved in advance beforehand. The information here is simply I have made the statement to give Members details of the fact that advice has been sought by me of the Shadow Board about the potential for incorporation of the airport and the harbour. I have accepted that advice and now we are moving towards a business case. Members will have more than enough time to consider the proposals and indeed to debate them, which is absolutely right. This Assembly should debate such an important decision. I have always said that would be the case and I maintain that position.

**Deputy M.R. Higgins:**

Supplementary, Sir?

**The Bailiff:**

No, I am sorry, Deputy, we only have 10 minutes for these questions and there are a lot of Members wanting to ask questions at present. The Deputy of St. John.

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

Can the Minister say why it has been necessary to appoint a board of non-States Members when the Minister could have drawn from within this House at no additional cost to the Island? What is the cost going to be of this new board annually and is he now going to take to the Council of Ministers a proposition that we return to the committee system?

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

I think we are covering old ground with the Deputy of St. John here. The Board has been appointed. I have stated in this Assembly that the cost of the Board is approximately £125,000 per annum. I believe the calibre of the Board which Members are aware of, they have seen the C.V.s (curriculum vitae) of the individuals, is at the highest level and it is a shadow board. It is there to give advice at this stage but it has already added considerable value in order to consider the future challenges that both the airport and the harbour are presenting. The Deputy is sitting in his seat and mouthing: "Rubbish" but I am afraid it is not rubbish, it is absolutely true and the case will be proven as we move forward.

**The Deputy of St. John:**

The Minister has not answered by question in full.

**The Bailiff:**

I am sorry, Deputy. Senator Ferguson.

**3.1.6 Senator S.C. Ferguson:**

Will the incorporated body be totally independent of the States, other than having the States as a shareholder or will the Minister retain the power of direction?

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

I am afraid I cannot answer that question. It is a matter for the States to decide whether or not we move to incorporation. All I have simply advised at this stage is that we are moving to ask for a business case to be prepared once we have all the facts and all the information which clearly Members would require to make an informed decision then that will come back to this Assembly for their decision at that stage. It will be at that stage that such matters will be addressed.

**The Bailiff:**

Very well, I know there are other Members who wish to ask questions but I am afraid time has expired.

**The Deputy of St. Mary:**

Can I then raise a point of order, I did wait for the closure of the 10 minutes of questions, but it is a point of order relating to the statement. The Minister when he was speaking said that the ministerial decision had not been circulated. His statement says it has been circulated to Members together with attached documents. So my point of order is what is the status of something on the official record that is untrue, if I am correct?

**The Bailiff:**

Minister, can we just be clear ...

**The Deputy of St. Mary:**

It is the second paragraph after the bullet points.

**The Bailiff:**

Minister, it says here that your letter to the Shadow Board and their response is attached to the ministerial decision which has been circulated to Members.

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

Indeed, Sir, it appears that there is a difference in versions but nevertheless it should have been circulated, it will be circulated, Members will have it within the next hour or so. My apologies for the confusion.

**The Deputy of St. Mary:**

So there is something on the record of this House that is incorrect?

**The Bailiff:**

I suspect that is not the first time. **[Laughter]** I am reminded that the Minister did say “will be circulated” when he read out his statement and therefore that is what Hansard will recall.

**Deputy M. Tadier:**

Can I ask for clarification, I think Deputy Le Claire asked the Minister to circulate the minutes to Members, the Minister said that he would be happy to circulate the minutes if a Member asked, and I think a Member has asked and I would ask also that he circulates the minutes to all States Members so that we can be kept in the loop as well as the ministerial decision?

**The Bailiff:**

That is a matter for the Minister.

## **ARRANGEMENT OF PUBLIC BUSINESS**

**The Bailiff:**

We have another matter lodged, it is an amendment lodged by the Chief Minister to the Draft Money Laundering and Weapons Development Directions (Jersey) Law, Projet 128.

**The Connétable of St. Mary:**

Just 2 things about the following business. As Members will know, Deputy S. Pitman has had to leave the Assembly ill today. She would like P.81 to remain listed but to be moved further down this current sitting. She anticipates being well enough to attend tomorrow. Secondly, I would like to ...

**The Bailiff:**

First of all, do Members agree that? That seems a reasonable request. Yes, very well.

**The Connétable of St. Mary**

I would like to seek relief of the Assembly under Standing Order 26(7) to debate Projet 153 today. Notwithstanding it has not been lodged long enough, and if the Assembly agree to that I would like, if possible, to take it next. I anticipate it being a fairly short piece of business.

**The Bailiff:**

Very well, is that proposition seconded? **[Seconded]** Then proposition is first of all that Projet 153, that is the amendment to Standing Orders, be debated notwithstanding that it has not had the necessary lodging period. If I can remind Members they can do this if they are of the opinion the proposition relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate. Does any Member wish to say anything on that proposition? Very well, all those in favour of it kindly show?

**Deputy M. Tadier:**

Can we have the appel, please?

**The Bailiff:**

Yes, the appel is called for then in relation to that. I invite Members to return to their seats. If you wish to shorten the lodging period so it can be debated, you vote pour, if you do not you vote contre. The Greffier will open the voting.

<b>POUR: 37</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Saviour				
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. Ouen				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

Do Members also agree it should be taken next then? Very well then I will ask the Greffier to read out the Projet 153.

**PUBLIC BUSINESS - resumption**

**4. Draft Amendment (No. 16) of the Standing Orders of the States of Jersey (P.153/2011)**

**The Greffier of the States:**

Draft Amendment (No. 16) of the Standing Orders of the States of Jersey. The States, in pursuance of Article 48 of the States of Jersey Law 2005 have made the following amendment to Standing Orders.

**4.1 The Connétable of St. Mary (Chairman, Privileges and Procedures Committee):**

I will be as brief as possible. Members will know that this amendment is simply to extend the deadline for holding the first States Meeting after the elections for the purpose of electing the Chief Minister. This amendment is necessary because plain and simply there was an oversight and I completely hold my hands up to that. Members will be acutely aware that the timescale for elections this year is considerably different to previous years and every effort was made by all concerned to realign all the necessary dates in relevant legislation, et cetera, but this one small, but absolutely crucial, point was missed. I am, as so often before, extremely grateful to the Greffier for his vigilance as it was he that spotted this oversight when he was reviewing Standing Orders, as you do, for another matter. I would like to move the Standing Order amendment.

**The Bailiff:**

Very well, you move both paragraphs 1 and 2. Is that seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting the amendment to Standing Orders, kindly show? They are adopted. Did you say the appel was asked for, Deputy?

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

I did ask, Sir.

**The Bailiff:**

Can I just remind Members what was said a little while ago, which is, and I forget the exact figure and the Greffier will remind me, but the man hours to type out results of appel are not insubstantial so every time there is an appel there is extra work for the Greffier. So I do ask Members to consider whether an appel is always necessary. Do you wish to maintain that in this particular case, Deputy?

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

I do. I also was approached by a former Member of the Assembly who said that in their view, quite an experienced and longstanding Member - not in any way disrespectful to yourself, Sir - but they did make the point that in some circumstances it is important to make sure votes are recorded if those circumstances require.

**The Bailiff:**

I absolutely understand that, it is just if it is in fact agreed by everyone on a very routine matter I am not sure that a vote is necessary. If there has just been another appel so that there are plenty of Members here ... but it a matter for Members. An appel is called for. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 34</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				

Senator F.E. Cohen				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Saviour				
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. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				

Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

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

Perhaps I could shorten the transcription costs in relation to this Assembly’s business to make up for that last appel. We have had the comments circulated in relation to P.144 Radon Gas Levels, and while they are praise-worthy they are not very supportive so I would like to consider those and ask that P.144 is deferred until after the elections as well. I believe the Chairman of P.P.C. addresses that matter but at least for this time, as a courtesy to Members, I will be seeking to debate that after the election.

**The Bailiff:**

Thank you, Deputy. Very well, we return therefore to the amended Order Paper, I trust Members have a document that the Greffe has circulated, I think, entitled “Remaining Public Business after completion of P.123”.

**5. Draft The Law Society of Jersey (Amendment No. 3) Law 201- (P.122/2011)**

**The Bailiff:**

Projet 121 has already been deferred by Deputy Tadier, therefore we come to Draft Law Society of Jersey (Amendment No. 3) Law, Projet 122, lodged by the Chief Minister. I will ask the Greffier to read the citation.

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

Draft The Law Society of Jersey (Amendment No. 3) Law. A law to amend further the Law Society of Jersey Law 2005. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

It was only in 2007 that the States adopted the Law Society Law and set up a disciplinary panel. Nonetheless that has been an active body and they have found that the law as drafted needs certain amendments, that is understandable in any new law. Now unfortunately, the membership of the Law Society Disciplinary Panel holds office for a term of 5 years and under the current law they would not be eligible for reappointment. That would mean that next year, in the middle of the review which they themselves are carrying out into the law, a completely new set of people would have to start again from scratch and continue that work. This cannot be a sensible use of resources. The people involved already have done valuable work on this and I would hate to see their expertise wasted. So the purpose of this amendment is to allow for the reappointment, not the mandatory reappointment but to allow them to be eligible for reappointment for a further term of office when their current term of office expires in 2012. That is the gist of the proposition and I propose the principles.

**The Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show? Those against? The principles are adopted. Senator Ferguson, do you wish this matter referred to your Scrutiny Panel? Very well, Chief Minister, do you propose Articles 1 and 2?

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

I propose Articles 1 and 2.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting Articles 1 and 2, kindly show? Those against? They are adopted.

[15:15]

Do you propose the Bill in Third Reading? Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading, kindly show? Those against? The Bill is adopted in Third Reading.

**6. Chief Minister: election by an open ballot (P.126/2011)**

**The Bailiff:**

So we come next to Projet 126, Chief Minister: election by open ballot, lodged by Deputy Trevor Pitman, and 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 the election of Chief Minister should be undertaken by way of an open ballot and no longer by a secret ballot for States Members; (b) to charge the Privileges and Procedures Committee to bring forward for approval the necessary regulations to give effect to the proposal so that it can be in place for the election of autumn 2011.

**6.1 Deputy T.M. Pitman:**

I brought this proposition for a quite simple reason really. It is about openness and it is about transparency. The reasons I brought this have changed in the time since it has been lodged, the reasons why I feel it has got to be debated. When I got elected in 2008 I was very proud to be elected as a States Member and I am still very proud to represent the people who elected me. I can say I have done my best to represent those people who probably did not vote for me, but that is our duty and it is one I do enjoy. Sadly, I have to say that I am not particularly proud to be a part of this Assembly and the way we conduct our business much of the time. I will touch on this briefly because it is relevant into why we should have an open vote for the Chief Minister. The bottom line why I think we have to have an open vote for Chief Minister is because I think the public have an absolute right to know when people are standing on their doorstep, sitting up in the hustings, that they are telling the truth, that they are not being misled, that those people who are agreeing with them or not have the backbone to stand up within this Assembly. This Assembly is not a nice place; it is not a nice place at all. It is a horrible place. It has some nice people in it but it is a horrible place. I said there is probably about one person who - I was going to say pure of heart but it makes him sound like an angel so I think we talked enough nice things about the Deputy of St. Mary earlier. If I am knocking on someone's door and people ask me: "If I vote for you, who is going to be your choice of Chief Minister?" I believe they are entitled to a straight answer, an upfront answer. Why should they not have an answer? Is it wrong that they should? Is it in some way intimidating? Not for me. I am asked that now, if I am back in the House next time I will not vote for Senator Ozouf. No offence. I know he is not shocked by that, he has not fallen over. I will not vote for Senator Le Marquand if he is a candidate and that is okay, I know they do not take it personally. **[Aside] [Laughter]** I would have to think about that one, hopefully it would not get mixed up with the list for who I would like to deport out of the Island. You are a lovely chap, lovely chap. But if we can be so light-hearted about it, what is the problem? Yet we talk so much about openness and transparency and then we all go to it in secret. Why? What is the problem with the public that do not have that surety that a party system gives, whatever part of the world, where

you can be fairly sure, even in Britain, who is likely to be Chief Minister because you have got the biggest majority. Here the people have got no such surety as we all know. So trying to think of the reasons why I should be allowed to tell the public something and yet they cannot check up if I have kept my word. If I make my thoughts known can I be intimidated by Members in this House who would want me to vote for them for Chief Minister? I have to say if you are that easily intimidated you should not be here, most definitely. Not in the present climate because this is not a nice place to be. So what other reason can there be to elect our Chief Minister in secret? I hope some Members will come up with some and perhaps I will change my mind but I cannot think of any. It is overwhelming, surely, that if I tell a person that I am going to vote for Joe Bloggs, they give me their vote, their support, I get elected that then they can see that I have carried through that vote. It may not get the person in that they wanted but at least they can see I kept my word. So I could make it that very simple, however, the reason that I said things have changed over the months is that as far as I am concerned, like members of the public, there is a hidden agenda in our Island today. Let us just consider some of that. The speech that the Deputy of St. Mary made today really hit the nail on the head. None of those facts, and they were facts that he put before us, have got into the public domain, all our media do is put out the Council of Ministers line. I believe the public, who will be having us all knock on their doors, should know truthfully that the person who is the candidate they will be supporting will be big enough, brave enough, man or woman to challenge that, to take it on. I learnt how the way Jersey operates very early. I had been elected 3 weeks and then I was abused in the street thanks to a lovely, lovely article put in the paper, and I make no apologies for talking about it, smears about my wife and I and our income and motivation for standing. The *Jersey Evening Post*. I feel very sorry for anyone who is unfortunate enough to have to work for that organisation. Only last week, or was it the week before, fake letters written about my wife. Now, I was immediately suspicious of the address, Belmont Road, because the *J.E.P.* have done this before. So I went down to that address, of course no such person existed. It was not even a house, it was divided into 5 flats. The person had not lived there for more than 2 years. Mail was still there. I spoke to all the people who lived there. Went to the *Jersey Evening Post*, refused to apologise. This is the agenda. If we look at the paper today: “£7 million public sector pay rise rejected.” That is the way they spin it. That is not what the debate was about at all. It was about monies being there so negotiations could happen genuinely. I have seen a States Member, who is no longer a States Member, he has done some things which I totally disagree with. I have seen people pilloried simply because they take a different stance. I think the public need to know that whoever they are going to have us 51 - as it will be - voting for, they will be brave enough to vote for someone who is going to be strong enough to stand up to all of this. I have had threats over the last few months. They have increased as I have been doing the BDO review. I got in touch with our wonderful Data Protection Commissioner, not interested. I have been in touch with the police, not interested, cannot do anything, take out a civil action. This is all relevant because this is the way Jersey works. I had some unpleasant experiences the last few weeks with these threats, most emanate from a certain website, which I will not name because it would be to do that site too much ... But the fact is we have got 3 States Members at least who have been happy to contribute articles in their own names on that. One of them sits in here. We have had Senator Perchard, Deputy Power, Senator Le Main has contributed to that website. That is fact, you can go and look. This is a site of someone who was found guilty in the courts and bound over for 6 months. A ridiculous fine for threatening a family that former Senator Syvret was staying with. I can trace word for word the tone of the threats that we have had, myself and my wife ...

**The Bailiff:**

Deputy, I appreciate you feel strongly about these matters but I just...

**Deputy T.M. Pitman:**

Well it is relevant!

**The Bailiff:**

... I just need to bring you back to the amendment. How is it relevant?

**Deputy T.M. Pitman:**

It is relevant, Sir, because everything is swept under the carpet and this is an example where people keep saying to me, because I do knock on doors: “We need to know who you are going to vote for and that you will follow through on that.”

**The Bailiff:**

That is the point you have made already and of course that is a very relevant one but I am not quite clear where all these matters you are now discussing are relevant to this particular ...

**Deputy T.M. Pitman:**

No, well, with due respect, Sir, I thought you might say that so I will leave it there. I know we do not like to talk about these things but we need ...

**The Bailiff:**

It is not a question of whether we like to, it is a question of whether they are relevant.

**Deputy T.M. Pitman:**

Well they are relevant, Sir, and I think you will find the public think they relevant and that is who I serve. So if I have offended you or you think I am wrong, I am sorry, but I serve the public. So why should the public not know which man or woman we are going to vote for? If any Member can give me a good reason then I would happily withdraw this. Giving an open vote allows the public to have some link between their votes and what happens in here. So it is not all sorted out down the champagne lounge or wherever. We have just seen unhappiness with what the Minister for Economic Development has put before us. Anything that promotes transparency and openness has got to be good. Now, I hoped other Members would come forward and they would suggest that all votes were done in public. That has not happened. I do not know why that has not happened but at least I do hope that that will not be one of the criticisms made to me that it is not a whole package. The Chief Minister is really the star. It is the most important job in our Government, is it not? I think I will leave it there by saying I am an ordinary Member, I am nothing special but I am not scared to say: “No, I will not vote for Joe Bloggs, I will not vote for Mr. Smith” and I will give that person my reasons. That is the way I have always lived my life. In my experience most people like that openness, they like that integrity and if you can tell them: “Well, it is because you have done this, this and this” or: “I do not agree with you on that” they might be unhappy about it at the time but you can learn by the criticisms, you can learn by perhaps what are your shortcomings. So that is really why I want to do it. I think this is the very last time that we will have an election for Chief Minister where individuals will be able to stand and they will not have got a current mandate from the people. Once we move to this great election with 3 types of Member it will not happen again. So I really think it would be great ... I know we have only got one declared candidate but I think it would be great if Senator Le Marquand would support this because I think certainly with his background the people would expect him to say: “No problem with that, openness, transparency.” I would hope any other Members, I hear there might be 3 others, but if any one of those can give me a reason why the public should not know, what we have said on the hustings and the doorstep is the same as what we do here, if they can give me any reason why it would be detrimental to good government if we all voted in secret, then I will happily withdraw it. But I do not think there are any reasons so with apologies for my slight detour to what I think are very relevant facts, I will make the proposition and hope it is seconded.

**The Bailiff:**

Is the proposition seconded? [**Seconded**] Senator Ozouf.

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

So I should first of all declare that I am a potential candidate for Chief Minister. I certainly hope to be but, as I have made clear in questions earlier this week, I think that appropriate time to declare any candidacy for definite Chief Minister - as I think even Senator Le Marquand has said - is after the makeup of the Assembly is known. I am aware that candidates for election are also being asked as to who their preferred candidate for Chief Minister is, and there is a link with that question and the debate that we have before us. There is a process for the election of Chief Minister, asking candidates even at this stage presupposes that candidates know what the policies of the prospective Chief Ministers are going to be. They are inevitably going to change, they are going to be amended, they are going to reflect hopefully the majority of the view of the Assembly. The election is important in terms of certainly setting the direction of the where the States will go and the Chief Minister is not a presidential chief minister it is a leader, first among equals, of a Council of Ministers hopefully unifying this Assembly. I say that because we do not have political parties in Jersey and I have noted that there is not any single candidate in the elections, not one single one that is standing in the name of a political party. Asking candidates and indeed asking Members then to declare who their candidate and indeed their vote for Chief Minister is runs the risks of a much more partisan Assembly. I think that that is going to be certainly not a move to end division, but a move towards even more division.

[15:30]

Whoever is successful is going to have to lead a Council of Ministers. A Council of Ministers that is inevitably in our system, quite rightly, a coalition of independent views. The council has got to be, without any doubt, with our, I hope, centric form of politics, a broad canvas of individual views. There is a tradition of secret ballots for all positions in our Assembly - Ministers, previously Presidents - and there are a number of risks if we start down the process of revealing who individual Members of the Assembly have voted for. Not only just for Chief Minister but for other important offices too, because the office of Chief Minister is perhaps important but it is not the presidential system, it is not the leader of a party, it is the first among equals of a Council of Ministers. The risk is that the future Chief Minister and Ministers might not have such a harmonious working relationship if it is known who they have had voted for. I think if I am a candidate and if there is an election I do not want to know who voted for me or who did not vote for me. I think that that should be a confidential matter between the Member and the ballot box, just as the confidential nature of votes in general elections are. I think that to be in a situation where one is forced to perhaps work with an individual who might, in a tightly fought vote, know which candidate they voted for has serious risks of the ability of the Chief Minister and individual Ministers to work collectively together. I think that it is divisive and I think that it will mean that the Council of Ministers is not able to work in a unified approach. When an election is made there needs to be effectively a Council of Ministers brought together and there is going to need some sort of almost coalition agreement between Ministers of what their objectives are going to be. That is going to be even more difficult if it is known in a closely fought battle. There are also, I think, practical issues. At what stage is the publicity or the openness and the published list of the individual Member's votes going to be? Inevitably it is perhaps clear that there are going to be more than 2 candidates for Chief Minister, therefore there is going to be a vote and there is going to be another vote because one candidate will fall away. Are we to reveal every single vote? Maybe there is going to be a few rounds of votes. Is then the individual evolution of individual Member's votes of how they voted in the first round, their candidate falls away and they vote for a second candidate. Is that going to be revealed? I think that is even going to be more divisive than even simply a 2-horse race. I do understand the arguments of transparency, I do understand that some Members want to have a party system in all but name so there is a definite grouping between Members. But I think a move to such a partisan system is going to lead to more division among this Assembly, not less. So for those reasons, while understanding perhaps the views of some that

they want to have parties, I do not think that that is the way that we should be moving for Jersey. I also think that as far as candidates in the election are concerned, they may well be asked who their candidates are but they do not know what their candidates are going to propose in terms of certainty of who the candidates are going to be for Chief Minister and certainly what the policies are. We do need a vigorous debate about the Chief Minister election after the election. There needs to be hustings and this Assembly needs to have the respect for when the 10 minute speech and the question and answer session is made. We have a tradition in this Assembly that we listen to the debate in this Chamber, that when we walk through our respective doors we clearly may have a view but we are certainly influenced by what we hear. That should be continuing throughout the whole process right up to the election of Chief Minister and, in my view, ultimately should remain confidential. Thank you.

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

In light of the fact that I am retiring at the end of this term I do not think it is appropriate that I should be participating in this particular proposition because it does not affect me but affects the future Chief Minister so if you will do not mind I will move out of the room while this is being discussed.

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

I think there is one thing that we do all agree on, that the division that is apparent in the Assembly is something that we need to do away with. I was going to address the fact in Senator Ozouf's speech that he made a very strong point that we are all there to be persuaded and we all listen to the arguments, unfortunately he has just left the room and I was about to say it was a shame he was not there to listen to the Deputy of St. Mary's arguments and those that supported him when the rest of the Council of Ministers, practically to a man, were sat outside in the coffee room. When I passed them they were not paying attention to what was going on. They were sitting having a coffee, their minds were made up. I do not disagree necessarily with some of the things that Senator Ozouf was saying about division but I am going to support ... let us get this straight, sometimes Members wonder where I am going, I am supporting the proposition. That is not to say that I have not voted for people in the past and then thought: "Oh, lost that vote, who am I going to vote for now" and changed my mind and wondered if I was voting for the right person and doing the right thing. The positions change. We have seen recently a change to Standing Orders in relation to how things are done. We have moved from a committee system to a ministerial system. Quite surprisingly at the time I do not think any of us spotted the fact that the Ministers would be made up in such a way that the Chief Minister would have 2 Assistant Ministers. That was a complete surprise to me, I do not know if it was to other Members that were here at the time, but I certainly missed that one. But the Standing Orders have changed and now the process is that any person standing for office for Chief Minister needs to have their form signed by 6 other elected Members of the Assembly. If we are going to have secret elections then we should have secret elections. We should not have undue influence. I also think personally and I have said this before, the revelation and the exposition of nominations on candidates' forms, I am as guilty as anybody, I have done it myself in the past, I think that is undue influence and affects elections as well. I think States Members should not be nominating candidates. I think people who nominate candidates ... the candidates should just be able to walk in, pick up a form, as long as they meet the requirements they should just be able to stand for office. I think this ridiculous system that we have got that you have a secret ballot where you have to tell the whole public and put it on your leaflet that these 10 great and good people are supporting you and these great and good people are supporting the others. I think that is divisive in our community as well.

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

Let us keep to the Chief Minister, Deputy. We are not talking of public elections.

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

We are talking about the principle of secret elections and whether or not an open and accountable election is something that is good to stop the division in the Assembly and that is why I am trying to address the fact that I will be supporting Deputy Pitman. Because I think while it is right, we have got a very ... and it is very difficult ... all of the candidates that are standing in this election, the other two-thirds of the Assembly that have not already been elected, all of those that have got a real election to fight have been sent a form by the *Jersey Evening Post* on the top of the form - which is drawn from their own survey of people, I commend them for that - is who do you want as your Chief Minister. I was sitting in bed last night thinking: "How on earth am I going to answer this one because if I say this person, that might affect the election in that category for that person", and then I thought: "Well, even if I was to elect this other person ..." I was going through the whole Assembly as to who I would choose and who I should pick and everything, weighing up the benefits and everything else. I thought: "Naming that person would have a detrimental effect possibly on their election if I told the public I was supporting them and I could very well get a telephone call from him saying: 'Thank you very much, do not go telling anybody else that you are supporting me, I will lose my election'." So I think it works both ways really. I think it can work both ways. So I think there has got to be a recognition that we have not got uniformity in this and if we have got a principle of open and free transparency, which is one of the amendments that I brought to the Strategic Plan that we would be more open and more transparent, then I think we have to be grown up enough to say we may need to look at this in the long term. I think it is very difficult in the process during an election to pin your flag on a candidate because I had a view about a candidate, I have now had in the intervening period some information sent to me from some people about a concern and my support is wavering now, I am not satisfied, I need to speak to them. I am now pluming a little bit more somebody else but then again do I let the whole world know that because there is an election on and it might affect that election and it also might affect their chances when it comes to being chosen or supported as Chief Minister, or even elected as Chief Minister. So this idea that we are going to have secrecy so that there is no division, if we have 4 candidates for Chief Minister in the next election, each with 6 sitting Members each, how many people is that? [Aside] [Laughter] No, it is 28 because you have forgotten the 4 candidates. So 28 people will be having different views.

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

Complicated by the fact, Deputy, that you could sign 2 nominations or more. [Members: Oh!]

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

This is why I was going to put Groucho Marx at the top of my answer to the *J.E.P.* because I think it is a little difficult prior to hearing their arguments and prior to see how the elections come about as to who you are going to support. But I think it is right to hit the nail on the head here. I think it is absolutely right now, we have got division, let us face it. We are a more divided community, we are a more divided Assembly, we need to be honest about that and we need to be honest about the fact that it is not healthy for any of us, it is not healthy for our community and it is not healthy for us as people who have to come to work in a room like this and be among that. It is not good for anybody. It is stressful, it is damaging, it is divisive, it is deconstructive, it is like that nah nah ne nah nah, we are the ... not good, constantly. So what would be better would be, in my view, supporting this proposition and saying: "Look, I am not yet quite certain as to who I am going to vote for for Chief Minister but at the end of the day you will know who it was that I chose." I can argue why I chose that person afterwards based upon their speech, based upon the answers to my questions, et cetera. It is a whole lot more democratic than having people coming in here, one third of the Assembly, whose policies and whose preferences we will never know. But their minds probably have been made up already as to who they are supporting when they get in here, if they are not here already. So this whole thing, this whole nonsense, needs to be looked at in depth. I have tried to look at this before. I took a proposition to the former Bailiff and asked him if we could have the 2 top candidates or the candidate for Chief Minister going to the public and the

former Bailiff said: “That is basically a republic. I cannot allow a proposition like that. You would have to bring about a change to the constitution” and I was not allowed to bring the proposition. But I thought it was important that the public had a say as to who led them. In other places you have political parties so you clearly know who you are ... you do not necessarily know what your local M.P. is going to be doing but you certainly know who the head of your party and what they are all about. So you plum for that colour or you plum for that party. In Jersey there are no parties, or at least no visible ones, but there clearly is groupings, there clearly are interests being represented and I think it would be better for people in Jersey and less divisive for our community if people were being chosen that they knew they could evaluate, at least query them as to why they supported X, Y, Z for Chief Minister, even if it did go 3 or 4 votes, because at the end of the day people need to be accountable. People need to be accountable to their electorate and until they are accountable to their electorate, the danger is the list will collapse. The electoral list will start to collapse if it has not collapsed already. We are doing all we can to minimise that at the moment. I think we are in real serious danger of continuing to have the division in this Assembly. It is not good for us and it is not good for Jersey.

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

A couple of points have been made already but I just remember that when I first stood for election, and I still stand for it now, I said I stood for accountability, openness and transparency and that has been my mandate ever since I stood for the States and it will continue. But I would like to remind Members of the anomaly in the system. We have heard from Deputy Le Claire saying that when one signs a nomination paper, and indeed I did last time, Senator Le Sueur knew that I was not supporting his candidature, I was supporting someone else. So people knew there and then. Of course that will carry on because the next time whoever is standing, it may be me, who knows, why not? It may be anybody here.

[15:45]

#### **Male Speaker:**

I will propose you.

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

You are going to propose me, okay. But it is a fact that people will know, at least 5 people or 6 people know who is not supporting the candidature of the other person. But the anomaly in the system is that when we have a vote of confidence on or a vote of censure then of course we must openly vote and I think that is what is wrong. What we are going to have today, and I am going to support this because I believe in openness and all those Members ... and I am amazed that Senator Ozouf who is not here now, he has had his say, does not want to hear what anyone else had got to say, he has left the Chamber, but here is a Senator who professes to be open and transparent and yet he cannot accept the possibility of someone knowing who may not be voting for him. All he wants is those who do vote quietly, secretly: “I am going to vote for you.” I am not for that. The anomaly again is vote of censure, vote of no confidence, open vote, yet when we vote for a Chief Minister it is in secret so I want consistency. Deputy Le Claire did mention the *J.E.P.* I think it is important, because I have the questionnaire here and I am trying to work out how many 50 words here and 50 words there, but the very first question has got: “Regardless who has said they are standing, who do you want to be the Chief Minister?” Again, I think Deputy Le Claire is quite right because if I put someone on here, this is could be the kiss of death, it may well be worth a few votes to them as well, but also is it fair that I would be putting a name here that the public will then know because we are saying today ... and Senator Ozouf says no we should not know, and yet 53 of us, I assume - I do not know if the *J.E.P.* are asking those who have ... only those who are standing, okay. So again for consistency, if the *J.E.P.* are listening, I think they ought to send this out to all those who have been elected or elected unopposed because I think the public should know who they want to be their Chief Minister. So, again, if we are looking at consistency ... so, again, I am not going to

labour the point. I think it should be a short debate. If we believe in openness, we believe in accountability, we will support Deputy Pitman and his proposition.

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

It is interesting that there has been mention of the *J.E.P.* questionnaire to election candidates because we have had some discussions on the Back Benches and quite frankly this questionnaire is facile, trite, it is biased and it does not give any meaningful chance to any candidate whatever their colours are to give a meaningful answer. **[Approbation]** That is why I will be encouraging all candidates not simply to tick boxes which do not necessarily provide the answers, and I am coming back to the subject. Interestingly enough the first question is about Chief Minister. This is very significant. Senator Ozouf has been trying to peddle out this line to the public and to States Members that the election for Chief Minister is not an election issue. Therefore Senator Ozouf does not have to declare whether or not he wants to be a candidate, he is going to wait to see if he gets his mates in, the business elite, before he will make a decision. He does the maths, he is a very astute politician, he will not take any risks, he does not put himself up for election unless he knows he is going to win. So that is the bottom line of it, that is why he will not give an answer. But simply because Senator Ozouf does not think it is an election issue, in this respect the *J.E.P.* are quite correct to have this as the one question because I can guarantee that at every hustings this will be the one question which the public will want to ask. Whether they get to ask it will be dependent on how many questions are allowed, et cetera. But the *J.E.P.* are quite right in that respect because it is a question that is of fundamental importance to the public. The reason it is so important is because the public want to be able to structure their Government, they want to be able to choose their Chief Minister and they want to be able to choose their Ministers in some kind of meaningful way. There needs to be a connection between their vote and what they get in Government. Currently our system does not allow that. It is very opaque. We have lots of indirect voting so you can vote for a handful of people, they vote for the Chief Minister, the Chief Minister then puts up a slate which, of course, is up to the whole House to either endorse or reject but seldom is it a rejected wholesale. There might be one or two amendments to it. This is what is of fundamental frustration to members of the public. In the absence of any party political system where their ideologies can be differentiated and they can choose and mandate a Government, the public I believe what to vote directly for Chief Minister. Of course we have heard already that even the attempt to get the debated in the House was thwarted by the Chair at the time because he said it would be a fundamental change to the Island's constitution, which I think is incorrect, it would simply mean that the Chief Minister would be elected by the public and he would simply head up any Council of Ministers which was then subsequently appointed by the House. Okay, but we are not in that position at the moment. The House has already adopted, I would remind Members, P.61 which was my proposition just before the end of the last session before the summer, in which there were various areas that I wanted P.P.C. to look at. It was a fairly close vote but the majority of the House did think that there were various issues which needed to be looked at such as the election processes in the States, whether Ministers and Assistant Ministers should be appointed by the States and who appoints Scrutiny, whether that should come to the whole House or just those who are not on the Executive. I remind Members also about part 6 which said that we should review the voting of secret ballot to include the rationale for holding votes in secret and whether this should be extended to votes of no confidence. Because there is an inherent contradiction in the sense that we cannot vote for Ministers in public yet when we have a vote of no confidence, which is much more likely to engender acrimony within the House, that is done in public and Members are less likely to be able to vote honestly in a vote of no confidence because that is very public and they may not want to hurt the feelings of a colleague that they very much respect as a person but who has perhaps made political failings. So there is an issue that needs to be looked at and it is about transparency and it is about accountability. When the Minister for Treasury spoke about the risk, there is a risk if we reveal who has voted for whom, he is absolutely right, there is a risk but it is not the risk that he was talking about. The risk is that the public will know who we are voting for, the risk is that

candidates when they go to a hustings will have to tell truth about which candidate they want to elect when they get into the House. There is a risk that we will get greater accountability from the public and that could lead to all sorts of problems. Candidates may have to say on the platform that they want to vote for Senator X even though he has not been facing an election this time round. Or they want to vote for another perhaps unpopular Senator or even Deputy or Constable. But that is good for democracy and that is exactly what the electorate want to hear. So I think we can support this and we should support this. This idea that somehow in the States we are not old enough, we are not mature enough to be able to cope with somebody not voting for us. It is simply a myth. It is a nonsense argument. Everything else takes place in public. As I have said, votes of no confidence, even much more controversial votes happen in public and I think the vote for Ministers, including ... ideally Ministers but we are here to debate just Chief Minister, I think, so that should be done in public. I think consistently we should seek to bring an amendment later on so that it applies to Ministers but at least electing the Chief Minister, which is a fundamental public concern in the absence of any meaningful way for the public to structure their government, should be done in an open and honest way. I will be happy to do that. Incidentally the last time for Chief Minister I had a phone call from a constituent of mine, it was former Constable Enid Quenault, who phoned me up and said: "I would like you to vote for Senator Le Sueur, he is a good man and I think he will be good for the Island." I subsequently said: "Thank you, I will take that on board" and I did vote for Senator Le Sueur and I also voted for Senator Breckon.

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

That last comment has now completely confused me. The issue is as to whether there should be an open vote for Chief Minister. In my view there should not. I have 2 reasons. My first and main reason is that Members must be free to vote for the candidate who they genuinely think to be the best candidate. The issue is far too important for there to be any other principle applying than that. They should be able to do that having had a full opportunity to talk to potential candidates, to see what they are saying, to see what their manifestos are, to see how they answer questions and so on and so forth. They must have that full opportunity, and they must be able to do so also without fear either that they will thus incur the wrath of the successful candidate who might then not put them forward for some particular office; I have to say that any Chief Minister who would act in that way would not be suitable in my way to be Chief Minister in the first place; but they must be able to do that without that fear. They must be able to do it without the fear that they might upset their political friends and allies; and they must be able to do so without fear that some of the electors might be upset by their decision. The fact is that if there are a lot of rounds in the election, and there may well be this time, we do not know, then of course a person who has to express their first preference and their second preference and their third preference and their fourth preference, could on the way upset a lot of the people. That brings me to my second reason, which is the potential for causing greater division in the Assembly. This has been a divided Assembly, not just because of genuine and legitimate political division, but also because of a number of personal feuds which have unfortunately clouded exchanges from time to time. This is not good politics, and I believe that the public are very unhappy about this aspect of the States debates. It is my hope that the next Assembly will work together better in order to achieve positive results for the people of Jersey. That is why we are here. But I am not naïve. We also need to have genuine and at times robust political debate on political issues; but not on personal or personality issues. Now the report raises an interesting argument about honesty at the hustings. Deputy Trevor Pitman is firstly clearly impugning the integrity of some other candidates and implying that they might indicate support for someone who they had no intention of supporting. Let us say that during the process in answer to the *J.E.P.* questionnaire that a candidate says that they think that Senator So-and-So - I will say Senator Le Marquand for the sake of argument - is a reasonable candidate or a good candidate. But subsequently they find out after having met me, after having seen how I perform when I speak, answer questions and so on, that I am not as good as they thought I was and they find that some other candidates after meeting them, discussing things, seeing how they perform, discussing with

other colleagues, is a really heavy weight candidate and the right person. Why should they not then, in the light of the additional information, be able to change their minds? That must be so. The danger, I think, is this: I think that the danger is that in fact it would create a situation in which people would be more guarded, less willing to express a view, in fact, where virtually nobody would want to express a view other than those who were clearly particularly committed. As it is, it is going to be a situation where a number of undeclared potential candidates existing, it is going to be difficult for candidates to express a positive and clear view. They may wish, as Deputy Trevor Pitman has today, to express a negative view: I would never vote for Such-and-Such or Such-and-Such. But I think in fact that this proposition would have exactly the reverse effect of what he is seeking, which is to have an open declaration by people which they will keep to. I think it will lead to a situation where people simply will not want to say what it is they were thinking. But I come back to the main point, and this is the main point. The Members must, after receiving all relevant information, be free to make the decision which they genuinely then think is right. For those reasons, I am unable to support the proposition.

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

It is so disappointing to stand up from the second candidate who is going to be Chief Minister who does not agree that it is going to be an open, transparent ballot. I just think in this House we have got to get real and stop treating this like cricket: "Oh, it is not cricket to ... you know, and you know, you have upset me." Well, I am very sorry. **[Laughter]** I sit with Senator Le Marquand on P.P.C. and I speak my mind as I normally do, and I speak my mind in here, and I upset people; and by the way people upset me. But I do not take it out of this Chamber, very rarely, unless they really get to me, or get personal. Then, as far as I am concerned, they do not exist any more. But that is another story. **[Laughter]** So, on the majority I am quite lenient. But let us get back to the proposition. We heard from Senator Ozouf that he thinks that there could be more division. If anybody in this House does not think this House has been totally divided for the last 6 years **[Approbation]** since we had ministerial government, I have been in a different place.

[16:00]

I have been in, you know, in that place sort of in between the reality and the States Members - and not the coffee room, definitely not the coffee room; that is where most of the politics are done. This is what people out there want to know. They want to know why Assistant Ministers, even when there was a vote for Assistant Ministers, they did not have the metal to say: "Yes, I would want to be elected by my peers." They do not want it to be cosy club out there. I did not vote for Senator Le Sueur. I nominate ... my paper was signed for Senator Breckon and the time before I supported Senator Syvret against Senator Walker. Both times I lost. I have worked with Senator Le Sueur and I worked with Senator Walker very, very well. I am a bigger person, and so should everybody else be. Any Constable I have spoken to who has got Deputies elections going on has said to me: "I do not get involved. I have got to work with the person who wins." Now, is it not a shame that, you know ... I want to know how everybody votes. This about the *J.E.P.*; they are totally right. There are 8 Constables, at least 6 Senators and 2 Deputies who are not ... they could carry a Chief Minister, but without even having to say who they would prefer in a secret ballot. The people out there do know that politically someone will say: "Oh, yes. They are depending on the audience; yes." Senator Breckon should have been behind Senator Le Sueur at the hustings I attended, that people were going to support him - fellow candidates, who did get in the House, and he was well behind on the number of votes. So, who is telling the truth? Senator Ozouf said: "Really we are giving too much credence" I think he said: "about who is the Chief Minister. Basically he is not the boss." Well, we need someone who is the boss. We need someone with a bit of you know, to be able ... you know what I would respect? All this inclusiveness is to somebody who was Chief Minister who get elected openly and fairly, to have at least 4 or 5 Members who could do the job, not because they did not vote for him, but who were good for the job, but they were big enough and man or woman enough to say to them: "I would like you as my

Health, my Education, my Home Affairs, whatever, Minister.” That is inclusivity and that is being grown up. We are too far out there. We do not have party politics. People do know who they are going to get. If I vote in some part of London I vote Conservative, Labour or Lib, I know who is going to be at the top job at the end of the day. I do not know if the candidate in my area is going to be any good, but I do know who is going to lead the ship. People out there are fed up, and this is the last time we have got to do it. Senator Le Marquand said about fear. Fear! I am not a jelly baby and I am telling you now I do not melt if it rains. **[Laughter]** I can stand up. If I upset somebody here and it is not a game of cricket, but you know all the rules in the world and I am big enough. I think everybody ... you go to the electorate, well most of us do, we go door knocking, we are out there, facing people, and then 16 people who are not having a vote this year - 6 of them because they are not up for election - will be sitting here secretly, secretly, putting in another person in that chair for Chief Minister. I totally support this. I think it is about time. As I started, it is not a game of cricket. It is really important who ... Senator Le Marquand seems to not get the reference to: “Jolly; it is not cricket.” You know, that is what I mean; or it is not some sort of rules that they played by these gentlemen.

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

I certainly did not make any reference to cricket. I am not sure what the Deputy is talking about.

**Deputy J.A. Martin:**

Well, I read something that it is not cricket. Yes, all right; the Queensbury Rules; whatever you say. We are grown up politicians. I know the Senator never said it; I said it, if the Senator was listening. But again, another candidate for Chief Minister refuses to listen to anybody else. He sat down and he had his ears closed. I am very sorry. I voted this last time. I told everybody who I voted for in the last 2 elections; I did at the time; and whoever stands, I do not care if there is 4, if we have 5 or 6 rounds, of course I am going to have to change my vote. If my candidate gets knocked out the first time I am going to have to reassess. This business about changing your mind: new Members, say somebody was a new Member who came in and topped the poll out there in Senators or whatever and wanted to be Chief Minister, to get to know him you get 10 minutes’ speech and 15 minutes of questions; and you are going to get to know that person? No, no; there is much more going on. The debate will be going on between the date the elections are over and the date on the 14th when we elect the Chief Minister. That is where it will all be going on, behind closed doors, in coffee rooms, in restaurants, having a nice glass of wine. It is not done in this House, and if anyone is kidding their self that you listen, most of the minds are not made up before they come in on the 14th who they are going to have as the Chief Minister out of the 4 or 5 - obviously you may have to change your horse if it falls at the first fence - but other than that you will have a good idea. Openness and transparency in this House. We are the only people who can transfer from the vote that we are just going to stand up for to let people know who you voted for and how big that person is, how inclusive they really are.

**6.1.7 Deputy M.R. Higgins:**

I must say I was hoping you were not going to call me because how can you follow that? **[Laughter]** All I can say is that ... not my type. No, it is very difficult to start. Basically I have been a politician who has been proud to have kept his promises. This is not an election speech; it is something I prided myself on. I have also kept my word to the electorate. Whatever I said I have done. What I will say now is I declared before the last election that I would not vote for Senator Le Sueur, and I am quite happy to declare right here and now I will not vote for Senator Ozouf for Chief Minister. What I will say, though, is that I do not know who the other candidates are and I will make my mind up at the time. So, if elected, yes, I would never vote against what I have said. So, I would not support Senator Ozouf. I disagree fundamentally with his policies and I think it would be ruinous for the Island. What I will say though is that I also ... 2 words came to mind as we were going through this debate so far and they were hypocrisy and deceit. It is the hypocrisy

and deceit that election candidates, when they are going around knocking on the doorstep telling people they are going to support someone, or not support one, and then come in this House and they do exactly the opposite thing. So, I totally hate that. But there is also hypocrisy and deceit within this House. Members tell someone they are going to support them for a position or a post, and then go and do exactly the opposite. We all know it goes on and I hate that as well. So, as I believe in openness and transparency and totally abhor hypocrisy I shall support the proposition and if it is only to support the Machiavellian tactics that we know go on behind the scenes. Deputy Martin has told us there is so much stuff done in the coffee room and elsewhere in this House; that is where the real decisions are made. They are not made on the floor of this House; it is pre-determined. So, as I say, I want to see an end to all that. I would like to see us all be open and transparent and declare who we stand for.

#### **6.1.8 Senator F.E. Cohen:**

There seem to be some unpleasantries being exchanged in this debate which I find somewhat extraordinary. It is a very simple matter. It also happens to be one of 2 Back-Bencher propositions that are coming up for debate in the present session that I intend to support. I think that this is a very simple issue. It is an issue that I had intended to cover myself and was beaten to it, as in the case of another proposition. We are supposed to be a democracy and this is in fact a very ancient and privileged democracy. We have only recently adopted the principles of ministerial government and some of those principles will be right and others of those principles will be wrong; and one that I believe is wrong is the principle that the electorate is not aware of who each Member votes for in the election for Chief Minister and for that matter in the election of any Minister. I would have thought that in any system where the electorate do not have the right to directly elect a Chief Minister, as I believe they should not, that they should at least have the credit of knowing who those who they supported have voted for in an election for Chief Minister. So, in summary, and I have been relatively brief, I will be supporting the proposition because it seems to be right. However, I do not concur with much of what has been said in the debate in regard to criticism of candidates and potential candidates.

#### **6.1.9 Deputy J.M. Maçon:**

If I cast my mind back about 3 years I believe perhaps I was the only Member in here who went to their constituents when both candidates for Chief Minister had declared. I went to them and I held a public meeting in order for them to help me decide who I should be supporting. Obviously coming from a St. Saviour Parish it was slightly biased, but there we are. However, we are asked whether we should allow the vote for Chief Minister that we take should be an open ballot. Now, I believe this is all about accountability between the elected representative. As I have throughout my time in the States, I always believed that a vote that we passed in this House we have to be able to go back to our electorate and we have to justify why we have made that decision. Again, that is a reason why I have never abstained because if I have not been able to support something I have to vote against it because I believe you have to go back to those people who put you in that position and you have to justify that decision towards them. I have absolutely no problem that any of my constituents, should I be lucky enough to be re-elected to know how I voted and how any other Member had voted. Therefore, very succinctly, I will be supporting this proposition for those reasons.

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

I think it has been said before, but I will say it again that, I hope succinctly, we have a peculiar system in Jersey of 53 individuals. We do not have party politics. Therefore, 53 individuals stand on a manifesto officially, but the manifesto can be as simple as: "I am a good bloke; vote for me. I will look after the Parish." In fact I have seen that from several candidates in this election. Alternatively, they will stand and they will make statements that do not require them to do anything, but they are belief statements: "I support education." Well, you want the perspective: try

the opposite: "I think we should stop education." Does not work, does it? You just cannot do it. "I believe we should look after the elderly." Try the opposite. Eh, you are not going to hear it. "And those in need." Yes, the elderly and those in need. "I believe we should cut Government spending but protect frontline services." Of course that is impossible to the tune of £65 million; it cannot be done and frontline services of course will be affected. But you can say it, and you can say it until the cows come home. "I respect motherhood and apple pie. I deeply feel about apple pie." All the candidates out there will make equally specious and meaningless statements about what they believe in. They will not say they will, in fact, do anything, vote this way, vote that way. So, how does the voter decide what is going to be the direction of the new House, the new Assembly? It cannot. It has to base itself on guesswork; the person who knocked on their door perhaps, or the person who came across with the best smile. But it would be very difficult to tell who is pushing in what direction. What is the single thing that in this peculiar system we have and are determined to keep apparently, what can they say about which direction we will be going? Ah well, the Chief Minister surely decides the direction in which the House should be going and picks his team presumably to go in that direction. But the voter cannot vote for the Chief Minister - and the last 2 occasions it has been somebody in midterm - has not even been able to decide whether they want that person in the House or not. It may well happen that that is going to happen again. That will be 3 times in a row. At the very least, in order to give some semblance that there is any connection whatsoever between anybody's vote and what happens in this Assembly and what direction it takes, the voters should be able to vote for the Chief Minister, but they cannot. So, they must surely be able to see which way the people they voted for vote, because that is the only connection; it is the only way that they can influence which way we go. It is plain common sense and it goes hand in hand if we are to maintain this system of 53 individuals going their own way at random could be.

[16:15]

It has got to be, we must know who they are voting for as Chief Minister because that way we might get an idea of whether we are going north, south, east or west, and there might be a connection between their vote and: "I am glad he has got it and I am glad I voted for that person because he voted for the right person and I think that is the right direction." That is what we should be doing. It automatically goes if we maintain this system we must have an open ballot.

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

Well, quote of the day is: "I am not a jelly baby" and unfortunately the *J.E.P.* reporter was not there at the time. I looked up to see if they were. So I am saying it again. That is what Deputy Martin, said: "I am not a jelly baby." I love it. I came to this debate before I read the report of the proposer. I just knew he wanted an open ballot for Chief Minister, and I was of the ... my instant feeling was: "Mmm, might be better to keep this under wraps. It might be better to have a secret ballot" because I just felt you then you can sort of vote freely; the Members can vote freely. You can see I am sort of uneasy even saying it now, because I have listened to the debate so far. I have come to a novel conclusion, which goes further than we should have secret ballot for Chief Minister. I believe that all the votes for all propositions should be in secret, because then nobody will know and we will not be influenced and we will not upset anyone and we will not incur the wrath of any Ministers who we vote against or vote for; we will not be parachuted in as an Assistant Minister because we vote for them all the time, because nobody will know; and when we go to our constituents and they say: "Which way did you vote?" "You do not know, do you?" and we can say what we like. I think that is the right way to go. In fact, that was the other speech. That is not really what I think. **[Laughter]** That is not really what I think and it is quite impossible, is it not? Quite impossible to imagine that all our votes on all the propositions and all the laws and all the policies should be in secret. It is listening to the arguments of Senator Ozouf and Senator Le Marquand that convinced me utterly that we have to vote for this proposition. Senator Le Marquand said that we should be free to vote for the candidate that we think is the best candidate, and I have written in my note: "And? Okay. So we vote for the candidate we think is

the best candidate; and how does that imply that it should be in secret?" and I was puzzling this: why is there a connection between it being under wraps? Does that mean that if it was open I would not vote for the person I thought was the best candidate? What would induce me not to vote for the person I thought was the best candidate? Then he came up with this wonderful expression: "Incur the wrath of the successful candidate." We were just told, were we not, by the other non-candidate, Senator Ozouf, that if this goes through it will make it more partisan? But the argument for keeping it under wraps is that it might incur the wrath of the successful candidate if we became public and open. What is going on? I have to echo what Deputy Martin and others have said: "Are we grown-ups or are we kids?" It is just unbelievable. Another point I think was made by somebody that the election itself is secret. When the voters go to the booth it is confidential. Well, yes; it is confidential. But we are not voters; we are representatives. We have been voted in and somebody used the word rightly "accountability" and Deputy Maçon explained what that meant. You go back; you have to justify. Sometimes I think like that when I am voting. I think: "How do I justify this?" Even more to the point, 2 years later: "How can I remember which way I voted so that I could justify it?" Because some of the issues it is difficult to even remember which way you thought at the time and why. But you have to keep a memory of that when you go back to your electors. That is the way it is: accountability. So that is the strength of the argument: partisan, more partisan Assembly. Something else Senator Ozouf said was very striking: "We need a vigorous debate [yes] about the Chief Minister after the elections. We need a vigorous debate about who will lead the Government of the Island, but after the elections." In fact, he will not even declare whether he will be a candidate or not until after the elections. What is this? The desire is for non-transparency, and I do not think any of us should be voting for that. There is a practical problem with the proposition though, which I would like the proposer to comment on. The electors, the voters, do not know who is standing as Chief Minister and I just would like him to sort of, think around that a little bit. Because the choice at the moment is Senator Le Marquand and that is it. Nobody else has declared and, well, no; Senator Routier has sort of, if, possibly, declared, and other people have kept mum; they have kept quiet. So it is a bit difficult for the voter to say: "I think that or I think that," or rather to ask the candidates to say when they do not know.

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

Will the Deputy give way? I suspect he may because he usually does. I just wanted to ask the clarification of the speaker. Is he aware that what is being proposed here is not about the electors knowing in advance who is standing for election, but simply knowing how their elected representative has voted?

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

Yes, I take that point. It is just that as a practical issue around that there is this issue of the voters, because what it will lead to is the request: "Who are you going to vote for? Who are you going to vote for?" because it is all public and people will have to stick with what they say or will have to justify why they changed their mind if they do; and then you get the question: "Well, we do not know who is even standing for Chief Minister." So there is an issue there. A couple of points that are raised by the comments, which I think are worth just a very short mention. The first is where he talks about elections to the Executive, Scrutiny, P.A.C. and P.P.C. In a way I wish I had amended this to go certainly further and say Ministers and not just the Chief Minister. But when we are talking about elections for Scrutiny I do feel very strongly that it is a nonsense the majority who have already decided who the Ministers are going to be, then decides who is going to scrutinise the Ministers, thus ensuring a one-party State. Because what we get is chairman, for instance, of P.A.C. and Corporate Services who simply stand even further to the right than the Ministers do and therefore criticise them from a point of view which is not shared by the majority of non-Ministers and non-Assistant Ministers. So that should be rectified, but that is a debate for another day. People who are Ministers should not vote for who is going to scrutinise them because the temptation is to vote for people who are not going to scrutinise too tough. The other point is that

the proposer talks about a means: we eventually have to find a means where voters have a say in Chief Minister and Ministers. I quite agree. Electoral Commission will indeed do that and it is going to be quite difficult to find that way. Possibly one way of the voters having a say in the ongoing business of this House because we do not have parties, is going to be to open up the issue of referenda so that that becomes a way of controlling; in a sense giving the ultimate say to the people. Finally, on openness: here we are, talking about openness and transparency and I have just been informed that those who were candidates at this election will not put their manifestos on the P.P.C. website - the election website - because they have already been elected; or they are not asked. Maybe that could be clarified. But I would urge P.P.C. if that is not the case that even if you have been elected without an election, your manifesto goes on record, because otherwise what on earth are we doing?

#### **6.1.12 Deputy J.G. Reed of St. Ouen:**

I am extremely disappointed by some of the comments that have been made by a number of speakers speaking in support of this proposition. They just ignore totally the whole point and reasons behind a secret ballot and the need for it. This does not apply just to this Assembly; it applies to unions and all other groupings throughout not only our Island but the world. It is important that we maintain the responsibility and role of the secret ballot in certain cases. I equally would like maybe the Chairman of Privileges and Procedures Committee to confirm some comments that I believe I heard Deputy Tadier mention. I think it was to do with P.61; I might have the number wrong. But he said that it was a proposition that was ultimately supported by this Assembly which asked Privileges and Procedures Committee to review secret ballot and address anomalies within our present voting system. If that is the case, then what on earth are we doing debating this proposition now? I mean, this is typical of this Assembly or individuals of this Assembly that we agree one thing to look at and ask a certain body to do a piece of work and then we choose to make our decisions before that work is undertaken. Let us follow due process. As for comments in the report by the proposer, he speaks - and other Members have spoken about this today - of: "Promises to support a particular candidate for Chief Minister can be used as a strong political lever to influence the public's vote." Well, I defy anybody in this Assembly first of all to determine whether they will still be here after 19th October, because it is up to the public to vote for us. Secondly, how on earth are we supposed to know at this moment in time who those candidates are going to be for Chief Minister? Because if we follow some of the reasoning and the names put forward and suggested in the *J.E.P.* - Deputy Gorst, for instance - he is standing in the senatorial elections. I am sure even Deputy Gorst, if he was here, would be saying that he has no certainty that he will be elected. So how can any individual say: "Well, my preferred candidate is Deputy Gorst"? It is a nonsense. There is a due process to go through and if the public have not got confidence in the people that they elect to represent themselves, then do not elect them. We have to be responsible. We have to encourage and engender trust, both within this Assembly with each other and with the public at large. I understand that there are individuals in the public that have a lack of trust with this Assembly. I do not believe that this proposition or filling in a box on a *J.E.P.* comment that says: "Who do you think should be Chief Minister?" before we have even been elected satisfies any use at all. I will not be supporting this proposition.

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

In the main, I would probably concur and agree with everything that Senator Cohen said. However, we have heard a lot of speculation about who may or may not stand as Chief Minister. But I think we are missing something, and that is whoever is in this Assembly - anybody thinking they want to stand as Chief Minister - may want to see what the makeup of this Assembly is going to be before he decides if he even wants to consider himself or herself being put forward. I personally do not have a problem with openly voting as to who the Chief Minister is. I am not somebody who will feel bullied or intimidated.

[16:30]

I will stand for what I believe in whatever that may be. I appreciate that for some people they may feel that difficult, but I do not have a problem with it. But again, I will go back to I fully understood exactly where Senator Cohen was coming from.

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

I probably will support the proposition. It strikes me, in reference to the very robust speech made by the Deputy of St. Ouen, it is totally legitimate to have discussion even if you are lacking names about the kind of person you want and the kind of skill you want. In fact, one of the issues that goes on and on, admittedly in the short time we have had Chief Ministers, is So-and-So is a tremendous populist; they know who to press the buttons and the Island will be behind them - but they are utterly useless at managing an organisation or managing people. Now, I have no problem because surely the logic of that is: "Well, let us judge them in a rounded way." I feel, and the Jersey public do like their populists we know, and often right-wing populists oddly enough, they do like their populists; they like people who press the button and do very well and are very dramatic on the platform and so forth and so on. But I am sure they are not stupid enough once they review the history of people like that, to say: "Well, this person has got wonderful views; we are totally behind these views; we will vote them in." They will want to say: "What are they like? Can they work with other people? Can they work with big organisations? Can they get under the surface of issues? Or are they just good at pumping out populist views on an orange box?" My view is: "Yes. They may make one or 2 mistakes, but it is possible." But I think very soon, very soon, they will say: "No; we want well-rounded people." I think another good thing that is going to occur: we must not base our review on the 2 that have occurred. They were highly divisible. One in particular, the first Chief Minister was highly divisive. We have people with very different ideological approaches and very different management approaches, to use a euphemism. We had that, but I think what will happen is, if we go to open votes, we will get a better selection of candidates. We will get people saying - as is so desperately needed in this Assembly at the moment, occupied as it is only by well-known fence sitters like myself - we will get people saying: "We want someone from the middle ground," not because they are not a raving left-winger or a raving right-winger, but because they have got the ability to get people working together and take on board different views. Yes, some views will fall off the edge because they cannot be taken on board and they will upset people at the different ends of the spectrum. But basically they will be people who can bring people together which, as we know, is what is desperately needed in this Assembly at the moment. So my view would be that it could throw up a good selection of candidates. So I think in the long term or indeed the medium term, it could be beneficial. I know there is this feeling that this is an attempt to smoke out covert supports of a particular side of the House. I do not doubt for a moment that that motivation does exist in part; but my view is ultimately it could end up with a healthy thing. We do run a funny system, as people have said. We have a public out there who continually tell me they do not like certain people who are heading up things, they do not like the way they run things and so forth and so on. But when I quiz them and when I try and push the issue, the bottom line still is they want fairly moderate people. They do not want people at either end of the political spectrum. They want fairly moderate people. Oddly enough, and if I was to sort of openly swear to my beliefs, I would probably be ditched immediately had I been maybe as honest as I should have been, most of them will go for people on the middle ground. Those are the kinds of views that they will support. But they are very, very upset at the moment at the way we are running this, what they see as the lack of compassion in a lot of the policies we run. They have got no problem with the broad thrust of the policies. It is the lack of compassion and the fact that they know there is an awful lot of personal politicking going on and they want it to stop. So from that point of view I think in a somewhat messy way this will be a move forward. I think it will bring out a better range of, quite frankly, Chief Minister candidates and hopefully it will start bringing a bit of unity where there is division.

#### **6.1.15 Connétable J.L.S. Gallichan of Trinity:**

I am very open minded on this but I would like to go back to when we started Ministerial and it was the former Senator Syvret who was very concerned that it was basically on the salary. It was quite interesting because his view was that if you paid Ministers and Assistant Ministers a different salary to the ordinary Members that is when you would get maybe a Minister taking ... his concern was at that time that whoever was Minister and all according to how you see people vote and how they did not vote, you could be an Assistant Minister on a greater salary. This is basically the reason why we all plumped ... and that is why it all came that everyone who is in this Assembly can have the same amount of salary and the same amount of expenses if they so wish but by having it on an equal basis there is no temptation for a Minister to have one of his friends in because they get exactly the same. I think everybody worries about who is going to be Chief Minister. I take the stance of what Deputy Reed of St. Ouen said. I think it is very good that someone ... I would never vote for someone who said: "I like So-and-So for Chief Minister." I am voting for the person I want to be a Member of the States for me and for my personal views and I think that is how most of the people do vote in this Island. Okay, it is a good story for the press and the media to say who is going to be the Chief Minister. Let us be fair, it is good that people ask that but the biggest test of knowing who is going to be the Chief Minister is trying to work with some of these people and there are some very good people that can talk a good case on the platform but to get them in as First Minister running this Island is a completely different kettle of fish. I would just say be very careful and sometimes you cannot believe all that you hear. I certainly will not be supporting this.

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

Listening to some of the speakers this afternoon, I sense a subtext here. Really what the proposer is looking for is a Chief Minister elected by the population generally and that if we cannot get that this may be some way towards achieving the same objective. I think that viewpoint may be highlighted by Deputy Maçon when he said that after he was elected and there was an election for Chief Minister he went back to his constituents to ask them who they thought would be a better Chief Minister or who he should vote for. I do take very much the words of the Deputy of St. Mary who reminds us all that we are representatives of the electors here, we are not their delegates. We are here to make up our own minds and be our own selves. We write election manifestoes to represent what we stand for and the electorate votes for us on those principles, not for who they think we might prefer to vote for as Chief Minister. So I think there is a danger in being seduced by this proposition into a direction which perhaps is not the ideal. Deputy Le Hérissier wonders if it will create more candidates. I hope there are a number of candidates for Chief Minister. An election with a number of candidates is a healthy situation to be in but I do not think that having an open vote or a closed vote makes the slightest difference to that. People will stand for an election if they believe that they have something to contribute and some opportunity to succeed in that election. I do hope, therefore, that at the next election there will be more than 2 people standing for the post, but we will just have to wait and see. Coming back to this proposition, earlier in the week I withdrew a proposition that the Council of Ministers had put in about reviewing ministerial government on the basis that we have agreed to set up an Electoral Commission and we have agreed to review all aspects of ministerial and States Government. I think it is maybe putting the cart before the horse before that Electoral Commission has even sat to put down parameters and say: "By the way, in future the Chief Minister will be elected by open ballot or maybe some Ministers or Scrutiny Panel chairmen." If we are going to set up an Electoral Commission let us give them a clean sheet of paper. Let them start with an open book and decide for themselves or recommend for themselves what to put to this Assembly and then we, as States Members, can decide, having seen their independent advice, whether to take it or not. So whether or not Members think that is a good thing, I suggest to them they would be better waiting until the electoral commission has reported before voting for it.

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

It is 6 years ago I rather naively on the election platform said that I did not know who I would be voting for as Chief Minister if I were to be returned or elected in the first instance, but I would not mind telling any parishioner who I had voted for after the event. You might have expected any number of parishioners to contact me after that event asking me who I had voted for but in fact only one individual did and I told them whom it was I had voted for. It was not my wife, no. **[Laughter]** Of course, in the last election of Chief Minister I did support Senator Le Sueur, because I signed his paper, so that is obviously a matter of public record. As one might expect, I did get a little bit of grief for that but there we are. In the past I have voted twice to make the election for Chief Minister an open process. We have, however, heard some quite compelling arguments this afternoon about perhaps why that process should not be open and I must say that probably to my mind the strongest argument was Senator Ozouf's question of which part of the process will be open. Will it be every vote if there are several candidates and we have to go to a knockout position, or will it simply be the final result? Why do I say that? I say it because I, in common with many States Members, am challenged about how I voted and my voting record in this Assembly and sometimes the way it is reported in the media, and I make no criticism of the media. It can be difficult for members of the public to understand exactly how it is that one has voted. For example, one might vote in favour of the principles of a piece of legislation, they might vote against a particular amendment and therefore find on balance that they vote against the piece of legislation in the third reading. That can either be reported as them voting in favour of the legislation, which it sometimes is, or against the legislation because all that has been picked up is the third reading, or perhaps both positions are recorded by differing media. Which is the case: how has one voted? I would say that one has voted exactly as one has voted but it is difficult sometimes to record what that was. So I do think that that is a potential issue with this request. However, on balance I believe that that can be overcome by simply recording what the final vote was and how people voted in the final vote. That may not be possible but I do think that it will have to be considered.

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

If I could assist from the Chair, Deputy.

**Deputy I.J. Gorst:**

Thank you, Sir. That would be helpful.

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

Clearly it would be a matter for P.P.C., which would be charged to bring this back but I think the terms of the proposition, read in conjunction with the process for an open ballot in Standing Order 94, would make it clear that it would be every vote that would be open. I think that is the intention of the proposition. Deputy Trevor Pitman will tell us in summing up but it is for people to read Standing Order 94 and imagine it could be otherwise.

**Deputy I.J. Gorst:**

Indeed it would, Sir, and that, therefore, would create an element of confusion and I will in this instance continue to maintain my support. I will have to wait and see what it is that is brought back by P.P.C. to address those issues and it might be where I diverge from the proposer on this particular element.

[16:45]

I really can see no overwhelmingly good reason why we cannot say or publicly have our vote for Chief Minister open and a matter of public record. We come to our decisions on balance, we bring our independence and rational thought process to our decisions and we therefore should expect to be held accountable for those decisions and I believe that that is right and proper.

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

In my view, I am going to try and keep it fairly simple. In respect to voting for positions I think it is appropriate, personally, to retain the secret ballot. I do agree entirely with both the Deputy of St. Martin and Deputy Tadier that there does appear to be an anomaly between the secret ballot for Chief Minister and Ministers and the open ballot for votes of no confidence and censure. My recommendation is I would support any proposition to make those secret to clear that anomaly. What I will also say is it seems slightly odd to me that this proposition - I agree it is all about the Chief Minister, that is regarded as the key role in this debate obviously - if one is going to make things consistent, does not also extend to Ministers themselves. I think this is a case better for the Electoral Commission when they get round to looking at things. Like Deputy Le Hérisier, I hope we will see some reasonable candidates coming forward but again, like the Chief Minister, I am afraid I do not think how we vote for them will make any difference to the quality of people. So for all those reasons, and keeping it as short as I can, I really do think it is the right of individuals to deliver their votes in secret. That base is principally about having to work with whoever does get in irrespective of whether one has voted for or not for them in the relevant positions they are going for. So I will not be supporting the proposition.

#### **6.1.19 Connétable P.F.M. Hanning of St. Saviour:**

This has been quite an interesting debate because I came in here feeling quite clearly that I would vote for an open vote. I was partially persuaded, I think, by Senator Ozouf with the concerns about divisiveness and especially with the Council of Ministers whereby it would be easier to work with a wider range of views on the Council of Ministers if the votes were not known. I think I am still persuaded to vote for this, but I would just say one thing to all of the Members that speak so loudly against the persuasion of other Members by BlackBerries. Just think how good it would be if they could persuade as much as they like but not know if they followed orders.

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

I thought I would put my own name in the ring, but I do not think so. I do not think they would want to say they had voted for Phil Rondel in public. They might do it but I do not think they would somehow, especially as I am sure Deputy Martin would say: "You have not been elected", although I have, and then we have Deputy Southern who is saying that we have no political parties. Did he not stand under a political party at the last election? I believe he did. So, although it may no longer be in existence, I believe he stood under the banner of a political party at the time. I must say I feel towards what the outgoing Chief Minister has said that we should be leaving this for ... we do not want to be tying the hands of any Electoral Commission that might be put in place, because I think somehow that is what we might be doing. I am minded to go with the proposition but something in the back of my mind says do not tie other people's hands if we are going in 3 years' time to have a totally new way of doing things. I do want that Electoral Commission to be able to do whatever it wants and not try and put building blocks in place already. So between now and when we vote, in the next few minutes or next hour or whenever it is, I am going to give some serious thought to that. I do understand where the proposer is coming from on this one and also I was taken aback by what one or 2 other Members have said in here, the Constable of Trinity but also the Constable of St. Saviour. So I am going to give it some thought but I am still thinking seriously on what the outgoing Chief Minister has said.

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

May I seek direction from the Chair, just on a point? The Electoral Commission has already been voted on and if this proposition is adopted today and therefore we have an open ballot, or if it is not adopted, there is absolutely nothing to stop the Electoral Commission looking into the issue of the vote for Chief Minister either way. Is that the position, Sir?

#### **The Bailiff:**

That is a point, is it not, Deputy? It is not a matter on which you require a ruling from the Chair.

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

My thought was very much on the same line. Are we pre-empting the Electoral Commission by having this vote now and does that mean that whatever we say could be changed again anyway?

**6.1.22 The Connétable of St. Mary:**

Just very briefly, because mention has been made of P.61 and certainly that was adopted and included a much broader remit than this proposition does and it has been placed on the P.P.C. workings when we did make comments and did take action but it should be done as part of the larger review. Practically everything this House does and every way in which it does it is up for consideration and the fact is, and I said it when we discussed P.61, that we are in danger of death by 1,000 cuts. We need to be cohesive, we need to make sure that everything is looked at broadly. There are many different issues that Deputy Tadier's proposition brought up. It was not just confined to the Chief Minister election and this Assembly decided then that it should be taken forward as a broad review. I think that is where it should stay and for that reason, if nothing else, I will be voting against this proposition but also the fact that the secret ballot is something that is not unique, it is something that is very widely upheld, it is there for many reasons. We have had this debate 3 times now. Each time I voted against and I will vote against today.

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

Very briefly, some time ago there was a report and proposition I think, I stand to be corrected, by Deputy Trevor Pitman who suggested that there should be no further debate on how this Assembly discussed itself until the Electoral Commission had reported. I thought that was a very good report and proposition. I do feel that we are setting a precedent by making another decision about ourselves, about who is in this Assembly and the decisions they can make today. I would be much more comfortable if this report and proposition had not come just before the election. So for that reason I am also going to vote against it because I do not want to be in a position where a direction or an indication is being given to the public by an outgoing Assembly on a major decision for the future of the Assembly, which is the election of a Chief Minister. I do not think we should be doing this today. It is a personal opinion so I shall be voting against.

**The Bailiff:**

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

**6.1.24 Deputy T.M. Pitman:**

I would like to thank everyone who spoke for some really good points for consideration. I can promise I will be finished before 5.30, unless the power is cut off. Did I say 5.30? In the morning. Where did we begin? We began with the Minister for Treasury, Senator Ozouf, and he was obviously very much against this. He felt it was easier not to know who had voted against you or for you or whatever. He is entitled to that view, of course he is. It is not one that I can support because we are all adults, whether we are man, woman or jelly baby. We are all grown-ups and what I would say to the Senator is what is the difference? On this side of the House, you bring a lot of things and you lose the most. You lose the majority. Deputy Southern has been here what, 9, 10, 11 years? He must have lost count of how many things he has lost and he knows you voted against him but he is still here. So I do not really see that argument why it should be so daunting and I think the thing that Senator Le Marquand said about wrath. Well, it would be easy to be wrathful when someone has voted against you but what is the difference when you have put perhaps a right policy forward but for ideological or whatever the reasons, you have not managed to win it. You could be upset by it. You would be disappointed obviously but what is the difference in knowing that someone has not voted for you for Chief Minister? I cannot see a difference so that

is why I have got to disagree with Senator Ozouf. The thing about parties, we could spend all night talking about that. Anyone who is out there on the street now knows there is a lot of talk about the candidates who have been put up by a certain collective group and I will go no further than that. There is even some paperwork behind it. People exist and it comes back again; we are adults. I cannot agree with Senator Ozouf's meeting, his moves, his direction, so I will move on. Who was next? I think it was Deputy Le Claire. He was supporting me and I am pleased to have that support. He said that we should be accountable to the public and that is surely the key to all of this. We should be accountable and there is no arrogance in responding when someone asks you if you are elected because it is if you are elected unless you are one of those lucky ones who are not facing election. It is quite a reasonable question, is it not, to be asked, well if you are in, are you going to support So-and-So or are you going to support that person because if someone said which direction are we going to go, people will use that as a barometer and I think that is very fair. The Deputy of St. Martin said his mandate had always been openness and consistency and I am fully with him on that one. Deputy Tadier, I cannot read my own writing so I do not know what Deputy Tadier said now. It was a very good speech. **[Laughter]** I congratulate him on that and I apologise for not being able to read my own writing. Senator Le Marquand, again, as I said, talked about wrath and I know Deputy Judy Martin had a bit of fun with what the Senator said but, again, I really cannot go along with his reasoning as to why someone should not know. It is not going to be daunting. I come in here and I work with people. I may not like their politics but if I think their argument is good, I will support them and that is the way we all should be, I think. So I cannot go with the Minister there and I have told him if I am in the House, I will not be supporting him just as I will not be supporting Senator Ozouf and I am sure he takes that as my decision. He is not going to refuse to buy me a drink. Well, he has never bought me a drink anyway **[Laughter]** so I cannot really lose. Deputy Higgins wanted openness and transparency and he felt there is a lot of hypocrisy going on. I was pleased to know that Senator Cohen was supporting this. He said we have got a very old and a very privileged democracy and it had to be right that the public should be aware of how those people vote, and I totally agree with him. Deputy Maçon said he had gone to his constituents and fair play to the Deputy for doing that. Deputy Southern pointed out how really the Jersey system as we have had it, flawed as it is, there are some good parts in it but for anyone to have a semblance of a link between the way they vote for a particular candidate, they need to see that that person has then continued that thought. If people are telling them they are from the Left, then I think they have got every right to feel quite surprised if suddenly they are voting for someone who is perhaps to the Right. Again, openness, no problem. The Deputy of St. Mary confused me at first when he said everything should be in secret and I was really quite worried about him but he said that was one of 2 speeches he had and he did point out very interestingly in telling me that we are, of course, representatives. We are not voters. Desire for transparency, as he said, is something that we should all go for.

[17:00]

I think it was the Deputy of St. Mary who asked about how people would know who a candidate was going to be. I know that Deputy Shona Pitman did try to bring a proposition, I think it was defeated, which was trying to get candidates to declare before the election so the public would know and personally I thought it was a good idea so it has been tried and I would not disagree with the Deputy there. The Deputy of St. Ouen was totally against it. I did find it disappointing that a Minister for Education, Sport and Culture seemed to be talking against openness and transparency because that is what you cannot get away with, so, yes, disappointed with that one, though not surprised. Deputy Judy Martin, probably the best speech, one we will never forget, but she is now our favourite jelly baby. Do jelly babies have a right to vote? Who knows. I hope they do. **[Laughter]** But I think in her own special way, Deputy Martin really hit the nail on the head, did she not, because we are not jelly babies. We are not all going to melt if we do not get a vote going our way. We might stomp off and sulk and have 2 cups of tea instead of one. Some people might but then that is surely not what the public are expecting us to do. We just pick ourselves up and we

come back and we make our argument. I felt what Deputy Jeune said was slightly of a red herring. The fact that you are not elected, surely it is still viable in an election to be telling people who you would vote for if you were. I do not see that that is a problem. It is just the electorate trying to get information. Deputy Le Hérisier said something which was really worth thinking on, I think, that by doing this we might get a wider choice of candidates, and that has surely got to be good. That, to me, would make this worth voting for in itself. Surely it is better to have 4, 5, 6 candidates than a sort of heir apparent. Senator Le Sueur did not back it, I am afraid. I was disappointed in that but then his critics would say he did not have a mandate from the people when he became Chief Minister. That is not his fault but it is a fact. Deputy Gorst had been told how to vote by his wife. Is that what he said? **[Laughter]** **[Aside]** No? Oh, he had not been told how to vote, okay. He will be in trouble when he goes home if I get it wrong but he was minded to support it and I appreciate that. Deputy Le Fondré did not feel he could support it, sadly. I thought he had become a radical but, no. The Constable of St. Saviour still felt that he could support it and I was grateful for that. The Deputy of St. John could not but he had a strange itch at the back of his head, which was making him wonder which way he would vote. It was probably the Minister for Education behind him rubbing the back of his head **[Laughter]** but hopefully he has rubbed him the right way because I know the Deputy of St. John and I know that he believes in transparency so I hope I can persuade him to vote. A couple of the last speakers, and I will end on this, said they were concerned about the Electoral Commission. Of course, the Electoral Commission can look at anything and everything and who is to say that it is not going to tell us everything we have got in places wrong. There is no guarantee of that. That surely does not undermine what we are doing here. The people do want openness and we cannot have a direct vote for Chief Minister at the moment. I have not proposed that; the Chief Minister was a bit naughty when he said that because I am not seeking that. If I was seeking that, I would have brought it. I am asking for openness and I think all 53 of us in here would surely say that openness and transparency is a good thing. All I would say to end is that I think secrecy is really, I do not want to use the term “disease”, but it is something that really is undermining democracy and it is what a lot of people feel unhappy about, whether they are from the Right or the Left. I think anything we can do to show a little more commitment to openness and transparency, any more we can do to make people feel they are engaged with what we are doing and the fact that we are asking them to participate in life in politics has got to be a good thing. I finish by saying if we are not man, woman or jelly baby enough to stand up and say who we are going to vote for and be quite happy to explain to that person: “I am not voting for you because”, it is like listening to your critics. If you do not listen to your critics, sometimes you do not learn what you were doing wrong or could have done better. I am always willing to listen to my critics. I am willing to be up front with people and tell them why I do not support them. I am willing to tell them why I think they have done a great job. I hope that will never change and with that, I will make the proposition and call for the appel.

**The Bailiff:**

The appel is called for, then, in relation to the proposition of Deputy Pitman. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 21</b>		<b>CONTRE: 19</b>		<b>ABSTAIN: 0</b>
Senator A. Breckon		Senator T.A. Le Sueur		
Connétable of St. Helier		Senator P.F. Routier		
Connétable of St. Saviour		Senator P.F.C. Ozouf		
Deputy R.C. Duhamel (S)		Senator T.J. Le Main		
Deputy of St. Martin		Senator S.C. Ferguson		
Deputy R.G. Le Hérisier (S)		Senator A.J.H. Maclean		
Deputy J.A. Martin (H)		Senator B.I. Le Marquand		
Deputy G.P. Southern (H)		Connétable of Trinity		
Deputy J.A. Hilton (H)		Connétable of St. Brelade		
Deputy P.V.F. Le Claire (H)		Connétable of St. Martin		

Deputy I.J. Gorst (C)		Connétable of St. Clement		
Deputy of St. John		Connétable of St. Mary		
Deputy M. Tadier (B)		Deputy of St. Ouen		
Deputy A.E. Jeune (B)		Deputy J.A.N. Le Fondré (L)		
Deputy of St. Mary		Deputy of Trinity		
Deputy T.M. Pitman (H)		Deputy S.S.P.A. Power (B)		
Deputy E.J. Noel (L)		Deputy K.C. Lewis (S)		
Deputy T.A. Vallois (S)		Deputy A.T. Dupré (C)		
Deputy M.R. Higgins (H)		Deputy A.K.F. Green (H)		
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

## **7. Gambling (Jersey) Law 201-: 25% of Fines to go to Jersey Charities (P.124/2011)**

### **The Bailiff:**

Very well. Now, Projet 81 has been deferred to lower down the list so we come next to the Gambling (Jersey) Law 201-: 25% of fines to go to Jersey Charities, Projet 124 lodged by Deputy Le Claire. I ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion to request the Minister for Economic Development to bring forward for approval legislation to provide that 25 per cent of any fines levied in relation to breaches of gambling and gaming legislation in Jersey should be remitted to the Association of Jersey Charities for onward distribution to charitable causes in Jersey.

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

It is a straightforward subject. I think Members are capable of understanding what it is I am proposing. I felt that when the Gambling Law was lodged, there were clear amounts of money available for people that were going to be put in place for gambling addictions. My motivation for this was basically try to make up some of the shortfall in relation to the fact that we have opened up gambling and I have always felt that recognising that Jersey charities do receive some income from the sale of lotteries, that that might have been affected in some way. So in the unlikely event, because we do run a very tight ship in Jersey, but in the unlikely event there was somebody foolish enough to break the law and a fine was levied, I had hoped that the Assembly would be able to join with me in committing 25 per cent of that money towards Jersey charities. Therefore, I lodge the proposition. It is not a huge topic. I do not think we need to labour it to death but I would ask somebody to second it and leave it at that.

### **The Bailiff:**

I need to advise we are not quorate. Oh, we have a Deputy there, yes, I think we are quorate, yes. Please carry on, Deputy.

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

Well, Sir, I had finished so I just make the proposition and I ask for somebody to second.

### **The Bailiff:**

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

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

I think I should say just a few words on this. We have lodged some comments. I am clearly, and I have said this to Deputy Le Claire, sympathetic to the proposition that he has brought forward. I clearly understand the reason why he has presented it. The reason that I am not, however, going to accept it is that, and I would encourage Members to vote against it, although I appreciate all

Members are very supportive of the Association of Jersey Charities in ensuring that charities generally have appropriate funding, and I should add that I am sure Members join me in congratulating the Association of Jersey Charities for the fine work they do for local charities **[Approbation]** and the significant revenues that they provide in support of local charity. Members will be aware that the majority of the funding for the Association of Jersey Charities comes, in fact, from the lottery. Around about £400,000 per annum is provided to the Association. However, on this particular matter, and as I have said, I do understand why the Deputy has brought this forward, in reality, the amount that may be raised through fines ...

**The Bailiff:**

I am sorry, Senator, I think we now have lost our quorum so the usher has gone to call back Members. **[Aside]** Yes, we are now quorate again.

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

The Deputy of St. Mary is like the elusive Pimpernel, Sir. **[Aside]** **[Laughter]** He appears here, there and everywhere in different doorways. So I was just really pointing out that the likelihood of any fines being raised is relatively small. My concern is that to set up a system in order to provide for any fines that may be produced, which would be at very low level at this stage, is inconsistent with the general policy that the States has with regard to fines. All fines in any area of the States tend to be directed towards the consolidated fund or the receipts therein and until we have clarified the position and considered any further changes, for example, to the J.F.S.C. (Jersey Financial Services Commission) where fines are being considered, I believe this is probably premature although I do understand where the Deputy is coming from. I would prefer, if we were going to set up a system that was going to be required to hypothecate fines in this area, that we do it at a later stage when there is a greater understanding of the consistent approach that the States should take on fines generally and in the knowledge that the majority of the funding for the Association of Jersey Charities comes from the lottery and I believe the new lottery system, I might add, that has been put in place is going to generate probably a greater amount of revenue for the Association in any event. So for those reasons, I would ask Members to consider not accepting on this occasion this particular proposition.

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

Just briefly, I know the Minister has spoken already but I just wondered, it seemed a bit odd that he said we support the charitable work the charities do. It is wonderful work the charities do but he does not want us to approve this new source of support for the work that the charities do. That sets up a little jangle in my mind, but the question is just how much we are talking about or likely to be talking about and I remember raising this issue when we were talking about the level of fines that might be levied on breaches of gambling and gaming legislation, and I remember being pretty upset that it was going to be a tiny level of fining that would not deter the sort of corporation that might be involved in this kind of thing. So it would just be useful to have some kind of clarification of the sort of sums that we might be talking about because clearly if this is £100,000 here or there or not levied or levied but I suspect that if there were fines they would be quite substantial. So I am just not quite clear on the scale of what we are talking about and I hope that somebody can maybe clarify that.

**7.1.3 Senator A. Breckon:**

Just a couple of comments. The idea itself is fairly simple but when a short report that says that no fines have been levied for 10 years, so 25 per cent of zero is zero. So, as I think the Minister has said, to put a structure in place is okay but if there is no money to allocate and I do not think that in some instances a fine would be a sanction. If there was a transgression somewhere, somebody would have their licence removed in which case, again, the outcome of that in financial terms is zero for the person who has lost their licence, but I cannot see anybody has been sanctioned for

anything under this and anything gained from it so really, although I agree with the sentiment, I think it has got a lot of zeros attached to it which unfortunately do not have any other numbers in front of them, just zeros.

#### **7.1.4 Deputy A.K.F. Green St. Helier:**

When I first saw this, I thought - people know my background in terms of the 2 or 3 charities - I work for, nice idea.

[17:15]

But this is not the right way to do it. Why not have 25 per cent of road traffic fines given to road safety charities and 25 per cent of any other fines? This is not the way to do it on the hoof. For that reason, I would like to support it, but I cannot.

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

I have not discussed this with the Attorney General but I think that there is an overriding issue about the motivation of fining. Fining is there to effectively punish a transgression or to deal with a transgression and there should not be an element of reward in it. I am concerned that if we start the process of there being a reward for a transgression, then the whole purpose of the fining is somehow going to be potentially regarded in a way which is not intended. It is unusual to ask the views of the Attorney General but he is the authority that deals with a number of advice to Ministers in relation to fines and I wonder on this occasion whether or not his observation may assist the Assembly in this subject of fines and perhaps also the Minister for Home Affairs because I think that there is an important issue of principle that we potentially, while understanding that the proposition is well intentioned, there is an unintended consequence which I am concerned about.

#### **The Bailiff:**

Mr. Attorney, do you wish to respond to that?

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

I suppose I could talk to the general principle. Generally speaking, I think it is the case that one would wish to avoid a process by which fines are hypothecated for a particular purpose and that purpose being a source of funds if the entity deciding whether or not to prosecute or calculating the fine or anything of that nature were to be the beneficiary of the fine in question. It is of note perhaps that under the Gambling Law, the ability to level civil penalties by the Gambling Commission, the law expressly states that those penalties should go to the Consolidated Fund. I do not think I have any more general information other than that.

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

Fines of 25 per cent from an activity I suppose that a lot of people would frown on. I am not a gambler but it is a part of life. I think that of our recent decisions to move with more rigour into the electronic internet gambling that it is almost inevitable that we will have to start looking at the casino issue again. I am sure that will come back. Maybe the argument will be that there is a lot of good that can come from such fines, as Deputy Le Claire is putting to us. I think to be fair to the Deputy, what he is trying to do is to make a positive out of a negative so whatever one thinks about it, I do not think he should be chastised for bringing it. I have to disagree with the Minister for Treasury and Resources. I do not think this would encourage people to transgress and to make breaches of the law. I would not think so. It seems a funny way to do it. Why not just give some of your profits to a charity or whatever? So I cannot really follow that argument. Is it the right amount? How did the Deputy come at 25 per cent? I do not know. Perhaps he will explain that when he sums up but I think it is something worth considering. People feel very strongly on the issue of gambling obviously, depending on their religious or moral outlooks. Will this be a sweetener? I would not bet on it. That was a joke. Obviously it did not work. **[Laughter]** So

with that, I will just say that I am supporting Deputy Le Claire and I will sit down and I will not make any more jokes.

#### **7.1.7 The Connétable of St. Brelade:**

I would just like the Deputy to remind us what the fine levels were in this case in terms of sums so we can gauge the sort of figures that might be returned should the proposition be approved.

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

I am sure this proposition is well intentioned and I think it has been mentioned before perhaps but I just do not see what the link is between these fines which are being levied and the source to which they are going. I think more of a fundamental issue, of course, the way we fund charities, the nature we have with charities in the third sector which has already been discussed this week is of paramount importance and the way we deliver public services, either as a Government or indirectly through these bodies and the great work that they do and some of the work, which I admit even as somebody who is a supporter of the public service, we cannot necessarily do always as well is something we need to support. But this is completely arbitrary being brought, as I said, I am sure for the right reasons, but it is just a very short paragraph and I think the public, especially Deputy Le Claire's constituents, will obviously be very pleased to know that he has got concerns about charities and the way they are funded, but this simply is not an issue. But perhaps it is an issue he can discuss with the public in the next few weeks before the election.

#### **The Bailiff:**

Does any other Member wish to speak? Very well, I call upon Deputy Le Claire to reply.

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

I obviously did not realise when one of the Members, Deputy Tadier, I think, could not see the link between the source from where it was coming and where it was going. That was possibly naïve of me. My understanding of it, not being a lawyer or anything else, was that money was raised by the sale of lottery tickets and a percentage of those sales historically was going towards Jersey charities so I thought that because we were extending and opening the ability for people to gamble and gamble on line, I felt that perhaps the revenue of the local charities would be hit a little by that and there has been in the past reported by *J.E.P.* the fact that Jersey charities have been seeing a diminishing return to them from those funds as people, especially when the U.K. lottery started up and the tourism industry declined, those people stopped purchasing so many and in the way they purchased them when they used to be able to purchase half a ticket and share it among themselves, et cetera. So that was really just the simple idea and when the actual debate took place, Senator Maclean, the Minister for Economic Development, said it would be a matter for Members as to how this is done in the future and I raised it at the time and I thought, well, 25 per cent. It is not the whole fine so the majority of the fine where it normally goes would go where it normally goes but a small percentage of it would recognise the plight of Jersey charities perhaps losing revenue from local people who might be gambling in other ways could be shored up by this method. It is a little difficult. When you think about this on a grander scale and you start to talk about the ethos as to why anything is hypothecated or charged and put to use or not put to use and one could theorise, but not for long because I have only got 6 minutes, as to what the benefits would be in terms of how you do this. But then again it really does sort of put into place well, why did we spend so much money on a law and putting in place fines and principles and procedures for a law when there has been no fines for 10 years, there is likely never to be a fine in the future and what percentage of zero is zero? Well, if the activity is not ever going to attract a fine, why impose a fine in the first place? If my argument is nonsense, then equally so is the argument that the fine exists in the law and not only in that law but in the laws preceding it for the last 10 years and the civil servants whose time it was that were employed to put those laws in place and the policing of those laws. If there is never ever going to be a fine, why are we legislating for the fine? But let us take that to a

grander scale, let us up it another step and say but what if there was a fine? What if there was a very large transaction? What if there was a very large transgression by a betting company, and do not forget we have got new betting companies coming into Jersey in a manner which bet, as we have been told by Economic Development, in ways that far outweigh what we have been used to. One example was the fact that one betting company coming to Jersey would use up more bandwidth of internet connection than the whole of our finance industry. So one company coming to Jersey in the future will be operating at those sorts of levels, levels we have never experienced. Now, let us say one company decides to do something illegal across its operation and it is doing that for a number of weeks and let us say hundreds of thousands of people have been defrauded or swindled and they choose to sue the jurisdiction where the activity took place? Let us say that they were successful or they took a class action. Who is going to pay for that? So we have put in place a system where there is going to be a fine mechanism. Now, this could have been seen, and probably may be reported as being seen, as a pointless exercise at election time, one of the nice to haves. Certainly bandwagon stuff, electioneering stuff, but it is the one thing ... although I could have put off the Order Paper that I thought but what if that occurs over the election period and there is a huge fine levied or there is the need in the future for a huge fine to be levied and I am not here? Then we miss the opportunity of capturing that money and targeting it towards the charities. So if there is a nonsense about me taking 25 per cent, then there is a nonsense of nothing and there is a bigger nonsense of the Minister for Treasury and Resources taking 75 per cent of nothing. That is an equal nonsense. It is a matter for Members really. Criminal confiscation funds, we do not hypothecate tax. Criminal injuries compensation, is it adequate? Has it been adequate? Did we sort it out? No, because when we installed the laws in the first place, we never imagined outside the box. Is there really going to be enough money in the eventuality down the road; have you thought all these things through? Now, I might have been naïve in thinking that in the long term, this may take a hit upon the Jersey charities but in his wish to try to be co-operative, the Minister for Economic Development said to me: “We have got to have uniformity.” So I said to him in the coffee room: “Well, in that case, why did you email me and say that there was only one other place that it could go if you have to have uniformity?” He said: “Well, yes, that would be towards the people who suffered from gambling addictions.” I said: “But that should be funded separately and with standalone funds.” So this money that is being used to penalise people who break the law, if it ever happens, as I said, unlikely, because we have got such a well-run jurisdiction, this money to help those who are going to become addicted should be funded and in place regardless of any fines. But I am just trying to say that this is a different type of gambling activity than we have ever been used to before. In the highly unlikely event that there transpires to be some kind of new experience, if we are able to capture some money, put it towards charity and the rest towards covering ourselves and penalising those companies that do wrong, I thought that was the right thing to do. It is a matter for Members. I ask for the appel, please.

### **The Bailiff:**

The appel is called for, then, in relation to the proposition of Deputy Le Claire. I invite Members to return to their seats and the Greffier will open the voting. If all Members have had an opportunity of voting, the Greffier will close the voting.

<b>POUR: 10</b>		<b>CONTRE: 24</b>		<b>ABSTAIN: 0</b>
Connétable of St. Martin		Senator T.A. Le Sueur		
Deputy of St. Martin		Senator P.F. Routier		
Deputy J.A. Hilton (H)		Senator P.F.C. Ozouf		
Deputy P.V.F. Le Claire (H)		Senator T.J. Le Main		
Deputy J.A.N. Le Fondré (L)		Senator A. Breckon		
Deputy K.C. Lewis (S)		Senator S.C. Ferguson		
Deputy of St. John		Senator A.J.H. Maclean		
Deputy T.M. Pitman (H)		Senator B.I. Le Marquand		
Deputy A.T. Dupré (C)		Connétable of St. Brelade		

Deputy M.R. Higgins (H)		Connétable of St. Saviour		
		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy R.G. Le Hérisier (S)		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy S.S.P.A. Power (B)		
		Deputy M. Tadier (B)		
		Deputy A.E. Jeune (B)		
		Deputy of St. Mary		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy A.K.F. Green (H)		
		Deputy D.J. De Sousa (H)		
		Deputy J.M. Maçon (S)		

## ARRANGEMENT OF PUBLIC BUSINESS

### Senator S.C. Ferguson:

Before we go to the adjournment, I wonder if I could ask the indulgence of the House? Now, I know that we will probably have a fairly long debate on G.S.T. on health food and I wondered if my P.127 could be slipped in ahead of it tomorrow morning. It should not take long and it is a constitutional matter.

### The Bailiff:

Well, it is a matter for the Assembly. I do not think the Assembly have decided when it would hear the G.S.T. debate, whether at the end of the list or whether at the beginning or in the middle.

### Senator T.A. Le Sueur:

May I suggest there are one or 2 propositions lodged in my name which I would also want to ensure were dealt with tomorrow. I think it may be more appropriate for us to start at tomorrow morning's business when Deputy Pitman is also here to be able to discuss that at that time rather than now.

### The Bailiff:

Very well, are Members happy then? At the moment, the G.S.T. matter was simply put lower down the list but no decision was taken as to where it would come. So I suggest if Members can decide that tomorrow morning and ...

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

Would it not be helpful in order to help Deputy Shona Pitman to have certainty about we know what business we are starting with?

[17:30]

### Deputy T.M. Pitman:

She said that she should be here and I think it would be very bad if we give in to the bullies and intimidators, if threats start ...

### The Bailiff:

Well, I do not think ...

### Deputy T.M. Pitman:

I do not mean that in the House. I mean what we have been experiencing, I should point out.

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

I was going to propose that it goes at the top of the list tomorrow.

**The Bailiff:**

Yes, I do not think anyone was suggesting any intimidation here, Deputy, or anything of that nature.

**Deputy T.M. Pitman:**

I was just clarifying it, Sir.

**The Bailiff:**

I think it might be helpful to fix it now really.

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

I propose that it is at the top of the list tomorrow morning.

**The Bailiff:**

Very well. Is ...

**Senator S.C. Ferguson:**

I thought my proposal came first, Sir? **[Aside]**

**The Bailiff:**

I do not think it matters which way round we take it. Well, then, we will take yours, Senator. You want to go first and then followed by the G.S.T. debate and if Members are in favour. Is that seconded? **[Seconded]**

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

I wonder whether the Greffe simply could just send out the format for tomorrow morning and the business to all Members by email?

**The Bailiff:**

It is available.

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

I know it is but I am just starting to get a bit confused with all this to-ing and fro-ing.

**The Bailiff:**

Shall I remind Members what is on the Order Paper for tomorrow? Do Members want to hear that? No, I think Members are aware of it. So the proposition seconded from Senator Ferguson is that we deal first with Projet 127. Then we deal with G.S.T. and then we deal with the rest thereafter. If you want to do that, you will vote pour. If, on the other hand, you want to start with G.S.T., you will vote contre.

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

I have been advised by the Connétable of Grouville that he will be in tomorrow morning. He was coming back this afternoon. He would not know the agenda for tomorrow. It should have been changed during the week and I feel it is only fair that one or 2 Members that are missing would be advised what is going on tomorrow.

**Deputy M. Tadier:**

It is inappropriate, I think, for us to take a vote when Deputy Shona Pitman cannot tell us one way or the other whether she would like hers to be taken earlier or later and I simply do not know why we do not ... we have got to come here tomorrow at 9.30 a.m. anyway.

**The Bailiff:**

What I am suggesting, because I think Deputy Trevor Pitman said that he wanted it to go first on her behalf, the Assembly ought to decide now provisionally. Now, if tomorrow morning, Deputy Shona Pitman says: "I do not want to go first", she can ask for it to be deferred if that is the result of today's Assembly. If it is not, well, then ...

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

I simply wish to say very briefly, and I know that we do not want long debates on order, but the property matter, I have not yet submitted a comment. I will circulate a comment overnight but I suspect it is not such a small and minor matter that it is just going to slip through. I think there is going to be a bigger debate on Property Holdings, if I may humbly suggest so. It is not an easy matter.

**The Bailiff:**

Very well. So, can we move to a vote? So if you wish to start with P.127, that is the Jersey property matter, you will vote pour. If, on the other hand, you wish to start with G.S.T., you will vote contre. The appel is called for. The Greffier will open the voting.

<b>POUR: 10</b>		<b>CONTRE: 21</b>		<b>ABSTAIN: 0</b>
Senator A. Breckon		Senator T.A. Le Sueur		
Senator S.C. Ferguson		Senator P.F. Routier		
Connétable of St. Brelade		Senator P.F.C. Ozouf		
Deputy J.B. Fox (H)		Senator A.J.H. Maclean		
Deputy of St. Ouen		Senator B.I. Le Marquand		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Martin		
Deputy of St. John		Connétable of St. Saviour		
Deputy A.E. Jeune (B)		Connétable of St. Mary		
Deputy A.T. Dupré (C)		Deputy R.C. Duhamel (S)		
Deputy J.M. Maçon (S)		Deputy of St. Martin		
		Deputy P.V.F. Le Claire (H)		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy M. Tadier (B)		
		Deputy of St. Mary		
		Deputy T.M. Pitman (H)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		
		Deputy D.J. De Sousa (H)		

**The Bailiff:**

That means we will start with G.S.T. unless Deputy Shona Pitman asks for it to be moved. The Assembly will no doubt listen to any applications she makes at that time. Very well, so the Assembly adjourns until 9.30 a.m. tomorrow morning.

**ADJOURNMENT**

[17:33]