

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 6th MARCH 2013

<b>PUBLIC BUSINESS – resumption .....</b>	<b>4</b>
<b>1. Police Station Relocation: review of decision (P.92/2012) - resumption.....</b>	<b>4</b>
1.1 Senator B.I. Le Marquand:.....	4
1.1.1 Deputy R.G. Bryans of St. Helier: .....	5
1.1.2 Senator A. Breckon:.....	6
1.1.3 Connétable J.M. Refault of St. Peter: .....	7
1.1.4 The Very Reverend R.F. Key, B.A., The Dean of Jersey:.....	8
1.1.5 Connétable S.W. Pallett of St. Brelade: .....	9
1.1.6 Deputy J.M. Le Bailly of St. Mary: .....	10
1.1.7 Deputy G.C.L. Baudains of St. Clement:.....	10
1.1.8 Connétable P.J. Rondel of St. John:.....	11
1.1.9 Deputy S. Power of St. Brelade: .....	13
1.1.10 Deputy J.M. Maçon of St. Saviour:.....	14
1.1.11 Connétable D.W. Mezbourian of St. Lawrence: .....	18
1.1.12 Deputy T.M. Pitman of St. Helier: .....	18
1.1.13 Senator I.J. Gorst:.....	20
1.1.14 Deputy J.A. Martin:.....	21
<b>2. Committee of Inquiry: Historical Child Abuse (P.118/2012) - as amended.....</b>	<b>28</b>
2.1 Senator I.J. Gorst (The Chief Minister): .....	28
<b>2.2 Committee of Inquiry: Historical Child Abuse (P.118/2012) - Amendment (P.118/2012 Amd.) - Second Amendment (P.118/2012 Amd.(2)) .....</b>	<b>30</b>
2.2.1 Deputy M. Tadier:.....	31
2.2.2 Senator I.J. Gorst: .....	33
2.2.3 Senator F. du H. Le Gresley: .....	34
2.2.4 Deputy R.G. Le Hérisier: .....	36
2.2.5 Deputy T.A. Vallois of St. Saviour:.....	37
2.2.6 Deputy M.R. Higgins of St. Helier: .....	38
2.2.7 Deputy J.M. Maçon: .....	40
2.2.8 Deputy G.P. Southern of St. Helier: .....	40
<b>LUNCHEON ADJOURNMENT PROPOSED .....</b>	<b>40</b>
<b>LUNCHEON ADJOURNMENT.....</b>	<b>40</b>
Senator I.J. Gorst:.....	<b>Error! Bookmark not defined.</b>
2.2.9 Connétable J. Gallichan of St. Mary:.....	<b>Error! Bookmark not defined.</b>
2.2.10 Deputy M. Tadier: .....	<b>Error! Bookmark not defined.</b>

- 2.3 Committee of Inquiry: Historical Child Abuse (P.118/2012) - as amended.....Error!**  
Bookmark not defined.
- 2.3.1 Deputy J.M. Maçon: .....**Error! Bookmark not defined.**  
2.3.2 Connétable M.P.S. Le Troquer of St. Martin:.....**Error! Bookmark not defined.**  
2.3.3 Deputy G.C.L. Baudains:.....**Error! Bookmark not defined.**  
2.3.4 Deputy A.E. Pryke of Trinity:.....**Error! Bookmark not defined.**  
2.3.5 Deputy J.H. Young: .....**Error! Bookmark not defined.**  
2.3.6 Deputy T.M. Pitman: .....**Error! Bookmark not defined.**  
2.3.7 Deputy M. Tadier:.....**Error! Bookmark not defined.**  
Mr. T.J. Le Cocq Q.C., H.M. Attorney General: .....**Error! Bookmark not defined.**  
2.3.8 Deputy M.R. Higgins:.....**Error! Bookmark not defined.**  
2.3.9 Deputy R.G. Le Hérisier: .....**Error! Bookmark not defined.**  
2.3.10 Senator F. du H. Le Gresley:.....**Error! Bookmark not defined.**  
2.3.11 The Dean of Jersey:.....**Error! Bookmark not defined.**  
2.3.12 Senator I.J. Gorst:.....**Error! Bookmark not defined.**
- 3. Draft Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201- (P.2/2013) .....Error! Bookmark not defined.**
- 3.1 Senator P.F. Routier (Assistant Chief Minister - rapporteur): ..... **Error! Bookmark not defined.**
- 3.1.1 Deputy R.G. Le Hérisier: .....**Error! Bookmark not defined.**  
3.1.2 Senator L.J. Farnham: .....**Error! Bookmark not defined.**  
3.1.3 Deputy G.P. Southern: .....**Error! Bookmark not defined.**  
3.1.4 Deputy T.A. Vallois:.....**Error! Bookmark not defined.**  
3.1.5 Deputy S. Power: .....**Error! Bookmark not defined.**  
3.1.6 Deputy R.J. Rondel of St. Helier: .....**Error! Bookmark not defined.**  
3.1.7 Senator S.C. Ferguson: .....**Error! Bookmark not defined.**  
3.1.8 The Connétable of St. Brelade: .....**Error! Bookmark not defined.**  
3.1.9 Senator A. Breckon:.....**Error! Bookmark not defined.**  
3.1.10 Deputy A.K.F. Green of St. Helier:.....**Error! Bookmark not defined.**  
3.1.11 Senator P.F. Routier: .....**Error! Bookmark not defined.**  
Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel): **Error! Bookmark not defined.**
- 3.2 Senator P.F. Routier:.....**Error! Bookmark not defined.**
- 4. Draft Control of Housing and Work (Transitional and Consequential Provisions) (Jersey) Regulations 201- (P.3/2013) .....Error! Bookmark not defined.**
- 4.1 Senator P.F. Routier (Assistant Chief Minister - rapporteur): ..... **Error! Bookmark not defined.**
- 4.1.1 Deputy M. Tadier:.....**Error! Bookmark not defined.**  
4.1.2 Deputy J.H. Young: .....**Error! Bookmark not defined.**  
4.1.3 Senator P.F. Routier:.....**Error! Bookmark not defined.**  
Deputy J.H. Young:.....**Error! Bookmark not defined.**  
Deputy M. Tadier: .....**Error! Bookmark not defined.**  
The Attorney General:.....**Error! Bookmark not defined.**  
Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel): **Error! Bookmark not defined.**
- 4.2 Senator P.F. Routier:.....**Error! Bookmark not defined.**

5. **Draft Financial Regulation (Disclosure of Information) (Amendments) (Jersey) Regulations 201- (P.7/2013)** .....Error! Bookmark not defined.
  - 5.1 Deputy J.P.G. Baker (Assistant Minister for Economic Development - rapporteur): .....**Error! Bookmark not defined.**
    - 5.1.1 Deputy R.G. Le Hérisser: .....**Error! Bookmark not defined.**
    - 5.1.2 Senator S.C. Ferguson: .....**Error! Bookmark not defined.**
    - 5.1.3 Deputy J.P.G. Baker of St. Helier: .....**Error! Bookmark not defined.**
  - Deputy S.G. Luce of St. Martin (Chairman, Economic Affairs Scrutiny Panel): ..... **Error! Bookmark not defined.**
  - 5.2 Deputy J.P.G. Baker: .....**Error! Bookmark not defined.**
6. **Rate Appeal Board: appointment of members (P.9/2013)**..Error! Bookmark not defined.
  - 6.1 Deputy E.J. Noel of St. Lawrence (Assistant Minister for Treasury and Resources - rapporteur): .....**Error! Bookmark not defined.**
    - 6.1.1 Deputy T.A. Vallois: .....**Error! Bookmark not defined.**
    - 6.1.2 The Connétable of St. Mary: .....**Error! Bookmark not defined.**
    - 6.1.3 Deputy M. Tadier: .....**Error! Bookmark not defined.**
    - 6.1.4 Connétable J.L.S. Gallichan of Trinity: .....**Error! Bookmark not defined.**
    - 6.1.5 Deputy E.J. Noel: .....**Error! Bookmark not defined.**
7. **HSBC Middle East (HBME): investigation (P.10/2013)** .....Error! Bookmark not defined.
  - 7.1 Deputy G.P. Southern: .....**Error! Bookmark not defined.**
  - Senator I.J. Gorst: .....**Error! Bookmark not defined.**
  - Deputy G.P. Southern: .....**Error! Bookmark not defined.**
8. **Jersey Police Complaints Authority: appointment of members (P.11/2013)** .....Error! Bookmark not defined.
  - 8.1 Senator B.I. Le Marquand (The Minister for Home Affairs): ..... **Error! Bookmark not defined.**
    - 8.1.1 The Connétable of St. Lawrence: .....**Error! Bookmark not defined.**
    - 8.1.2 Deputy G.C.L. Baudains: .....**Error! Bookmark not defined.**
    - 8.1.3 Deputy M.R. Higgins: .....**Error! Bookmark not defined.**
    - 8.1.4 The Deputy of Grouville: .....**Error! Bookmark not defined.**
    - 8.1.5 Senator S.C. Ferguson: .....**Error! Bookmark not defined.**
    - 8.1.6 Senator B.I. Le Marquand: .....**Error! Bookmark not defined.**
9. **Jersey Overseas Aid Commission: appointment of non-States Commissioner (P.14/2013)** .....Error! Bookmark not defined.
  - Senator P.F. Routier (Chairman, Jersey Overseas Aid Commission): ..... **Error! Bookmark not defined.**

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**.Error! Bookmark not defined.

10. Connétable A.S. Crowcroft of St. Helier (Chairman, Privileges and Procedures Committee): .....**Error! Bookmark not defined.**
  - 10.1 Senator A. Breckon: .....**Error! Bookmark not defined.**
  - 10.2 Deputy J.H. Young: .....**Error! Bookmark not defined.**

**ADJOURNMENT** .....Error! Bookmark not defined.

[9:30]

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

**PUBLIC BUSINESS – resumption**

**1. Police Station Relocation: review of decision (P.92/2012) - resumption**

**The Bailiff:**

The Deputy of St. Ouen is défaut excusé. So we return then to the debate on Projet 92/2012, the proposition of Deputy Martin, and Senator Le Marquand was speaking.

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

By popular request, I am going to speed up and shorten my speech. I need to make clear first of all what my position is on the issue of the extra half floor at Green Street. I am wholly supportive of this. I will continue to support that. In fact, I will go so far for those who want to have assurances that this will happen as part of the project as saying that my own personal view is that, now the joint Ministers are committed to this part of the project. I hope that satisfies people. I am also committed, although I may have to take others with me, to this idea which I shared last night in relation to direct access into the Green Street Car Park in a new way. I want to briefly say something about Summerland. It was suggested yesterday that Summerland would not be much more expensive. Summerland has always been more expensive as an alternative option, either to Lime Grove or to this option, and fundamentally there are a number of different reasons for this. Firstly, the need to acquire a right of way and some of the land in order to make it possible. Secondly, because building on Summerland requires a double move of the police. You have to relocate the existing police who are situated on Summerland and on other premises there to another site which is very, very costly and then bring them back so you have all those additional double move costs. Of course, a major issue in relation to Summerland is the loss of category housing on that site. It is more expensive. I want to deal very quickly with this issue which keeps on coming out of this building being on a roundabout. It is not on a roundabout. It is well beyond the roundabout. I went out and paced out the distance from the roundabout and I paced out the distance from the existing entrance and exit for the police van at police headquarters. There was not a great deal of difference, I think, from memory, although I have forgotten the figures, about 10 yards' difference. This is definitely not on a roundabout. The light pipes thing then pops up again yesterday. Because of us wanting to do this, the police leadership contacted people in the U.K. (United Kingdom) because it was not initially within the criteria. My understanding is as a result of this it has now been accepted as part of the Home Office guidelines that this is one of the acceptable criteria to have light in this way. I close where I started with Russian General Carl von Clausewitz: "The greatest enemy of a good plan is the dream of a perfect plan." This is a good plan and this proposition, with respect to Deputy Martin, seeks to destroy a good plan. I am grateful to the Scrutiny Panels who have worked alongside the different ministries on this who have suggested improvements. We certainly need to take on board some of those improvements as I have already indicated. We are now making a good plan better but we should not throw the whole plan away because of the dream of a perfect plan. Finally, the 3 major pluses that I started with, to reiterate those. There are 3 major pluses about this scheme. Firstly, a new purpose-built police headquarters to the specification that the police wanted which was set in 2009 soon. Now, I have underlined in capital letters the word "soon" because if this proposition succeeds, it is not going to happen soon, it is anybody's guess how soon and at what cost, in place of unacceptable, inefficient buildings, which are hampering the operation of the current excellent police force. Secondly, the move of the police and the ambulance frees up the whole of the Summerland and ambulance station site for desperately needed category A housing. This was part of our Island Plan policy. It is even more desperately needed now because it has taken longer to build on other sites than we had hoped.

Thirdly, this major building project provides work for our building trade when they desperately need it. We owe this project, in my view, to our hardworking excellent police force. We owe it to the people of Jersey, particularly those in substandard housing and we owe it to the building trade and to the commercial interests at this time.

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

A point, if I may, of clarification. The Minister alluded to the cost of Summerland but I do not think, in my quest for the perfect plan, may he tell me what is the cost of Summerland versus the cost of the proposal on the table at the moment?

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

There have been different calculations done at different times in relation to this. The calculation which was done at the time of Lime Grove was that the differential there was at least £5 million. I do not have the precise figure for this. This is within the remit of the Assistant Minister and it may well be right that he be given an opportunity to answer that question at some point. I do not have the precise figure but I know that we have figures for that. I do not know precisely what it is. It is considerably more.

**Deputy J.H. Young of St. Brelade:**

Could I make a further request for clarification of the previous speaker? The previous speaker spoke about Summerland being very expensive. Could he tell us whether what he has just said about very excess costs takes account of the opportunity for phasing and whether it also takes account of the agreements in place for the access with the owner that have already been negotiated?

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

I did mention that that was one of the additional costs associated with that particular site. It is not just a question of the extinguishment of a right of way for this project. It also required the acquisition of some land which is currently owned by somebody else. I hope I have answered the question there.

**1.1.1 Deputy R.G. Bryans of St. Helier:**

Yesterday the arguments seemed to whirl around 2 aspects, the feeling that this was not the right place to site a police station and the loss of public parking spaces. We had Deputy Le Fondré's emotional depiction of a vulnerable woman late at night stumbling through Snow Hill Car Park which raises 2 points. She does not have to if we build this police station. Grenville Street is clearly lit and the station would now be closer, closer than Rouge Bouillon, closer to town, closer to potential hotspots, closer to the harbour. Constable Crowcroft is right to describe the potential this could bring to a lost area of town, more business for Colomberie. Equally, it raises the issue of how do we combat urban sprawl, an argument well-articulated by architect Mike Waddington in this month's *Connect* magazine. You do not build out, you build up, particularly in a geographically well hidden site like Green Street. Then we had the ridicule of the Bob the Builder rant of: "Yes, we can" the opposite of which is Deputy Southern's: "No, we cannot." Every time we have the opportunity to move in a positive direction, it is: "No, we cannot." People talk about the divisions we have in this Assembly. There are divisions but they are not political ideologies but a difference between those who adopt a positive view and those in the negative camp. This recession has profoundly changed the way we live and the way we think. The crisis is an opportunity to re-examine and redefine where we want to go and where we aspire to be. That demands a positive frame of mind and an innovative outlook. I have heard all about the pros and cons extremely well-articulated in great detail from constituents, the Constables, the public, the Ministers, experts and the police. Unlike the Constable of St. Martin, people I spoke to seemed to be equally divided. In fact, the meeting I had illustrated the dilemma. I spoke to 2 policemen

standing outside the market and I asked them the question: “What would you like?” One of them said: “We have already waited a very long time. We can still wait to get the thing right.” The other guy said: “No, we live in unacceptable conditions, these are dreadful conditions. We need to get it built.” I then further 4 days later met another policeman who had an architectural background.

[9:45]

He said: “If you were asking me do I want a purpose built police station in possibly the wrong place, the answer is yes, get it built.” The Medium-Term Financial Plan: public sector reform, health reform, housing reform, electoral reform, courts, airport and harbour and a new sports strategy. This is a brave Assembly making tough decisions in tough times. It is not a perfect site, it is not a perfect solution, but look what happens once we start. We create construction, we create housing, and we create a new police station, a sense of movement. I agree with Deputy Green, let us adopt a can do attitude and not compound the problems created by previous Assemblies unwilling to grasp the nettle. Let us provide evidence that we are decision makers and get it built. Deputy Martin deserves credit for making us look again and be cautious and circumspect about the decisions we make with taxpayers’ money and she has changed things but we need a purpose built police station. The police deserve it, we deserve it, and this site is available. Thinking differently is an anti-recession tool. Let us think differently, adopt a positive outlook, a positive attitude and give the police what they are asking for. Let us get it built.

### **1.1.2 Senator A. Breckon:**

I am not sure exactly when it was but it was about certainly over 2 years ago that the Constable of St. Peter and I, as members then of the Public Accounts Committee, were invited to Property Holdings and there was a sort of low key presentation by the Chief Officer there about the benefits of buying Lime Grove. I must say that we needed to be convinced because we were aware then of the States office strategy and I think we had something of between 15 and 20 per cent oversupply of office accommodation. There had been discussions about rationalisation, managing better, landlord and tenants and things and it was a recognition of about 40 years of failure of managing property, properly maintaining it and having a proper working relationship with whoever was camped in it. Following that, I asked questions about the strategy and what happened to it. I think Deputy Le Fondré was Assistant Minister at the time and had responsibility and he said it was very nearly ready to be signed off by the Minister and this was probably about 2 years ago. To my knowledge, it has still never been signed off. The reason I say that is because we have been talking about critical needs to do things and this is one of the cases where it appears that nothing has happened and that was, as I say, about 2 years ago. I do not think that any Member is in doubt that we need a purpose built police station and it was a failure by somebody, of course nobody will be to blame for this, that nothing has been done. It is the classic, something must be done. Who is doing it? Is it the responsibility of the Minister for Planning and Environment, is it Home Affairs, is it Property Holdings? Treasury has been poking their nose in. Who is responsible and that, I think, is part of the problem and part of the issue. What I did a few days ago, I went and had another look at the site and I just looked from different angles and had a walk around and the reason I say that is because I was not comfortable with that because the question I asked myself was: “Is this site fit for purpose?” and when you see what possibly can be done there, in my opinion, who is not a planner or an expert in any way, I did not think that it was. The reason I say that is that we have talked about sums of money of around £20 million so if we are going to build it somewhere and we spend that sort of money, then we need to get it right rather than what appears to be happening. We say: “We will put it here and we are going to have some parking space there; we are going to store some stuff there; we are going to have satellites all over the place.” Deputy Bryans has just mentioned that can do. It seems to be that we can do this but we are going to do all

sorts of other things to make it happen which I do not think is practical, and that I have a problem with. It is a tight site, it is cramped and it was not the first choice by any means. I do not know who has been working on it or what other possibilities there were for sites but somebody must have done something over the years because it must have been discussed. The Minister for Home Affairs mentioned the Magistrates Court. I remember the time the Magistrates Court kept falling out of capital programmes because it was too big a money in one go and I think it was former Senator Chinn that championed the cause and got it back in and got it built because it was nobody's responsibility and the courts were working in some difficult circumstances between Seale Street and Cyril Le Marquand House and a number of other places. The other thing that has been mentioned is there are some parking issues and supposing somebody lost their phone or their wallet or their bag. At the moment, they could nearly drive into Rouge Bouillon and park there and go in and report it and drive off. They will not be able to do that here, whether they are fit or disabled or whatever it be. It will not be a drop-in place. Somebody will have to park a distance away and do that and that could cause some problems for some people. The other thing where I think the problem is, it is an office space on a busy junction. It does have access to the roads and the Minister for Home Affairs mentioned that you can go in different directions. You do not have to go through the tunnel, you can go through the town, you can go on the ring road, and you can go over the top over Mount Bingham. So there are possibilities but, having said that, I do not remember seeing anything that was fully explored on Rouge Bouillon because I remember when we got involved in purchasing this site, we did not purchase all of it, we purchased part of it, we missed some opportunities there on the former Sacré Coeur and again it was: "We do not want it." Then after we did and we wanted bits of it and we bought bits and we have leased bits and we have done things but I think the Rouge Bouillon site does have some opportunities and it would be doable and if we do have surplus office space there, then about the can do is there could be temporary premises for the police if we were to go back there. There are other opportunities because the other thing with the ... there is the sort of cloud that is hanging over: "Well, we can create housing" but that would be about 5 to 10 years away. That is obvious because it is not in any stage of the development at all and if we take a leaf out of the Girls' College group where we are talking about category B so who are we going to sell this for? We are going to create here. Things are said and promises are made and then we go back on them and that is not really what we want and it is jammed tomorrow. For my part, I can certainly support this because I am concerned that we could spend a lot of money on a site that very soon proves not to be fit for purpose and I would rather be cautious of that in this moment in time and we could come together to get an alternative site and to have a police station that is fit for purpose and does justice to those people who are dedicated in providing a service to the community and give them the right facilities to do that. For those reasons, I will be supporting this proposition.

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

I am very pleased to follow Deputy Bryans of St. Helier. He said many things I wanted to say but in a far better way than I probably would have done. Thank you, Deputy, for that. I think one of the things that really motivated me to press my button yesterday to speak was the comment that Deputy Martin made in her proposal when she said: "The condition of the police station is not my fault." I am afraid it is. It is the fault of every Member in this Assembly, especially Members who have done one or more terms who have failed to bring this matter to a conclusion far earlier. In fact, in my view, and I will give you an example in a moment, I think we are abusing the generosity of the States Police by not taking action about the appalling conditions they are working in and I will say that because in my time, and my very good friend alongside me here when he was a Deputy of St. John on the Harbours and Airport Committee, will also recall that when we had problems at the airport in the old tower which has now been demolished, the air traffic controllers were going to walk out and we had to line the whole building inside with plastic to stop the

asbestos getting into the air. We have not done that at the police station. We are not even monitoring it at the police station and we should be and I think at the moment, and I will say it again, I do think that we are taking advantage of our police officers and the good work they do and make them have to continue to work in conditions which would not be acceptable by any other group. Moving onwards, another thing that I picked up within the report to the proposition was a comment, and I think the figure off the top of my head on reading it was £514,000 that had been spent on plans and fees on the Green Street Car Park site and it was sort of: "Well, that could be recovered from parking fees if the police station was not built there." If we have got £514,000 to throw away, I would rather we threw it at the nurses quite frankly right now that need it and to just sort of squander it away with an easy casual comment like that I do not think is appropriate. Just looking down my list to the last couple of items I wanted to pick up. I think one of the last things I really want to say, I have spoken to a couple of serving police officers as well and a particular one that really hit me the strongest was a WPC. She said: "I have been in the force now for 15 years. We were going to have a new police station when I joined. I expect to retire and still not have a new police station." I think for many people that do complain it is the change that they are complaining about. I can recall, going back to my airport days again when we moved the fire station 250 metres and a lot of the staff complained that it was moving it too far. The reason it was being moved too far was move it away from the terminal building and they would have to walk further to go and get their daily paper. Now I am sure that is not the case with the police who are often walking around town but change in itself is a difficult thing to do and you will get people resisting the change on their own personal viewpoints. I do applaud Deputy Martin for making us look at this again in many ways. I do work closely with her in another forum and I have a great deal of respect for her views in many cases but I am afraid I cannot support the proposition principally because we cannot keep putting this decision off. We have to make the decision today and make the right decision.

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

My name was mentioned or my title at least was mentioned by the Constable of St. Helier in his speech yesterday which I think opens the door for me to say something now. I am a member of the Roads Committee. I did not vote on this particular thing because it is going to be discussed here and it seemed to me that that would give a conflict so I did not. In fact, I have absolutely no view on where the police station should be because I am not an expert in the siting of police stations or indeed the things that go round them. I do, however, take the view of the Chief Officer, whatever that would be, as being something important because I believe that as employers, we have a duty to set people up to succeed and therefore to make sure that the things that we give them to do their job are the best that we can do in the practical world, whatever that may be. But I do have a dream. Unlike the Minister for Home Affairs, I think I am allowed to dream and it is that little dream I want to share with you, which has nothing to do with the decision, but rather about the process. I am sure there are all sorts of reasons why what I am dreaming cannot happen but that is not going to stop me having the dream. My dream is this, that I would have loved to have seen a plan that all those who have worked in good faith to bring about the best solution every department, every ministry, the Parish authorities, have signed up to and bring to us together. That is to say, a plan that gives us a design for a police station over which the Minister for Planning and Environment is absolutely ecstatically overjoyed where parking has been solved in a way that pleases not only T.T.S. (Transport and Technical Services) but even the Roads Committee who are responsible respectively for 2 different types of roads that surround the new police station. Where it is integrated so that the residents' parking zone that may come to Havre des Pas is a joined up part of the thinking and the sort of housing we are going to have at Summerland has also been signed off, so that the whole thing looks and feels like a joined up plan. Now I am sure that is a dream. I am sure that the expert politicians can tell me exactly why that cannot happen but do you know I shall



continue to dream because it seems to me that for as long as we believe in co-operative government in this Assembly we should be aiming to see it in every decision brought into actuality.

#### **1.1.5 Connétable S.W. Pallett of St. Brelade:**

Everyone will be pleased to know that I am not going to spend too long on my feet and I certainly have not got the stamina of my colleague the Constable of St. Martin so, like I say, I will be relatively short. As a Centenier, as my colleague in front of me, the Constable of St. Ouen knows, I spend a great deal of time in and around the police station on various duties and over that period of time, I came to see the appalling conditions, the state of the buildings and the effect it has on some officers.

[10:00]

It is totally unacceptable and we need to move on fairly quickly. As part of Scrutiny, we spent a long, long time dealing with this. Many issues were brought to our notice, many concerns were made and the one thing that sort of came to my mind as we moved along and came to light fairly late on were the views of the States officers and the civilian staff. This is something I think that caused part of the delays and it was important, I thought, that we took their views and their concerns on board because they were important. They have to work in it; they have to be happy with the conditions that they are going to work in. They brought various concerns back to us that I think we needed to look at in some depth. I have got a few of them here; the design of the custody suite, the interview rooms, workstation space, offsite location at the forensic garage, gym facilities, lack of expansion opportunities. All these types of things that we felt that we had to investigate and make sure that we were happy with. We did do that with the help of Property Holdings and with the help of the Minister. To be fair to the officers, they came back to us happy that these concerns had been addressed almost fully. Their Vice-President commented to us, because I think it is important to realise that maybe there was a little bit of a lack of information that had been given to officers, and what he did say was that perhaps a lot of the concerns raised were raised through a lack of knowledge on behalf of the officers who were raising the concern. It is a concern that can easily be addressed by asking the right question and obtaining the answer. That is what largely the process has been. So rather than demanding fundamental changes to their concerns, their concerns have largely been questioned through a lack of knowledge on their part and once the answer has been obtained people are satisfied. I think they were satisfied in the main part but they did bring up some issues that I think were of concern and I think have been a concern virtually to everybody in the Chamber. That is around parking. Not just parking for the officers, which they had concerns about, and not just parking for officers for certain situations and dedicated parking for officers that come into work. I think the other issue was parking for visitors, that has been brought up, and parking for disabled. But I am satisfied that the Minister and Property Holdings have been making the right efforts to ensure that parking is addressed. They were the major concerns. What I had to decide was whether this building was fit for purpose. It is fit for purpose. It is fit for modern day policing. It is changing. Modern day policing is changing, the way the police operate is changing and whether we like it or not, the space that they need has been reducing and the building will fit purpose. Is there scope to expanding the building? I believe there was. I spent a lot of time with Scrutiny looking at this. I think there is expansion within the building and there is an opportunity for extra parking if needed. We have opportunities for the Green Street Car Park in the future and I think to knock this back now is not the right time. I think we need to get on with this. One of the issues that the Constable of St. Martin brought up yesterday and he was not very happy about was that this seems to be a compromise. Well, life is a compromise. Everything we do is a compromise. Every building site is a compromise and I am afraid, in this particular case, I think the compromises are worth making. A lot has been made of us needing to get on with this and I

totally agree with that. We need to be able to make decisions in this Chamber. I have been in here 16 months now and I am not saying we have not put a spade in the ground but I am beginning to wonder with some of the sites when we will see it. There have been delays and I am looking at the Minister for Housing now. Belle Vue, for example, where this should have started 6 months ago. These things need to get off the ground. Like I say, they are acceptable compromises and we need to get on with this. I know quite a few officers and I have spoken to an awful lot of officers and the effect on the States Police if we do not get this building, I am afraid, is going to be quite dramatic. They cannot carry on in these buildings. They are so substandard; it is appalling. We need to move on and we need to move on quickly. They cannot wait for another 4 or 5 years for buildings that they can work and do a good job in. They do a fantastic job in the buildings that they have currently got. Can you imagine the work that they could do and the extra they could give to this Island if they had buildings that were suitable for purpose? We will be letting these officers down whether we like it or not if we do not get on with this building. I am not going to go over the financial implications. I think we have been over and over and over that. Just one point that came to me on the drive in this morning; I think Deputy Martin has done a fantastic job here. I think what will come of this will be a better police station. No matter what happens, I think what the 2 Scrutiny Panels have done has also ensured we will get a better police station. I would ask Deputy Martin, if 15 months ago she had been sitting in the Minister for Home Affairs seat, which she got very close to, would she be taking the same stance? I urge Members, please, do not support this proposition. Let us get on and get this police station built. Please. **[Approval]**

#### **1.1.6 Deputy J.M. Le Bailly of St. Mary:**

This important issue, relocating the police to new premises, is becoming a farce over parking. Parking at the existing station has never been easy yet here is the opportunity to have a multi-storey car park on the doorstep, which always has space at night, which is the time that concerns most of the pessimists in this Assembly. We will always have a problem with parking, partly due to the current transport policy of encouraging people to use public transport. That is never going to happen. Parking issues can be resolved. There is no ideal site, though if it were not for the distance, St. Martin could be fine. Somewhere at the back of Helier Clement's calvados shed. We need to look at the bigger picture; this is about providing our police with an essential service with the facilities they need in order to carry out their duties efficiently. Facilities that are long overdue. By doing so, we will release the current site to provide not only much needed housing but essential employment for our ailing building industry. Now is not the time for procrastination. We should reject this review by Deputy Martin. It achieves nothing. We have wasted millions getting to this stage. It is time that our taxpayers had something to show for their money. Now is the time to be positive; we need to build this project as soon as possible.

#### **1.1.7 Deputy G.C.L. Baudains of St. Clement:**

I was intrigued by the speech of the Dean earlier where he spoke of his dream. I have to say, I believe we all had that dream when we moved to ministerial government but it appears not to have succeeded. **[Laughter]** There were a number of speeches yesterday that seemed never ending and I think I learned everything from the appropriate length of a policeman's shoelaces to where he is going to buy his next sandwich, but I intend to be a lot briefer this morning. Some Members in the coffee room yesterday said, and of course they were quite right, that there is no perfect solution to this longstanding problem, but then I asked myself how imperfect does something have to be before you have a duty to look more closely at it and then possibly reject it? I have absolutely no doubt that the present conditions are quite unsatisfactory. They have been for many years. They are intolerable but I do not think that that should be a cause for what, in some cases, has amounted almost to emotional blackmail that we have to accept something which may not be the best option either for the public or indeed for the police who will be using it. There are a number of issues that

trouble me about this site but, as I said, I will be brief. The greatest problem I have is one of parking because, here again, if I might just go off on a tangent for a moment, I was concerned that once again Scrutiny appears to have fallen into the category that when it is supportive of Ministers, then it is the most wonderful thing that we have ever had, but in the occasions when it is not complementary about Ministers, then there is every reason brought up as to why it is wrong and they have not done their research properly and really it is their fault everything has been held up. Well, this has been held up for how long now? 15, 20 years or something. So if it is delayed a little bit longer, please do not blame this Assembly. Blame the previous Assemblies for not sorting it out. I spoke of parking. My concern is that Ministers have tried to persuade us that there will be little deleterious effect on the Green Street public parking. I am not persuaded by that because in my view, at the present time, the reason why few police officers come to work by car is because there is no real provision for it in that area. It has been confirmed that it is not possible to dictate how an employee comes to work in their contract. I am afraid that quite a number of police officers who may not presently drive to work, when they find that there is a multi-storey car park when they arrive early in the morning for work that is almost completely empty right on their doorstep, they will buy a season ticket and they will use it. So I am concerned of 2 aspects. The fact that the building of the new police station will lose some of the existing car parking space and that the private use of the other spaces by police officers will take away even more spaces. If this still slightly unsatisfactory situation had included sufficient new parking spaces to offset those that were lost not only by the building but by the ones that I believe that the officers will take up, then I would be a lot more relaxed about it than I am. This scheme does not do that, so for that reason alone I am going to be supporting Deputy Martin. As other Members have said, there are other options but we do not seem to have heard a great deal about them. It seems as if the Ministers have become obstinate and do not really want to talk about them. I believe at one time there were almost 20 other options. I tried to explore what they were and got virtually nowhere. I think that is unsatisfactory.

#### **1.1.8 Connétable P.J. Rondel of St. John:**

I sat on the Scrutiny Panel along with Deputy of St. Brelade, Mr. Young, and Deputy Luce of St. Martin and including a co-opted member, Deputy Maçon. The 4 Members did an awful lot of work in a short period of time. It is a real shame that some of the people we interviewed, Members of this House, were not as forthcoming with information as they could have been and would have made this debate an awful lot easier; an awful lot easier. I will start in order, I suppose. Home Affairs: the Minister for Home Affairs attended by himself with his crib sheet and answered the questions as per his crib sheet. You may have some other expression for using it. I call it a crib sheet but he may call them his notes. Unfortunately, some of the questions we were putting could not be answered by the Minister because really he needed the technical background and usually on something like this I would have expected the Minister to come along with his advisers, those who knew the subject. On this occasion they did not. I think back to my days in the police court when the Senator in fact was a young advocate and I was prosecuting and he was defending and I can recall well the day that he became magistrate, I think his words were: "Well, we are both on the same side now so I can win the case." I think that is roughly the words. I do not ever recall him winning a case against me when I was a Centenier, but he may have done.

#### **The Bailiff:**

I doubt that he thought the magistrate was on the same side ... **[Laughter]**

[10:15]

#### **The Connétable of St. John:**

Anyway. I will move on. It would have been useful if the Senator had brought his advisers along to answer the questions. This meant that we had to call in the Assistant Minister for Treasury and Resources, the Deputy of St. Lawrence or Deputy Noel or one of the Deputies of St. Lawrence, who came along and, yet again, we started questioning him and his advisers and we got to a point where evidence was given that there was a possibility of some 40 car parking spaces being made available by private treaty, for want of a better word. So we asked for information on that and he said: "Cannot give you that, it is confidential." So it was suggested that this be done in confidence to the panel so that we could check facts, et cetera, but this was never forthcoming. They kept on stonewalling, for want of a better word. My words, not his. We were stonewalled there so we could never get to the bottom of where these 40 spaces were. It could have been anywhere in St. Helier and to park 40 cars in the Green Street area, within the area near the proposed site, we did visit down there and we thought: "Well, where would there be an area big enough?" We are talking, probably, if it is in Green Street, something of about half to three-quarters of a vergée, access is bound to be poor so I am looking around. I do not see any land that could fit 40 vehicles in, plus have access. Looking at Grenville Street, similar. I thought: "Well, where is this?" So in the end, myself and the remainder of the panel, my colleagues, we had to dismiss this because it was not identified to us. If the Ministers and the Assistant Ministers and Home Affairs want to push this through on the back of what we heard from the Minister for Home Affairs yesterday, on the hoof, because he was coming up with ideas of additional parking spaces, another half a floor, with something similar to a catwalk over to the police station with security doors, et cetera. All well and good but if I was a developer, I would expect to have to tick all the boxes before going to Planning and make sure that all of those boxes were ticked. Not do planning on the hoof as was happening in the Chamber yesterday evening when we went into recess. It was probably just as well because the hole that the Minister was digging for himself was getting bigger and bigger. The Minister is a good friend of mine, I do not like to say it, but it was not his best hour. Therefore, we need to be able to have certainty and Scrutiny is evidence based. There have been 2 Scrutiny Reports; the evidence is not there for the parking in St. Helier, for the parking in the Green Street area. It has not come forward and how on earth we can expect the public and developers of the Island, who have to tick every box before they can get any planning through, and yet the States Department think themselves above the law, above the process and come to this House with things on the back of a cigarette packet is unacceptable. Things went wrong a few months ago with the previous site and the building was sold from under our feet and this to me is a knee jerk reaction. Surely, if we are going to listen and expect States Members to spend many, many tens of hundreds of hours on pulling reports together and they are not listened to and no notice is taken of them, in fact they were rubbished. To me this is treating the Members who have put these reports together with contempt. Ministers and Assistant Ministers rubbished these reports. It happens far too frequently. I thought on this occasion we had a body of 4 guys who put their hearts and souls into this to try and get this through and we looked at options, we made suggestions and nothing was picked up or has been picked up by the departments concerned. As for police headquarters, I visited it along with the Constable of St. Martin and Deputy Martin last week and went over the police station area where the custody suite is. Yes, that is atrocious. Back to the days when I was a Centenier in the 1970s. Things have not changed other than a covered area outside. Things do need to change. Likewise, I went into the old BBC building and the old factory and saw the conditions there. As the Constable of St. Martin rightly said yesterday: "Yes, we will build this but in a very short period of time, we will need additional space and it will not be going up 2 or 3 storeys that is going to give you that additional space for some of the equipment that the officers will be needing." If we are doing it, let us do it right. We had a perfectly good site on the Esplanade. We had plans, when I was on Home Affairs, back at the turn of the century. The only comment that the Home Affairs Commissioner of the day said: "No, we cannot accept this part of it", i.e. because there was big tank walls and blast walls to be built all around it possibly because it

was the influence of certain officers of the day. But we did not reject the site at the Esplanade as the wrong site for a police headquarters. That was rejected by the people. We asked them to go away and review it but they went away and they looked for other sites and most recently have come up with this one. I do not believe in doing this in 2 parts because what will happen, we will be there, we will finish this job and we will be looking for an extension to the site within 5 to 7 years and therefore, I cannot support this.

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

Could I just speak clarification from the last speaker? Could he confirm if it is a minority report and, if not, if all his panel members agree with the findings and recommendations?

**The Connétable of St. John:**

As far as I am aware, the findings and recommendations were agreed by the 4 members. How my colleagues wish to vote and they will be voting for various reasons that they want things to move forward and they will accept possibly a different standard to myself, it will be their choice. That is all.

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

At the end of yesterday's sitting, some of us were gathered just here to the right and the Minister for Treasury and Resources, with his undoubted charm and eloquence, approached me and asked me how I was going to vote on this and I am still not going to tell him. **[Laughter]** He has undoubted persuasive skills and indeed I would say to the Assembly that the Senator's presence is undoubted in where we are today and cannot be disputed as to the evolution of the States of Jersey Police and their need for a new headquarters. I also, yesterday afternoon, slid over the Minister for Planning and Environment ... **[Laughter]** I do not know how people's minds work in this Assembly. I went over to the Minister for Planning and Environment, sat beside him and asked him how he was going to determine this application, because it is a live application before the Minister for Planning and Environment, and asked him whether the Planning Panel would have any say in this and he confirmed that he would be determining this application. It is a live application and I do note that there are 50 other planning experts in the Chamber who have 150 views as to how this building should be evolved, located, created, traffic managed and everything else. I have to collate and analyse all of these things to make my own decision. One thing I have noticed, I do not know whether Members have noticed this, is that the evolution, transition and development potential of this site has been nothing short of meteoric. We have been told consideration has been going on for years and years and years on the Summerland site and other sites and sites were critiqued and sites were analysed. Sites were written off, sites were dismissed and other sites were added on. They are all in the 30-something page submission adjoining Deputy Martin's report and proposition and certainly, we jump from Summerland to Lime Grove to Green Street. I find that if we were able to emulate that in future decision making with regard to how we locate strategic buildings to do it all in a year, we would obviously learn so much from this process. I say to myself that if this Green Street site is so good, how did we miss it? How did we miss it for years and years and years that we owned this site? It ticks so many boxes and we missed it. So Deputy Noel and the Minister for Treasury and Resources are nodding furiously that we missed it, but I have to say that I do not think it is an obvious a peril of a site that seems to be the case and looking back at some of the Summerland figures, and I know that Deputy Le Fondré is far more expert at it than I am, and indeed Deputy Young in his time at Planning had some input in this. I know that some of the figures that I have seen, for instance, the Summerland car parking is costing about £20,000 whereas the extra Green Street car parking is costing somewhere in the region of £53,000. I know that the access to the back, that the States currently own Summerland, and powers to the access to the flat site at the back is an area of dispute and that has been negotiated for something

like 7 or 8 years. I refer to some comments that some specific Members made. Senator Le Marquand said that he went and paced, I presume, the pavement to check the location and the proximity of the Green Street site to the roundabout. Well, if it is not on the roundabout, it is pretty close to the roundabout and the traffic circulation in that area will be affected by the to-ings and fro-ings from this proposed building if it is built there. The Constable of St. Peter said that it is the fault of this Assembly that we are where we are today and I would dispute that. I would say that the delay and the obfuscation and the procrastination largely occurred outside the arena of this Assembly and that we are being forced to make a decision today that is overdue but we have many precedents in the States for delaying and procrastinating and this is just one of them. I draw Members' attention to some comparative examples of buildings that are not fit for purpose that have either been replaced or are in the process of being considered for replacement. For years and years and years, the facilities at H.M.P. (Her Majesty's Prison) La Moye were regarded as substandard and it took years and years and years for staff and inmates and visitors to put up with the conditions there, but eventually we did get around to it and the lead-in time of that was extremely slow. I would also say that there is a big debate to be had on the hospital. We know about what happened to d'Hautree School; it was demolished. I would say the facilities at South Hill are as bad if not worse than some other buildings and indeed, in my own patch, Quennevais School. So there are buildings that are not fit for purpose on the Island and we have to keep the debate on police headquarters in context. I quote from an email that was sent to all of us from the former Minister for Transport and Technical Services, Deputy de Faye. On the second page, he made some relevant points and he said: "I would also like to note that I am very sympathetic with the embarrassment of the Chief Officer of the States of Jersey Police in respect of the decrepit nature of his working accommodation, however, the adverse conditions from his recent reports appear not to have hampered the Jersey States Police when he describes it as being comprised of the finest officers and staff that he has worked with in over 30 years. This seems to be underlined by recent statistics that the levels of crime in Jersey are currently falling. Consequently, I would venture to suggest that although the Council of Ministers have termed current proceedings as critical, other buildings cause the same problems."

[10:30]

I would say that in other areas, for instance the school I referred to, they are dealing with an equally difficult building to deal with but education standards are as high there as in any part of the Island and police standards have not dropped because of this building. My view is that we do need a new building; we do need a new building urgently. Many Members have dealt with the parking elements of this, the loss of parking, and the effect that the occupation of Lime Grove House will have and so on. I am going to wait for Deputy Martin's summation, because I have not made my mind up. To borrow a phrase that is often attributed to Deputy Le Hérisier, I am sitting on the fence on this one. **[Laughter]**

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

Two Scrutiny Reports later and here I am. I just want to make it very clear to Members that I do not speak in the capacity as chairman of my panel. I speak as a States Member in my own right, I will just make that very clear, which means that I can step out of the bounds that one would constrain oneself in if one was speaking in that capacity. That does respond to the point that the Deputy of Grouville asked: "Why can Scrutiny Panel members start taking different positions outside their Scrutiny Reports?" Again, to draw Members attention back to the Scrutiny Reports, it is because in our terms of reference, we looked at specific matters within those reports and as for the wider considerations, that of the economic ones, the housing ones or whatever, we did not do a full kind of proposal review of the entire impact of everything that the new police headquarters

would do, which means that Members can take these other matters into consideration when coming to a final decision in this Assembly. Of course, you all knew that, but I just wanted to make you aware. We have had a lot of speeches today and yesterday about different things so we have not had much evidence in order to back up those particular attitudes. I do have to echo the comments of the Constable of St. John. It is very disappointing for any member of Scrutiny who works incredibly hard to provide information to this Assembly and then when Members are giving their speeches, no reference is made to any of those reports or any of the evidence contained within those reports. Sometimes you do get the feeling that Members have not even bothered to look at them. But of course, naturally Members have not done that and I am sure they have read all the way through the reports. Of course, as they would. But there are some points that I want to touch on which have not quite been made. On page 42 of our initial Scrutiny Report, that is the Education and Home Affairs Scrutiny report, when we were looking at the information, one of the concerns raised with us was the ability of visitors attending the police station, and we have a graph on page 42 of our report, which shows visitors times and when people most often attend the police station and when that happens. Now, I accept the argument that is not as much at Social Security but as we have already said, people do park, whether or not so legally, right opposite Social Security, in that road, that does happen and we are all aware of it. So you cannot say there is not a need for visitor parking when it comes to public buildings. Again, Cyril Le Marquand House of the Tax Office, you have got parking not so far away from it as well, by the park, along there. Members are looking confused. There is parking there as well but it is not necessarily provided by the States. In this particular example, we are arguing that it is. To get back to the figures, what the graph illustrates is that the majority of visits to the police station occur between 8.00 a.m. and about 11.00 a.m. You have a spike there and then there is a dip in the lunch hour, though still quite high, and high again from about 2.00 p.m. to about 4.00 p.m. So this is to illustrate that, as we know in the evidence which we have released and also backed up in the Environment Scrutiny Report, which shows that, in particular, and it is backed up by the arguing of the Roads Committee of St. Helier, that between the hours of 8.00 a.m. to about 2.00 p.m. the junctions in that area, the amount of parking in Green Street is at its full capacity, its maximum. What the evidence illustrates is not that we should be reducing the amount of parking in Green Street. The evidence would illustrate that there is excessive demand in that area and we should be increasing it, if we were there to be delivering public demand. Even then, if we look at the survey done by, I believe it is Transport and Technical Services, looking at those who do use Green Street Car Park and when asked if Pier Road was an alternative to Green Street: "How convenient is that for you?" Between "not convenient" and "not very convenient at all", 94 per cent of the respondents said it was not workable for them. Now, those primarily are those who are working in that area already, without factoring in those who will now be working there because of who is operating now in Lime Grove House but also the issues that that would have with the police station. Now the figures which we have in the addendum to our initial report on page 13 show the trends within the uniformed police officers as well as the civilian staff. Of course, the most noticeable trend there is that while the police officers have been static and there has been a slight reduction, this has to be taken with a pinch of salt in that the C.S.R. (Comprehensive Spending Review) process has occurred within the last couple of years. Home Affairs have admitted and agreed that they have kept the number of officer spaces down although they have capacity for more; they have kept them down in order to stay within the budget. So one has to be very aware of what these numbers mean and what else is happening behind the scenes. What is important to note is the amount of civilian staff and how that has increased over the years and the majority of the civilian staff work between the hours of 8.00 a.m. and 5.00 p.m. Not all of them, necessarily, but in that majority of time. So again, it is showing that there is an increase in the police buildings of individuals working between regular office hours, which means that the demand on things such as Green Street Car Park is increasing. What the figures also show is that with the continual passing of legislation within this Assembly,

that the numbers needed at the police station are continually growing. It is one of those services that if you have more laws, if you have more regulations, you need more people in order to carry out what this Assembly demands of them. In particular, you notice a certain spike when you look at the growth of things like the Financial Crimes Unit and, again, how that affects the figures. Now, when I came to this subject, I came with an open mind. I was sceptical but I was willing to accept the evidence which was produced and I was willing to look at the figures, because that is the role of Scrutiny and that is what we do. I would argue that, looking at the figures, it shows that the ability to grow, the demand that it put on the resources of the police increase over time. I do not think that is a radical statement to make. So what does that tell us when we want to build a building that will last not 10 years, not 20 but 50 years into the future? Now, again, because I also sit on the Planning Applications Panel, very much when I am on that panel, my considerations are not how this building will work or look within the next 10 years, you have got to think about what it will look like and how it will function in about 50 years. Again, our panel looked at the issues around the future proofing. About this idea of having the 10 per cent extra in order to expand the police space: now the argument is that we built that in, so that will give us an extra 10 per cent in order to be able to expand. That is by basically within the police station either fitting desks closer together or, because the walls are partitioned and therefore they are flexible, the inside of the building can be moved around. But if the demand exceeds, because they are moving to a more open plan type way of working, the issue is all the private rooms which have been put in in order for the police to be able to carry out things when they have to do the private, confidential work. If the demand grows, well what is going to happen? If it is so easy to take down walls and move them, what you are going to lose is you are going to lose all those extra spaces which had been built in and again, they have been put in there because of an established need. So again, when we are looking at the issue of future proofing and what is going to be taken away and how it is going to work, again, this is where my panel started to question and be a bit concerned about: "Well, how is this going to work and how is this going to progress into the future?" But, do not worry, because there is a solution. We can now extend into Green Street. If there is a problem, that is what we can do. We know that Green Street is getting close to being past its liveable life as it is anyway, so they want to possibly extend it to the next 15 years. We know basically what needs to happen is Green Street needs to be knocked down and we need a new car park there. The issue is, there is not enough money in the car park tradings fund in order to be able to do that within the foreseeable future. We have checked the figures; we have that information. We did that when we did the Environment Scrutiny Report. The problem then is, we want to expand into a space where we know there is evidenced need that we need to use that space more for car parking for the people who live and work in that area with the extra demand that the police will put on that site. Can anyone else see a conflict here? Does anyone else see a problem that you are trying to use the same space for the needs within the future? The issue I find there, it is not impossible. Potentially, there are solutions but again, based on the evidence before us, I am not satisfied because all of this is up in the air. We do not have anything concrete in order to support that. The Minister for Planning and Environment has to consider the application as is presented before him. He will not be able to consider variations of what we could do with Green Street and with the police station and he will not be able to say: "Right, well you need to add this on ...". Because the problem is, as we discussed in the Environment Scrutiny Report, what we wanted was some sort of master plan to incorporate both the sites, to incorporate the Green Street site and the police headquarters site because there is a way forward there, but not from where we are. Not with what has been submitted and not how things currently stand and for us, that is the problem. The Deputy of St. Helier commented how we should make a positive decision. It is always interesting, when you have an opposing view, you are then suddenly deemed as being negative. But I do not want to make a positive decision. I do not want to make a negative decision. I do not want to make an indifferent decision. What I want to make is the right decision. What is right for the police, what is



right for the public who have to visit that area, for those who have to use that building, for the businesses and for the people who have to still continue to work in that area. My Connétable said yesterday we are spending a lot of time arguing about parking, but it is not just about parking; it is about people. It is about those people who have to be able to use that space in order to carry out their working lives. It is not just about parking; it is about people. Some other comments that I do want to highlight ... again, late November, December when this proposition first came to the House, we highlighted for Members some of the problems we found had occurred within the consultation of the police force itself. One of the first things we wanted to do on our Scrutiny Panel was talk to the frontline staff to understand their feelings and attitudes, what their needs were, how they had been consulted in order to draw up the designs.

[10:45]

We thought that was quite a natural process and was not particularly rocket science because you would want to understand what the user needs for a building were. We found that, despite the fact that a planning application had been lodged, and that those processes were going on, the frontline staff had not been properly, if at all, consulted about their views on the building, which we were not happy with although, because we did get involved, that has now happened. The new Police Association have sat down with the design team and they have been able to improve the building to better suit their needs, which I think is a positive. All round, whatever happens today, that is a positive. Although, we would hope that Ministers, particularly Property Services, would perhaps be a bit more robust when thinking about the service users, particularly in mind with the new hospital coming along, that there would be much earlier staff engagement and staff representation when designing these types of buildings. I do not think that is an unreasonable request to make. As I say, one of the biggest concerns for us is the future proofing. It is the: “Is this going to be a good spending of public money?” Not with any potential gangways, which may come out from the Minister for Home Affairs’ mind as a rabbit out of the hat because we have a perceived problem. As I have said before, and I want to reiterate this point, the Minister for Planning and Environment has to decide on the plans before him. Not what, as Deputy Martin said: “Do not take anything that is said to you as a promise in this Assembly.” The Minister has to decide on the plans before him. There are some other points and I just want to reiterate them. I am trying the patience of my Connétable but I shall be very brief.

**Connétable S.W. Rennard of St. Saviour:**

Sorry Sir, if I could just interject here. I have no objection to my Deputy talking at all. He is very knowledgeable and I am very impressed by him.

**Deputy J.M. Maçon:**

Thank you very much, Connétable. Through the Chair, Sir.

**The Bailiff:**

I think, Deputy, you just introduced a new method which other Members will follow to obtain approval from their Connétable. **[Laughter]**

**Deputy J.M. Maçon:**

What would be wrong with that, Sir? Also, some of the points which we need to talk about. When talking about the Summerland site, one also has to remember that within those plans, even if the housing development needs to go forward, that the strip of land that is not in the States ownership, it would be highly recommended that it was purchased and that comes to about £1.5 million. So, either way whether you are saying we would prefer this on the Summerland site or we would prefer it on the Green Street site, either way, that cost would most sensibly be incurred, I would argue. So

in conclusion, while I absolutely echo all the comments that have been made about the police needing new facilities, that where they are currently situated is inadequate and that a solution does need to be found, we have to ask ourselves, in what is being proposed, do we believe that the plans as designed are going to be sufficient for the next 50 years for the growth of our police force? Based on the evidence that I have before me, I am unable to say that I believe that that is the situation and therefore, that leaves me no other choice but then to support the submission of Deputy Martin, because the Minister for Planning and Environment has to make a consideration on the plans that have been submitted before him, not anything else that this Assembly has talked about during this debate.

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

I have learnt something today after a number of years in the Chamber and that is to speak quite soon in these big debates otherwise everyone else will have said what I was planning to say. That said, I would like to refer to the proposition and I do not think that we have looked at that during the debate. [Laughter] I think we have skirted around it. What I just want to do is remind Members what we are being asked to do today and that is, we are asked to decide whether we are of opinion to request the Minister for Treasury and Resources and the Minister for Home Affairs not to proceed with proposals for the development of a new police headquarters in Green Street Car Park, St. Helier. A couple of ancillary items as well, but that is what I want to focus on very briefly. An olive branch was offered yesterday to the Ministers by Deputy Martin who has brought this proposition and it was rejected. Clearly, the Ministers are not minded to withdraw the application which is in front of the Minister for Planning and Environment. What I want to say, I do not think it has been said. We have heard from Deputy Power that it is a live application but not only is it a live application, it is now ready for determination. It is ready for determination and that, I do not think, has been emphasised. That is the point I wanted to make. I think it is too late for us to agree with the Deputy and I genuinely believe that, as it is ready for determination, it must be allowed to go through due process and the Minister must make his decision on what has been submitted to him. If he decides, and he clearly is bound to act within the Planning Law, that all the comments that have been made within this Chamber are pertinent within the Planning Law, then no doubt that will influence his decision. If he rejects the application, then all the comments that have been made within the Chamber must then be taken into account by the Minister for Home Affairs and the Minister for Treasury and Resources when they go back to the drawing board.

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

There have been so many long, rambling speeches over the last couple of days that I felt inspired to make a long, rambling speech myself but I will try not to do that. I support the police. I would just like to set the Connétable of St. Saviour's mind at rest and say that I have been to the police station 10 times in the last 12 months. None of the charges stuck so do not worry about it, but I am well familiar with the needs of the police force. What I want to take this back to, because we seem to have heard everything except the kitchen sink, is the real reason why we should consider voting against Deputy Martin's proposal. That comes down to this, I think. A few years ago there was a commercial on TV and the gist of this was the contention that the most disappointing phrase or term in the English language was the expression that something is: "Okay." Whether this is okay and if that is good enough, that is the only reason to vote against Deputy Martin. If we are satisfied with shelling out millions of pounds of taxpayers' money on something that is simply okay, it is not ideal, it is not the best we can do, it is not what we need, then people should vote against Deputy Martin. I, being a positive person, think that the public and the police force deserve something far better. They deserve something that will serve the Island well for years and Deputy Maçon made that point and the Connétable of St. John has made it and I think Deputy Baudains touched on it as well. Let us enlarge on this concept a bit because we have heard what some have referred to as our

shroud waving. We have heard about the need for housing, now we know that is an urgent need. But in considering what the Council of Ministers want, let us imagine you are a family of 10. A nice, big, large family, like the police force. You know you need a 5-bedroom property but you are crammed into a one-bedroom. Now, if you are suddenly offered a 2-bedroom, it might seem very appealing but if you do a bit of detached, stepping back analysis of the situation, you know that it is not the long-term answer. It is only going to be a short time before you are back complaining again that you have not got what you need. If we go against Deputy Martin's proposal, that is where we are going to be. This proposal from the Council of Ministers, it can never be anything more than okay. It can never be anything more than a make do. To my way of thinking, as a positive politician who likes to see the bigger picture, it will never be anything more than not fit for purpose. At this point, I have to risk doing something I do not normally do and that is risk upsetting someone because my good friend the Minister for Treasury and Resources, a key driver to why we are being here, has to be, and to be fair to him he stood up and said it, his part in the Lime Grove House saga. That is one of the real reasons we are here. Does anyone not really marvel at the coincidence that the best solution to our problems and the police problems just happens to be right next door to the site that the Council of Ministers messed up? I nearly used an inappropriate term. If this site is so good, as someone said, how did we overlook it? Was somebody's fag packet on the master plan? I guess it must have been. It is not being a "cannot do" politician to want the best for the Island and the best for the police force. I think Deputy Bryans, in his speech, he needs to focus on that a bit. This is a make-do proposal from the Council of Ministers. It is ill thought out and it is a disastrous hotchpotch in reality if you consider the long-term traffic and parking plans. You cannot get away from that fact. For example, as a former member of the Fort Regent Steering Group, when it was functioning, I do not think it is really now. I might be wrong. One of the points of it was that there was going to be joined up thinking necessary for the Fort, for parking, the Snow Hill Car Park has huge potential to play a major role, not just in easing the parking problems of the town but also in regenerating the Fort. There are possibilities to open up the former cable car site as a restaurant and build in access through there. Joined up thinking, where has all that gone? If we accept Deputy Bryans make-do approach to politics, we will lose yet another opportunity. The Constable of St. Peter said it was all of our faults that we are here today, well, I do disagree with him on that. I think it is the fault, mainly, of the people who have been in key positions who have not done this over the years. I do not consider it my fault. We have got a chance and I can play a part now in coming to the right decision and that right decision will be to support Deputy Martin, I would argue. Unless we are happy with this okay solution. We should not be bulldozed into going against the Deputy and just jumping on this site down at Green Street. There are loads of unanswered questions down there. This issue of flooding, which I do not think anyone has tackled, and there is a problem down there. Perhaps Deputy Martin will touch on that when she sums up. It is on a roundabout. It is a lovely vision, imagining the Minister for Home Affairs pacing, marching perhaps down the road measuring how many yards it was, but it is on a roundabout. It is not an ideal place and we are being fed some red herrings. It is going to boost the economy down there for businesses, all the restaurants. But how? Are all the prisoners going to be taken in for a last hearty meal before they are sent down before the beak, as they say? Is it the police officers who are going to be going into the 4-star restaurants because they are going to shun their cramped cafeteria? You know, let us not exaggerate what having this in St. Helier No. 1 is going to do for the residents there.

[11:00]

So, really, I think what we have got to focus on is the last bit that Deputy Maçon talked about. It is that long-term sustainability. The issues that led us here, the problems, the disasters of Lime Grove House should not be swept under the carpet. We should not have a knee-jerk reaction to just doing

this because it gets things forward, because ultimately, it is not a positive step forward. It is not the answer. As Deputy Maçon said, I am quite with him on that, I do not want to make a decision. I want to make the right decision and after all the years of messing around with this, I do not think a few more months is going to make any difference. What is this reluctance to looking at other sites? I strongly believe the waterfront should be used but we know there is an absolutely “no-no” mentality from the Council of Ministers on that. Leaving that aside, this site is not ideal. Within 10 or 15 years, another Assembly will be back here again. That is reality. We have heard about people ignoring Scrutiny. Well, that is the reason I am not on Scrutiny anymore because I have taken part in a lot of very thorough, very time consuming reports and they are not even looked at. They are dismissed because they do not fit in with what those who really hold power here want. That is not the way to do politics, I do not believe. Has anyone really considered this issue of parking and the disabled? Has anyone asked the Disabled Association, who are strongly against this? Has anyone who is so keen on this site asked them about that? Anyone who thinks you can really take shortcuts on visitor parking need only come down into Deputy Martin’s and I’s No. 1 District and come down to Berkshire Court opposite Social Security and you will see what happens there: nose to nose, tail to tail parking, pretty much throughout the day, making residents’ life a misery there and risking accidents. Indeed, it is only going to be a matter of time before someone is killed down there because of people crossing through cars. So if we have not got the adequate parking for visitors, if we cannot even fully include the disabled in society, what sort of message does that send out? Like Deputy Maçon said, let us make the right decision and if that means delaying things slightly, let us go for it. It is a good olive branch that has been offered today. Let us for once look at the bigger picture and be a “can do” rather than a “make do” Government. Let us make the right decision. Let us support Deputy Martin’s proposition and let us ultimately achieve what we surely all want: a police station that is going to last for 30, 40 years or more. It is going to be right for the people who work there, it is going to be right for the community that it is meant to serve and I will leave it at that.

### **1.1.13 Senator I.J. Gorst:**

I want to start by disassociating myself, the Council of Ministers, and I suspect, every Member of this Assembly with what I understand were some throwaway comments in the media last night. **[Approbation]** It is right that in this Assembly we have appropriate and robust political debate and that is what we have been having over the course of the last day and I hope that that is how people have entered this debate. I know that the mover of this proposition would not in any way personally be offended by such comments but I think it is only right that we do disassociate ourselves and deplore them, even if they were said in a light-hearted manner. I do not often disagree with the Dean and I am not sure that I do in this instance. He talked about his dream of the future and this is a Council of Ministers which does have a dream and a vision for this community and we are seeking to deliver on that vision, not only for the future, but for today. But I hope that he would agree with me that perfection in this life, and I will be careful how I phrase this, does not exist. It sounded rather to me as though his dream being translated to this life was one of perfection. Why do I raise that? It is quite simply this: because if I pick up on the Minister for Home Affairs’ opening comment, and perhaps the most powerful comment that he made, and that was that this plan is not perfect. This site, this police station is not perfect and we can continue another 20 years looking at the same 20 or however many sites, and we still will not find perfection because it does not exist. But be in no doubt, unlike the last speaker, I believe that this is a good plan, it provides a good police station and it is not simply making do. It does work. Many Members have talked about various technicalities around the building site. We know that there is room to expand in the building that is being proposed. Some Members do not believe that that allows expansion for the next 50 years. I do not believe that we can develop assumptions that will give any certainty around what might be required in the next 50 years but we do know that it is next

to a piece of publicly-owned land anyway and we do know that there is expansion ability within the building. So we also seem to have heard a number of differing opinions with regard to the parking. It has been suggested that police persons are going to come to work in the car now and they have not in the past because there was no car park nearby. Yet now we are saying that it is not an appropriate site because there is a car park nearby and they are going to come in their car. I believe that other Ministers and Members have addressed the parking issues and there will be and have been proposals considered and I do not believe that Scrutiny should be so downhearted in regard to the response of Ministers for the work that they have undertaken. I do not believe that that is a correct interpretation. So, the Connétable of St. Lawrence asked what happened to the olive branch, and she was right to do so, but then I believe that she answered her own question very admirably anyway. Perhaps I could just add to that, but of course Ministers regret not being able to accept such an olive branch but by doing so it would mean the withdrawal of the current planning application and with the best will in the world, that would put into the process a delay of anywhere between 18 months and 2 years. Therefore, I believe that that planning application needs to be determined. I see that some Members are complaining and suggesting it might not be that long but they are the very same Members who are outlining to me concerns that they have about the time that things take in that regard. Let us move on from that point. Other Members have suggested that we are facing this problem today and it is not of our making: it arises from problems and decisions or lack of decisions in previous Assemblies. So, we are the elected Legislature and Government of this community and I believe that it is incumbent upon us to make decisions. Not to blame occupiers of our seats from the past, but to be a Government that solves problems and that provides solutions. If we accept Deputy Martin's proposition today, then I am afraid that is not what we will be doing. We will be passing this decision to another Assembly that comes after us and I do not believe that that is right. That is not the thing that we should be doing. We have a good solution in front of us. It is not perfect. Perfection is not attainable. This is a good solution and I ask that Members reject the proposition before us and allow the police to have their new police station that they justly deserve and they have been kept waiting far too long. Thank you.

**The Bailiff:**

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

**1.1.14 Deputy J.A. Martin:**

I am sorry, I did have to nip out for a comfort break while the Chief Minister was speaking but I did get the gist of what he was saying and he follows on with a lot of other Members that the police have waited far too long. I will start with Deputy Noel who after lunch yesterday, and the Chief Minister has just apologised for something that happened in the media. At least the media had the courtesy to tell me what was going on. But when I got back from lunch Deputy Noel confirmed that they would not compromise in looking at the whole site again but he did say there was a possibility of spending another £1.2 million to put 53 spaces on half a deck at Green Street. When he was pressed by Deputy Le Fondré on where this money would come from, he said the revenue from the 53 spaces would bring in the money. Well, I was hoping then that the Minister for Transport and Technical Services might jump up and say: "Well, I have got £2.5 million in my car parking trading fund because I am going to spend it on Snow Hill." But you see, if Scrutiny had been told these things when they were in the hearings, all this could have been ironed out. But of course, they were not told that. Deputy Noel said it was not progressed because they do not think they need any extra spaces at Green Street because you are going to have Snow Hill and you have got plenty of spaces at Pier Road. So again, when pressed I am not sure. As I said yesterday, I wanted a firm commitment from Treasury, the Assistant Minister, someone with authority to give me the compromise that I was willing to accept. But as I say, Transport and Technical Services seem to have been out on some limb because we do not know where they are coming from and I

will come back to the Minister's speech in a minute. Deputy Noel then spoke a lot about the new Police Chief and all he has done for the Island and have I ever said anything different to this? No, I have not. He did quote and he misquoted the Chief of Police and it was put right later. The Chief of Police did say that he has never worked in such bad accommodation but he has never worked with a finer police force and that is a whole quote that we got from the Minister for Home Affairs much later. Again, Deputy Noel and the Minister for Home Affairs got confused about the 3 dedicated so-called disabled bays in front of the police station. Obviously, it was denied later by the Minister for Home Affairs that the bays will be for everyday use of unloading, deliveries, servicing, that any office building that employs 300 people needs on a daily basis; cleaning, rubbish, everything. That is what these 3 unloading bays are there for, plus disabled parking. But the most interesting part of his speech, and he was the first to say it but it gathered momentum all afternoon and even today, was if we have got the space wrong and the site on Green Street is too small, we can expand into Green Street Car Park. That is their backdrop. So do not forget about the 200. Are you arguing over 186, 200 spaces? The backdrop is we will lose probably another floor of Green Street Car Park. I will say this was their quote when Transport and Technical Services spoke, the Minister for Treasury and Resources was quoted again on the radio this morning and the Minister for Home Affairs. So their fall-back position is to take away more absolutely needed, useable, favoured parking in town. In fact, on the 6.00 a.m., 7.00 a.m. news this morning, it was that headline: "If the police station goes ahead at Green Street, the car park will be demolished." They were not even getting rid of a few floors; they were demolishing the whole lot. So, I am not the only one who is picking up on this theme.

[11:15]

The Constable of St. Helier: well, he is my Constable and we normally work quite well together. He has changed his mind a few times on this scheme. I was approached at a Deputies meeting by Roads Committee Members who are absolutely against this building in this area. To me, they are the experts in St. Helier on traffic, not Arup, but they have been ignored. I asked all the Deputies and the Constables if I could have their support and really got quite a good sounding. Everyone is allowed to change their mind. I have no problem with that. But, in his speech yesterday, he spoke about he still believes that this will bring trade: 200 people working there will bring trade into town. People will come running down from the police station, buy their coffee on their way to work. Well, they have just come away from work. So really, I am going to have to disagree with him. The principal thing is the police will be there first. The police will park there and they will displace the workers already there so the workers who have to move to Pier Road will not be walking down into town passing La Colomberie which is already in a very, very sad state. So, at the moment, I will have to agree to disagree with my Constable and I respect his opinion. He said no Constable turned down a new public building in their Parish and then did remind himself that he would not get any rates for it but, you know, that proposition is still coming. Deputy Duhamel kept away from the design quite rightly but he did mention gaping holes in the prices of parking plots from one site to another. The Constable of St. Martin again made an excellent, well-researched speech and if anyone here is in the know, he is. He was a serving police officer for years. Although he did not mention it in his speech directly, he still has the ear of many of the serving officers. He did say he thought that they had waited so long for something better that some were at the stage where anything was better than nothing, but we know that is not the way this building should come about. He described himself as possibly an old fool. Well, we all know he is nobody's fool. He spoke a lot of sense. He knows what he is talking about. He has been on the Scrutiny Panel and, with a heavy heart, he said he had to support me because of the scheme. He had so many worries about the scheme and the size of it and the expansion that he could not go along with the scheme as planned. The Constable of St. Mary, as far as I know as of yesterday, and

I do not go around like the Minister for Treasury and Resources asking which way everyone is going to vote, I think was still undecided. She spoke to me last November and told me many of her Honoraries had issues. Maybe it was about consultation; maybe it was about the police station. I did not go into detail with her. She did tell me that she would go away and speak to them. So, as I say, I do not know which way she is going to vote but I know at least she came here with an open mind and before she came here she would have spoken to the people that matter. Well, the Minister for Transport and Technical Services, I have not really got a lot to say about his speech. In my opening speech, I asked the 2 fundamental questions. What was the solution to the drainage problems at Green Street and what was the loss of car parking spaces at Ann Court now they have sunk the shaft because it is overall town parking? The Minister for Transport and Technical Services kept to the script. He did not answer my questions but he was absolutely sure his traffic consultants, Arup, were right on parking figures although he did not have the solutions that I had already asked for. But, in the report from Property Holdings, they are absolutely right that Arup was wrong on the disabled parking bay. Now, Arup are right when it suits them; Arup are wrong when it suits them. No, Minister for Treasury and Resources, you had your opportunity to tell me where the solution was. You did not have one so I am presuming it is again something to be sorted out tomorrow. Deputy Southern made a very entertaining speech and was accused later, from the Minister for Treasury and Resources, of likening Deputy Noel to Bob the Builder, was very deconstructive. But if you look at the 22 points that were still outstanding from my opening speech in last November, the majority of the replies say we will sort this out at a later stage. They never went as far as saying: "Can we do it? Yes we can." They will look at it and try and sort it so the strap line is: "Sort it later." Poor Deputy Young and the Constable of St. John and the others who worked on the Scrutiny Panel's Report spent hours heading up meetings only to find out after they made their recommendations that there was a possibility of more spaces being added to another half a floor at Green Street and I could feel his frustration. This was never put to the panel. They had done the research and I will say again, as soon as I read their key findings and recommendations, I said, and I said it to them: "If these had been in the plans and the whole site was being looked at in one, I would never have brought this proposition in the first place" and I again I made the offer to withdraw on that compromised position. Get it right, fit it all in, keep the parking, do the much work that is needed on Green Street Car Park because it has got concrete cancer. It is not very well **[Laughter]** and it is getting more and I do not know if it can stand this half a floor. But these are all things that should have been dug out and dug into and sorted. Not on this, you know, not here. Deputy Young's panel and the Minister for Transport and Technical Services cannot agree on the amount of spaces that will be lost but we all know human nature. If you are going to build a brand new office building in a car park, with 608 spaces, they are going to park there. It does not take rocket science to work that one out. It took a survey but that survey never told them where they would be parking and it was done in 2011. It is not a travel plan but Arup, Transport and Technical Services, based all their findings on this. Deputy Green: now I have a lot of respect for Deputy Green and he produced his report yesterday with comments. Last night I had circulated to all Members a copy of an email with information I requested from Property Holdings. I have to read at least one, if not 2 important paragraphs because I am not making this up. This is Property Holdings: "For this reason, no detailed decisions have been made as to who the units will be built for, it could be A, it could be B; the method of tenure, i.e. are they sell or rent; nor who will build them, States Housing Department or its successor, a housing trust or a third party." So do not write me comments that absolutely categorically tell me that if this is not passed today, I am putting the block on 150 2-bedroom rental units. There is no budget, there is no plan, and this, I am very sorry, is absolutely not worth the paper it is written on.

**Male Speaker:**

Will the Deputy give way for a minute?

**Deputy J.A. Martin:**

Not at all. **[Laughter]** We already know. I mean, S.o.J.D.C. (States of Jersey Development Corporation) have put in the plans for J.C.G. (Jersey College for Girls) and the majority are B; B category when they state they could house 816. Well, they need 816 units but I will not be accused of holding this up. I have been a champion for housing, social housing since 1995 and I have always fought for it, but I will fight. It is not there. When it comes along, I fight for the money. I will help him. Deputy Green has told me if they go to a corporation they can borrow millions. He has not said how it is going to be paid back. Again, you know, it is all “could, could, could”. So I will not be accused of holding up much-needed housing. The Constable of St. Saviour, I thank her for her comments. I did visit on the Wednesday. I think she obviously knew that. It is a massively different scheme to what is going to be next door on Lime Grove House because that was just going to be offices and then they were going to refurbish the Rouge Bouillon site. So it is a different scheme and I am sorry that she feels that she cannot support me and I know where she is coming from. The police have waited a long time but they have also, you know, as I say, the ones who are willing to speak out, want the right solution. Deputy Le Fondré: another well-researched speech and he should know because he has worked on the project and nearly got a result. I was emailed last night and then telephoned today, and asked to telephone today, the owner of the access on the Summerland site and he tells me he has agreed the sale 6 times in 7 years. Now, somebody is not telling. There is some sort of misinformation. But he is not very happy and I do not blame him. He has been accused of holding up the site and he said if I want to go and look at paperwork, and after this debate I will, but I did not have time this morning. Why would he want to hang on to a piece of land? You know, it just does not make any sense. Deputy Le Fondré spoke about the split site again and why these plans have been changed. In Treasury’s own written questions to me last year, that was still the option in 2011. They were to expand the under-utilised Maritime House building, put the office workers in there and then refurbish the Rouge Bouillon site, leaving all the rest of Summerland, if there is money available, to do housing. If I had got an answer about Ann Court, there is Ann Court. There was an amendment in the Island Plan. Ann Court can be offices and underground parking. Again, refurbish the Rouge Bouillon site for operational. I am not supposed to be standing here coming up with sites when there is thousands of paid officers sitting outside who have been doing this for years. But these are viable alternatives: “No, cannot be done. It is my way or the high way” and this is where this debate has gone. I thank Senator Ferguson for her support and she is right to, and the Home Office and the police who were looking at this before, had concerns about both going in and out on La Route du Fort. It is not ideal. It is not ideal at all. The Minister for Transport and Technical Services said that they were going to make the pavement wider. What he meant was they are going to narrow the road. I mean, you can look at it both ways. They are going to narrow the road as you come up towards, you know ... it is just the way you say it. It is just the way you say it. **[Laughter]** There is a problem with narrowing the road, yes. There certainly is. The Minister for Home Affairs started with a quote about something. He did not luckily speak in Russian but he said and I am paraphrasing because I was writing quickly, but he did repeat it again: “The death of a good plan is the dream of a perfect one.” It has already been said, we do not have a good plan. I am not looking for a perfect one. I would live with good. I gave them good yesterday. Scrutiny gave them good. What did they give me? Nothing. He was another one again: “Should not worry. If we have got it wrong, we can always expand into Green Street” so there the theme continues: lose more parking in town. He even went as far to say, the police officers will probably prefer to park in Green Street Car Park. He also mentioned Cleveland Road but he does not go down there after 4.00 pm. I can assure you now, Cleveland Road Car Park is full of residents after 4.00 p.m. until the morning. He quoted that the States of Jersey Police Chief who said the roads around the Green Street area could cope with the parking for the officers. Not the case. We cannot do the Havre des Pas residents’ parking.



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

I did not say that.

**Deputy J.A. Martin:**

He did say that. It is quoted, it is written. The Chief Police has this in writing: "The roads in this area can cope with the parking." It is there in writing. So, I really hope this is not an option that they are going to take up because Havre des Pas is absolutely chocka. The people who live down Havre des Pas Park on the flat part of Green Street after about 4.00 p.m. in the evenings onwards, walk up the steps, cross the road and go down Green Street, Roseville Street, Cleveland Road, home. That is where they go and everywhere else is full. The road is full; the Cleveland Road is full.

[11:30]

He also said, I will just briefly: "I have completely missed the point about consultation with the Honorary Police" because he met the Chef de Police at a dinner, had a chat, asked the Deputy Chief to have a chat, and they have had some consultation and all happy. Well, I had dinner with the same Chef de Police at the St. Helier dinner and he gave me the police report which was what I quoted the other day. He did not tell me he was happy. But I would not call that consultation either and I am sure the Minister for Home Affairs knows that is not consultation. He said: "They will be happy. They are going to be left to the next stage." Not what I am hearing. There are a lot of unhappy Honorary Police out there. They have got a lot of input, should have been consulted at the beginning, not at whatever stage. This ought to have been said again. I mean, it got to the Assistant Minister. He turned to his Assistant Minister and off the hoof he came up with a solution, back of fag packets, already been said, of there is going to be ... now we are going to lose more parking in Green Street in the southwest area, there is going to be a ramp across, there is going to be a bell to ring and if you followed all the signs right, the public can get into their police station. Whoopee. But I do admire him because he is trying to sell the massive, massive problem all on his own with his Assistant Minister. This should not be happening. This is ridiculous. You are talking about a brand new, state of the art police station. We have never had one before in Jersey. It is a public building. Absolutely it is a public building. He went on to mention Summerland versus the costs and everything like that but we do not know. We cannot ask. I have been given some figures but I am not here. It cannot be on the House that we start discussing Summerland against Green Street. Senator Breckon spoke and I thank him for his help and his support and his comments. But, like Deputy Bryans, Deputy Green, the Constable of St. Brelade, they came in this House to do things, got to be done, got to be done, and they are not going to procrastinate for the 13 years like I have done. I have done nothing. Oh no, nothing. You know, they are doers.

**Male Speaker:**

The Deputy should not be so hard on herself.

**Deputy J.A. Martin:**

They are doers and I wish them good luck in doing something but I just hope you do it right. The Constable of St. Brelade did ask me and I am not sure where he was coming from, what position would I be taking if I had got the other 4 votes and be the sitting Minister for Home Affairs. I hope he is not trying to say that for the public good, I would compromise my politics or what I thought right to secure a ministerial position because the day I do that, I will be running out of here and I will not stop to look back, I can assure you. **[Approbation]** I am nearly to the end. The Deputy of St. Mary is not supportive. He thinks we are arguing over sort of nothing really and the parking is not an issue. Well, parking might not be an issue in St. Mary but I do believe the Constable of St. Mary gets it. She does get it. Deputy Baudains: again, it was all about Scrutiny, solutions, why is

Scrutiny good when it agrees and why is Scrutiny not so good when, you know, even worse, how dare Scrutiny come up with a better solution? One that works. The same, I think Deputy Power mentioned the site. Where did the site come from? Someone was in a hole, fell down the hole and realised there was a hole that we own, in Green Street. **[Laughter]** Now, dig us out and get me a police station in there and get it done quickly. The Dean has a dream. The Dean has a dream for perfection. It is only a dream but he said in his speech: “Why can we not all be happy? Why can we not get a bit of that? Why can we not get the parking? Why can we not get the police station?” Scrutiny said that. I said that. I said: “Go away and look at it again. Do it.” So the Dean’s idea of perfection or his dream is there. It is getting Ministers to accept it so I am sorry to the Dean, I totally agree with his sentiment, but I disagree that the perfect solution is not just around the corner. It is here. It has been done. Deputy Maçon: again, he knows his stuff. He has been on the 2 Scrutiny Panels. They were sent down a blind alley in the first. They were told everyone was happy. The day before the debate, they found out not so happy. Go away and do better, talk to them. Well, the police apparently wanted to speak. So, he knows and he knows what he said, there is a better plan. There is a better plan. The Constable of St. Lawrence, I am afraid she says I am too late. No, I am telling you what is too late is if you vote against me today. Forget any compromise, forget the 53 spaces, forget my worries about traders in Colomberie. It has got to go to a planning decision but I can feel an awful lot of weight on that Minister for Planning and Environment’s shoulders and this is where we make decisions. If you want to do something make the right decision. I think I have covered most speeches. I have given alternative sites. I have given alternative options. Again, I had emails from St. Brelade last night, yes, a couple from the district. I will not be accused that I am doing this because it is constituency. Maritime House is in my constituency and, cool, go for it. Do a better plan at Green Street, I would not have a problem if it was the right plan. Do not lose parking. I am sorry, this is an Island-wide issue, massive and it is concerning a lot of people. They are not wrong. They do not write to the paper with wrong information about how many times the sirens are going to come in and out through the tunnel, out of the police station. They know what they are talking about. I will tell how far that people have discussed this and I will not embarrass the Member by saying who they were. But I was working in here on Saturday when a States Member came in with one of their younger children. Came back about an hour later and said to me they have just said to their child: “I wonder if that lady is still in there.” I do not know how I was described: “Because she is writing a speech trying to stop the police station at Green Street” and the 10 year-old said: “She is right you know.” **[Laughter]** Obviously I do not know which way the States Member is going to vote but from the voice of babes, as I say, did it not take a child to tell the king he had no clothes on? This plan is absolutely naked; I am sorry, absolutely naked. **[Approbation]** The Minister for Treasury and Resources can shake his head. I have to rest my case there. It is easy. It can be done. I am not a wrecker. I will not be accused by new Members I am a do-nothing politician. I have come up with solutions. I gave the olive branch. The only way to make this work, and it can work at Green Street, I am not saying it cannot, is to support my proposition. I maintain the proposition and I ask for the appel.

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

A point of clarification. I regret Deputy Martin was not in the Assembly when I spoke yesterday but that underneath Ann Court there will be 185 underground spaces and I do fully support the extra level on Green Street Car Park. The up ramp and down ramp is there, certainly it is not a huge project.

**Deputy J.A. Martin:**

Sorry, Sir, he is asking me for a point of clarification on what. I was on a comfort break when he was speaking.

**The Bailiff:**

No, I think he is seeking to clarify his own speech, as I understand it. [Laughter]

**Deputy J.A. Martin:**

I am sorry, as I say, I thought he was trying to find out where I was. I was taking a much needed comfort break when he was speaking, so for clarification.

**Deputy K.C. Lewis:**

That was the point I was making. The Deputy said I did not clarify the point regarding Ann Court when in fact I did. It is 185 underground spaces.

**Deputy J.A. Martin:**

If he has to have a second speech he never clarified the fantastic solution for the flooding under Green Street car park. He does not have one.

**The Bailiff:**

No, no, we cannot go on.

**Deputy K.C. Lewis:**

I can give you that, there will be a huge police station on it, there will not be a flood.

**The Bailiff:**

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

<b>POUR: 19</b>	<b>CONTRE: 29</b>	<b>ABSTAIN: 1</b>
Senator A. Breckon	Senator P.F. Routier	Deputy R.C. Duhamel (S)
Senator S.C. Ferguson	Senator P.F.C. Ozouf	
Connétable of Grouville	Senator B.I. Le Marquand	
Connétable of St. John	Senator F. du H. Le Gresley	
Connétable of St. Martin	Senator I.J. Gorst	
Deputy R.G. Le Hérisssier (S)	Senator L.J. Farnham	
Deputy J.A. Martin (H)	Senator P.M. Bailhache	
Deputy G.P. Southern (H)	Connétable of St. Helier	
Deputy of Grouville	Connétable of Trinity	
Deputy J.A.N. Le Fondré (L)	Connétable of St. Clement	
Deputy S.S.P.A. Power (B)	Connétable of St. Peter	
Deputy S. Pitman (H)	Connétable of St. Lawrence	
Deputy M. Tadier (B)	Connétable of St. Mary	
Deputy T.M. Pitman (H)	Connétable of St. Ouen	
Deputy T.A. Vallois (S)	Connétable of St. Brelade	
Deputy M.R. Higgins (H)	Connétable of St. Saviour	
Deputy J.M. Maçon (S)	Deputy J.A. Hilton (H)	
Deputy G.C.L. Baudains (C)	Deputy of Trinity	
Deputy J.H. Young (B)	Deputy K.C. Lewis (S)	
	Deputy E.J. Noel (L)	
	Deputy A.K.F. Green (H)	
	Deputy of St. John	
	Deputy J.P.G. Baker (H)	
	Deputy S.J. Pinel (C)	
	Deputy of St. Mary	
	Deputy of St. Martin	

		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy R.J. Rondel (H)		

## **2. Committee of Inquiry: Historical Child Abuse (P.118/2012) - as amended**

### **The Bailiff:**

Very well, we come next to Projet 118, Committee of Inquiry: Historical Child Abuse lodged by the Council of Ministers and I will ask the Greffier to read the proposition and I will also ask the Greffier to take over the Chair for this matter.

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

The States are asked to decide whether they are of opinion - (a) to agree that a Committee of Inquiry should be established in accordance with Standing Order 146 to inquire into a definite matter of public importance, namely historical child abuse in Jersey and that the committee should be comprised of a senior legally qualified chairman of significant standing from outside Jersey and 2 other members from outside the Island with suitable skills and experience; (b) to approve the terms of reference for the Committee of Inquiry (as set out in the Appendix 1 to the report on the amendment of the Council of Ministers dated 5th February 2013) as amended; (c) to agree that the Chairman should be selected by a panel comprising the Greffier of the States and 2 independent persons from the United Kingdom, with the selection process being overseen by the Jersey Appointments Commission; (d) to agree that the 2 members of the committee should be selected by a panel comprising the proposed Chairman, the Greffier of the States and 2 independent persons from the United Kingdom, with the selection process being overseen by the Jersey Appointments Commission; (e) to agree that the proposed Chairman should be requested to recommend any final changes to the terms of reference for the Committee of Inquiry referred to in paragraph (b) above for approval by the Assembly and also to set out the proposed process for conducting the inquiry, having consulted with interested parties where necessary; (f) to request the Chief Minister to bring forward to the States the necessary proposition relating to the appointment of the Chairman and members and, if necessary, to the approval by the States of the final terms of reference if changes have been recommended by the proposed Chairman; (g) to agree that the Committee of Inquiry should be requested to complete its work within 12 months of commencing the inquiry.

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

Very well, just before I call the Chief Minister to propose, just 2 preliminary matters; I would, first of all, ask Members to note that the Greffier of the States is given a role in the proposition in relation to the appointment, so I trust Members do not think that interferes with my presiding in the Assembly today. Secondly, Members will have noted that there are a number of amendments lodged to the proposition. The Council of Ministers has lodged, of course, an amendment to its own proposition which substitutes the terms of reference and, consequently, then lodged an amendment to those amendments, which makes certain further changes. Members will find on their desks, I think, a sheet which shows the effect of the terms of reference as amended. Do I take it Members are content, in the interests of simplicity, to invite the Chief Minister to propose the proposition as amended by those amendments? Very well, there is clearly an amendment from Deputy Tadier which will have to then be taken separately but I will ask the Chief Minister to propose the proposition as amended. Chief Minister.

### **2.1 Senator I.J. Gorst (The Chief Minister):**

Perhaps I could thank Members for ceding to take the proposition as amended and amended. A Committee of Inquiry to consider historical child abuse is the right and proper way to proceed. It

provides a clear acknowledgement that we know things have gone wrong in the past and that we want to learn lessons from previous failings in childcare provision.

[11:45]

Government first made an apology on 6th December 2010 in the following way: “On behalf of the Island’s Government I acknowledge that the care system that operated historically in the Island of Jersey failed some children in the States residential care in a serious way. Such abuse has been confirmed by the criminal cases that have been before Jersey’s courts. To all those who suffered abuse, whether confirmed by criminal conviction or not, the Island’s Government offers its unreserved apology.” More than 2 years has passed since that apology was first made and I am convinced that a Committee of Inquiry is now the correct course of action. It is the right thing to do for victims of abuse who want to recount their experiences to an independent inquiry. It is the right thing for our community, so we can be assured that we have done everything possible to establish what went wrong and then to ensure it does not happen again. Agreeing the Terms of Reference today is the next step, reflecting the Assembly’s decision in 2011 to hold an inquiry. Ministers have already set up the Historic Abuse Redress Scheme which is compensating victims of abuse; 31 claimants have already accepted offers under the scheme. Since 2008 there have also been a number of independent reports on our children’s services. These reports have informed Health and Social Services policy development and significant progress has been made in implementing many of the recommendations. Our children’s services today are very different from how they were just 10 years ago, let alone 30 years ago. Members are well aware of the process that has brought us to where we are today. The Verita review and the Williamson review have both helped us to arrive at today’s terms of reference. I would like to thank Verita, Andrew Williamson and the interested individuals for their help in producing and refining these terms of reference. I would also like to mention 2 Members of this Assembly whose participation I have particularly appreciated: Deputy Tadier, who has co-ordinated and represented views of stakeholders and Senator Le Gresley, without whose patient diligence we would not have reached the level of consensus that we have today. **[Approbation]** I am confident that today’s proposals answer the central purpose of establishing a Committee of Inquiry. I believe this inquiry will provide a trusted forum where witnesses can share their experiences where a healing process can begin and through which we can develop a shared understanding of the lessons which need to be learned from our past. A Committee of Inquiry is a significant undertaking which needs to be led by individuals of sufficient stature and experience to act impartially and to safeguard the interests of all involved. The Council of Ministers is proposing the committee should be led by a legally qualified Chair with a legal or perhaps judicial background who is independent of Jersey and of all interested parties. We are proposing that the selection panel should include yourself, Sir, and 2 independent people with appropriate experience from the United Kingdom. The Jersey Appointments Commission should oversee the appointment process of the Chair. The Chair should be supported by one or 2 panellists, also recruited from outside Jersey, with at least one lay member from an island community and one panellist with childcare experience. The proposed Chair should recommend any changes to the terms of reference for approval by the Assembly and set out the proposed process for conducting the inquiry, having consulted with interested parties where necessary and that the Committee of Inquiry should be requested to complete its work within 12 months of starting the inquiry. The main objectives of a public inquiry are to establish the facts, learn from past events and prevent their reoccurrence, provide an opportunity for reconciliation and resolution, to rebuild public confidence, to hold people and organisations to account and to demonstrate that something has been done and that government is transparent. This inquiry is not a court of law and will not be able to judge the guilt or innocence of individuals mentioned by witnesses. Its role is to understand what happened to cared for children, by allowing victims to describe what happened to

them, by allowing those accused of abuse, but not charged with a crime, to have their say and by collating information from past investigations and reviews, particularly from those carried out since 2007. This information will need to be set within the social norms of the relevant period to help us understand what went wrong, what was done at the time and who was accountable. I do not propose to go through each term of reference individually. A Committee of Inquiry generally sits in public. It can though, in the interests of justice or in public interest, sit for all or any part of its proceedings in private. It is essential that the committee balances the needs of the victims with both public interest and in the interests of justice, consequently Ministers hope that the committee will consider the comments of the Attorney General in this regard. I am aware that some Members have concerns about the possible financial implications of this inquiry. Members will know that an initial estimated cost of £6 million was identified. This figure was produced with help from Verita who have experience of similar inquiries. Further validation work has since been undertaken by your own department and by the Treasury Department and I would like to thank the Minister for Treasury and Resources for his detailed comment in this regard and I hope that Members have gained reassurance from this further detail. The main assumption with regard to finances is that this inquiry will take one year. Other key assumptions relate to the number of witnesses, named individuals and organisations to be interviewed. Allied to this is the level of legal support and costs that will be required to support those individuals and organisations. These estimates will be reviewed when the Chair and panel are appointed and have confirmed their approach to the conduct of the inquiry. The £6 million estimate includes a contingency provision of £1 million, recognising that there will inevitably be developments as the process continues. With regards to the budget management, the £6 million will be allocated to the States Greffe and you, Sir, the Greffier of the States, will act as a counting officer with financial management support through existing Treasury arrangements. Management of the budget will need to comply with the Public Finances Law and all relevant financial directions. The inquiry will operate over 2 financial years, 2013 and 2014, and ongoing forecasting will be undertaken as part of the budgetary control procedures. I understand that this inquiry needs proper funding but I am clear that spending should be rigorously controlled by Treasury's regular procedures. In conclusion, the Council of Ministers believes a Committee of Inquiry is the right thing to do. We want to acknowledge publicly that things have gone wrong in the past and we hope this Committee of Inquiry will help us to learn lessons from past failings in childcare provision. Ministers believe that by establishing a thorough, trusted and independent process of inquiry the experiences of all witnesses will be recorded their rightful importance and play a part in ensuring that Jersey has the correct framework to protect all Islanders, especially its most vulnerable. I would like to reassure Members that everything suggested by Verita and more is contained in the proposed terms of reference. This Assembly has already stated its position on the holding of an inquiry. Now is the time for all Members to support these comprehensive terms of reference so that work can start. It is my sincerest hope that this Committee of Inquiry will be the first step in the healing process for all of those who have suffered, as well as the whole community. I ask Members to support this proposition as amended.

## **2.2 Committee of Inquiry: Historical Child Abuse (P.118/2012) - Amendment (P.118/2012 Amd.) - Second Amendment (P.118/2012 Amd.(2))**

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

Is the proposition seconded? [**Seconded**] There is one amendment remaining to deal with, which is the amendment in the name of Deputy Tadier. This is numbered P.118 amendment - second amendment and I will ask the Greffier to read that amendment.

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

After the words "(as set out in Appendix 1 to the Report on the amendment of the Council of Ministers dated 5th February 2013)" insert the words - "except that in the terms of reference, in

paragraph 13, for the words from “shall be examined by an independent expert” through to “all the circumstances” substitute the words “may be examined in a manner to be determined by the Committee”.

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

If I can thank the Chief Minister for his speech, I thought that his speech was appropriate in its tone and content. I know there is a lot of interest being generated today, not simply by the police station but also about perhaps the more abstract proposition that we have in front of us, which is a Committee of Inquiry into a very important issue of public interest. The reason that there is only one amendment left from the table is because much of the work, in fact the vast majority of the work and I suppose you can compare it to an iceberg, has been done behind the scenes and below the surface, to mix the metaphors, because many meetings have been taking place, particularly in the last 2 months, between key stakeholders, interested parties, perhaps pivotal politicians like myself and Senator Le Gresley and the Council of Ministers in order to find a consensual way forward.

[12:00]

Many of the amendments that we have put forward have been adopted so that the intent of what we are trying to get on the table has been recognised. In some ways I would have been hopeful that if we had not been pushed so much to the wire with these amendments, and there are various reasons for that, not within our hands it has to be said, I would have thought that given another week or 2 we could have probably come to an agreement on this amendment being accepted. I do not think it is that controversial and I will explain why. But, first of all, the Greffier staff have been kind enough to circulate a sheet, akin to the one for the Council of Ministers amendments, simply showing the difference in what is being asked and it is fairly straightforward. I am simply asking, on behalf of other stakeholders, that we remove the part which is prescriptive about how the Committee of Inquiry should be looking, if they need to, at prosecution files simply to say that we should not be telling them how they do their job. We should be leaving them free to do their job in a way that they will and remember there will be very experienced, very professional people who will be doing things best practice. We have the Greffier who is going to oversee that process to make sure that the individuals we have are people that we can trust to do the job. Nonetheless, I will read from the report because it is quite short and I think it does encapsulate the purpose behind the amendment: “Of all the amendments this seems to be the only one that is still causing me and stakeholders I have been working with problems. The wording in the first part of paragraph 13 of the terms of reference agrees that, as part of its remit, the Committee of Inquiry will look at the actions of the States of Jersey Police and prosecuting authorities with regard to the way in which files were submitted from one to the other.” That is to say between the police and the prosecuting authorities: “And then to establish whether the prosecutions were conducted in a professional (including impartial) manner.” I will probably stop at that point just to say we settled on the wording “professional” after taking advice from Verita because we had originally agreed, I think back in 2011, the wording was “an impartial and consistent approach”. That then got changed to “professional and impartial” and then it was suggested by Verita that we do not need those 2 words because professional entails it but it should be understood that it will be looking at those areas: “To make sure it is free from undue interference, whether that was political or otherwise, this is very much the what and, as in the other current 15 terms of reference we are charging the committee to establish the facts and report back to us.” The key thing I would emphasise is that: “In none of the other terms of reference do we tell the Committee of Inquiry, who will be professionals with, one would imagine, a degree of experience but in fact a lot of experience in conducting these type of inquiries, we should not be telling them exactly how they should be conducting their work.” First

of all, it does not sound right and it has the potential to get the Committee of Inquiry off on the wrong footing: "I have engaged in much contact with relevant stakeholders, including the political originators of the Committee of Inquiry." That would have been Senator Le Gresley and the former Deputy of St. Martin, Bob Hill, but also the former Deputy of St. Mary, Daniel Wimberley, and they have been very helpful. Even though they are no longer States Members they have put in much time at their own inconvenience, which has to be appreciated: "We know the inquiry will necessarily have to be chaired by someone who is independent. He or she will also have likely extensive legal training. It would seem that in the first instance the Chairman may wish to look at the files, him or herself. As a professional and independent person it does not appear to me that that should be a problem. However, it is not clear whether those files would be able to be seen by the Chairman under the current wording or if they would be sent off straight to the independent experts." Remember we are going to be paying for the independent Chairman, who is an expert, and 2 panel members and I see from the costings that they will also have their own legal and specialist advice. I am just questioning whether we necessarily need to automatically go down that route straightaway and, if so, why? "The offer for outside independent legal advice is not a problem per se, indeed it may be desirable but it should be something that is available to the professional team that will make up the committee. We were, thus, disappointed that our very simple suggestion of amend 'shall' to 'may', so that it would read 'those files may be examined by an independent expert or experts' was not accepted. This would have put the discretion very much back where it belonged with the committee members. It should also be noted that there were concerns raised from some stakeholders who noted that the advice being given to Ministers on the process for looking at the prosecution files was coming from the same department whose decisions would be subject to scrutiny from the Committee of Inquiry. While there is no suggestion of impropriety we do know that perception is important, given the fact that in Jersey the State Prosecutor is also the legal adviser to the Council of Ministers. We feel, therefore, that this is another compelling reason that the Committee of Inquiry should be given the flexibility to act in a manner of its choosing without apparent undue limitation." I am going to be asking at the end of this proposition whether the Chief Minister will be accepting this amendment. I would like to feel he can do that and I will explain why. It is simply ... it does not mean that the very, what I would call, prescribed route for the Committee of Inquiry to take. It does not mean that they cannot do that, if that is seen to be the best or an acceptable way to do it. It simply means that they do not have to. We do not know who the committee Chairman or the other panel members are going to be yet. It may be that putting such a route in place may put some applicants off from doing that, because they will not want to necessarily come over to Jersey to take part in a Committee of Inquiry, where one or more of the areas have been stipulated - only one of the areas, it has to be said. It may put certain people off from doing that. I also think that the direction being proposed is unclear. We have to remember that the Committee of Inquiry are not reinventing the wheel. This may be something unusual for Jersey, something which has taken a long time to come about. But these things happen elsewhere. It is unfortunate, but they do occur. Committees of Inquiry happen elsewhere and there are experts who do the job. I do not really like to use analogies, because they are never quite perfect, but when you commission an architect to build a house for you, you give him the specifications and you tell him to go off and build that house. You do not get into the minutiae of telling him what kind of cement and sand mixture they should be using to build your house. You say: "I want a house which has got 4 rooms, 3 upstairs, one downstairs; 2 bathrooms. Go away and do it." You do not tell him who he is allowed to buy his supplies from. You give him a budget and he will go off and do that. I think this is very much the way of doing it. If the only way to do it is what is described here, any self-respecting Committee of Inquiry will adopt that process anyway. That is all I am saying. I do not want to labour the point, because it depends very much on the resistance and the arguments that will come back against this amendment. I will prepare for those in my summing-up. Simply to say, today is not about mudslinging. We have



come a long way. We know that it has taken a long time. There was, of course, a point at which there was not even going to be a Committee of Inquiry. That was turned around. I hope today, what I would like to leave with Members, is if we are going to do this Committee of Inquiry it is important that we do it properly or do not do it at all. That is the thing. It is better to not have any question marks over the Committee of Inquiry from the beginning. Because, there may be people out there who are never going to be satisfied with whatever the Committee of Inquiry comes back. But I think the vast majority of people are reasonable and rational. But those question marks will only increase if we cannot get 100 per cent consensus from the beginning about what the terms of reference should be. I give one last invite to the Chief Minister before the ensuing debate to accept what, I think, is a modest amendment. Just to put it in context. If you believe in synchronicity, about things happening at the same time for a particular reason, today's copy of the *Times* leads with the fact that prosecutors in the U.K. have been ordered to crack down on sex abuse. It has noticed the fact that the way we deal with things needs to change as they go on. I will not bore anyone with the copies, but there are some very far reaching and significant recommendations that are being put in place, which I think we all need to learn from. It is not simply about allocating blame, saying: "Decisions were wrong." I do not think it is that clear cut. It is also about establishing how we as a society should be dealing with these kinds of issues to make sure that the ones who are most vulnerable are not put through the mill unnecessarily. So, I do make the amendment and I would ask for Members to give it serious consideration.

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

Is the amendment seconded? [Seconded]

**Deputy T.M. Pitman:**

Sir, can I just raise an issue. I think it is a point of order.

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

Yes.

**Deputy T.M. Pitman:**

I have raised the concerns before, as you are aware, and I hope they have been listened to. Could I place on Hansard that I think it would be totally wrong that any Member should speak in this if he or she has got past links, where perhaps they have been in a role where they may find themselves at this Committee of Inquiry. I would ask that if those people are not going to recuse themselves, they will at least stand up and acknowledge for the record that: "I was the Attorney General" or: "I was a care worker" or whatever. I would like that recorded on Hansard, as I do think it is very important for the reasons Deputy Tadier has touched on.

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

Standing Orders 106 makes clear the circumstances in which declarations of interest will be made. I am sure Members will take account of that Standing Order, if it applies. This is a very narrow amendment on paragraph 13, so I would urge Members who are speaking to refine their comments to the amendment. There will be ample opportunity to speak on the proposition afterwards. Chief Minister?

**2.2.2 Senator I.J. Gorst:**

I would like to start by reiterating my thanks to Deputy Tadier, as I said, in my opening comments for marshalling, if I might use that words, stakeholders refinements that they wish to see to the terms of reference and the work that they put in to enabling the Council of Ministers to bring forward the 2 amendments which are now incorporated into the terms of reference. I think, as Deputy Tadier acknowledged in his moving this amendment, this is a particularly difficult area. It

is particularly difficult to understand quite what the process might be and quite what the implications of any process, which suggests that prosecution files should be reviewed, would be. It was a quite deliberate decision of the Council of Ministers in recognition that we were going into an area which I am not aware has happened in Jersey before. I am not aware that other Committees of Inquiry have proposed quite a review so broadly in these terms. Therefore, I was of the opinion and still am that Members need to have before them of how this might work. That is important because of the way prosecution decisions are made and the basis upon which they are made. That is itself important, because the Committee of Inquiry will be hearing evidence, people's stories about what happened to them, which may not form part of the evidence within a prosecution file, which was submitted by the police for the prosecuting authorities upon which they were then going to make a decision. The decisions, as Ministers have said in their comments, which I hope Members have taken the time to read - if they have not I would ask that they just turn to the penultimate paragraph, not the emboldened paragraph - where it outlines where it is important to have the process which Ministers are asking Members to support today. The evidence, the papers and the file that was available to the decision maker at the time was just that. One can only decide whether the decision taken was reasonable by looking at those files and not being coloured perhaps by other evidence or information which is provided to the panel.

[12:15]

Therefore, Ministers quite deliberately and carefully have suggested this process. The other point I would just wish to make is that the person doing the independent review of these files, should it be decided that it is required by the Chairman, I believe needs to be somebody who is experienced in making prosecution decisions. I think that it will be and it will be unlikely that the Chairman of the inquiry will be such a person, as I suggested in my opening remarks. It is expected that the Chairman will be a lawyer or somebody with judicial experience, but not necessarily with experience as a prosecuting authority. They are quite different. It might appear that a lawyer is a lawyer is a lawyer. That is not quite right. Experience of making those decisions is important because they will need to understand how those decisions are arrived at and upon what evidence. Deputy Tadier and myself and Senator Le Gresley have discussed this, I suppose, at length. While I stand by the position of the Council of Ministers and the comments, of course, it is for this Assembly to decide at this point. Members will also be aware that one of the limbs of the proposition this morning is that the Chairman and panel themselves, if they have any concerns about the terms of reference that we are going to approve today, will be able to ask me when I bring forward their appointment to this Assembly to make amendments at that time. It is for those reasons that unfortunately I do not think we were able to reach agreement. I hope that Members will see that it is from my perspective not quite as straightforward as Deputy Tadier might have suggested, although I do accept his reasons for bringing it forward, that he does not want to be prescriptive at this time. He wants the Chairman and the panel to make those decisions. I am of the view that because it is such a delicate and difficult area, going into grounds that we need to be absolutely certain of what the process is, that I would ask Members to not accept this amendment but to remain with the terms of reference as they are. The other thing perhaps I would say is that, as you rightly directed, it is quite a narrow amendment to the terms of reference. Therefore, I hope that the debate will not become personal or prolonged. In some ways it is quite simply whether Members would like to have it prescribed now as the Council of Ministers are proposing or to give it back to the Chairman to make an ultimate decision.

### **2.2.3 Senator F. du H. Le Gresley:**

I would like to share the Chief Minister's comments about the very valuable work that we have been able to do with Deputy Tadier, former States Members and the Jersey Care Leavers'

Association in arriving at these terms of reference. It has been a long haul. I do believe we have very robust terms of reference. But it is unfortunate that we cannot quite reach agreement on this particular term of reference, number 13. I would dearly have hoped that we could have done. I think the Chief Minister has made the right points and I just want Members to go back to ... because a lot of where we are today is to do with the original Verita report, which is appendix 3 of the original proposition. Throughout the process, drawing up terms of reference, we have always gone back to what Verita have suggested, not only in the wording of the terms of reference but the process of arriving at how we set up our Committee of Inquiry. I would like to draw Members' attention to page 21 of our original report and proposition, which is effectively appendix 3 of the report, and it is the Verita report. On page 21 we do see from Verita, it is the fourth bullet point, they are talking here about the legal fees. It says: "The legal fees could be significant. They may be incurred under 3 headings: legal advice for the panel, other than as above; legal costs of interviewees, if Chair agrees to allow such; and [and these are the key words] legal costs for a review of earlier decisions about prosecution." Now, I would interpret that as Verita saying that at some stage the Committee of Inquiry will require expert legal advice on earlier decisions about prosecutions. This would be a requirement of complying with Deputy Tadier's original request in the proposition that was debated 2 years ago. I do believe Verita were mindful that this would be a requirement. I back that up by asking Members to turn to page 23 of the same report, of Verita. In paragraph 2.24, they do say, and this clarifies: "The inquiry will also need access to independent expert advice, including from a senior experienced prosecutor from outside Jersey." So, I would submit that Verita knew quite well that we would require this process. It is not correct to say, as Deputy Tadier said, that the legal adviser to the Committee of Inquiry will have the same role as the experienced prosecutor from the U.K. that they would refer any prosecution cases for review. They are different roles and we must be careful to not confuse that. Some people have been perhaps, dare I say, disparaging of the role of Andrew Williamson in helping us draw up terms of reference. His report, although very brief, is appendix 4 of the same original proposition on page 39. He also made the same point: "It may be appropriate for the States of Jersey to commission an independent legal review of the decisions to prosecute or take no further action. This should be carried out by an independent non-Island-based lawyer and will involve the reviews of factual evidence." So, Williamson also was of the opinion that independent legal prosecution advice would be required to review files. For that reason, and probably that reason alone, that the Committee of Inquiry have felt that we should have prescriptive details in terms of reference 13, relating to the procedure for the review of files.

**Deputy T.M. Pitman:**

Sir, can I just ...? I think it is a verbal typo. I think the Senator said the Committee of Inquiry have asked for prescriptive. Yes, that is what I thought.

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

The Senator did inadvertently say "Committee of Inquiry".

**Senator F. du H. Le Gresley:**

I am sorry, Sir, I am not working from a script. **[Laughter]** I would also like to, again, draw Members' attention to our first amendment to the proposition, which Members hopefully have brought with them, on page 5, where we set out more explanation of why we feel that these additional clauses should be in the terms of reference. I will just read it because I think it is important we all understand where we are today: "It should not be the case that a Committee of Inquiry should examine the details of individual prosecution decisions. The reasons for this are as follows: (1) A public examination of a prosecution decision infringes the principle of the independence of the prosecution decision-making process and may undermine the independence

going forward. (2) The Committee of Inquiry, comprising a lawyer and 2 lay persons, will not be best placed to give any proper evaluation of a prosecution decision without specialist expert guidance by a person who has access to all materials available to the person who took the original prosecution decision.” That backs up the views of Verita and of Williamson: “(3) A public scrutiny of prosecution decisions will amount, in effect, to a trial in public, not only of the decision itself but also of the individuals against whom allegations are made. This would be wrong and unfair. A provision to term 10 [now number 13] has been added so as to ensure that prosecution decisions, should they need to be examined at all, should be done confidentially by a specialist in criminal law who would then report to the Committee of Inquiry.” I maintain that it was always intended that an independent prosecution expert from the U.K. would review any prosecution files as appropriate. That is why the Council of Ministers would prefer that Members support the conclusion of this in terms of reference 13 and not support Deputy Tadier’s amendment.

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

Sir, may I ask a point of clarification, as it were, from the speaker?

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

Yes.

**Deputy J.A.N. Le Fondré:**

I understand what was said, I think, but could I ask the speaker how much of a show-stopper this is?

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

I am not sure that is a point of clarification, Deputy.

**Senator F. du H. Le Gresley:**

Should I say something?

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

Briefly, if you wish to, but it is not really a point of clarification. It is asking you to say something you did not wish to say or decided not to say.

**Senator F. du H. Le Gresley:**

I would say it is not a show-stopper, but we have to remember the whole purpose of the Committee of Inquiry is to look into historical child abuse. This is a very small part of the whole process. We have to accept that this was Deputy Tadier’s amendment to my original proposition and he has every right to ask this Assembly to go with his preferred version.

**2.2.4 Deputy R.G. Le Hérissier:**

I do not know if other people like myself are feeling in a slightly Alice in Wonderland situation. On the one hand Deputy Tadier has said it is all very simple and once the Chief Minister started to speak and Senator Le Gresley, what I might call the nuanced nature of the opposition became more apparent in the sense of more confusing. What a web we do weave, not in order to deceive, but in order possibly to confuse. I suppose what I would certainly want as a Member was to ensure that all the parties involved - I have to broaden it out beyond the narrow - in this process, parties that have often not seen in the searchlight way the light of day in having their operations open to scrutiny, that that indeed does happen. We have only seen in the last week the issues before an organisation that goes into deep denial, when you look at what happened in the Scottish and other parts of the Catholic Church, where organisations resisted and resisted openness and it became more and more difficult, as we saw, to deal with the fundamental issues. I may be being simplistic,

as opposed to simple, and I would wish for an answer from Deputy Tadier, as I see it, while there may well be an analysis of individual decisions this is not necessarily so that they will be second guessed, as I see it. This is not necessarily that people will be, in the parlance of upholders of the law, fingered or identified as potentially guilty. Well, this is not even necessarily to prove things that are rampant in Jersey at the moment, notably the vast number of conspiracy theories that are going around. It is, in my view, partly to see whether there are systemic, in other words organisation-wide, issues as well as individual issues in the way that our major agencies in criminal justice work. I do not see anything wrong with that. Because Deputy Tadier alluded to the article in the *Times* and the publicity today about how the Crown Prosecution Service and indeed the police went about their business in dealing with child abuse cases. We know there are incredible issues there in how you get the balance right as between the victim and the accused, incredible issues. At our peril, even the most pro-victim person knows it is an enormously difficult balance to achieve. It strikes me that it is healthy to have that debate. I think no lesser person than the former director and indeed the current director of the Crown Prosecution Service made it very clear that there was an open admission that things had gone badly wrong. Now, what kind of evidence were those professional lawyers ... lawyers totally versed in the prosecution function. They obviously were prepared to look at themselves and come to some fairly damning conclusions about the way they worked. So, why are we playing around with these nuances?

[12:30]

I gather from the shaking of head of the Chief Minister that I may have spectacularly missed the point. Let that be proved. Because it strikes me, one of the things you have to do when you pursue inquiries, before you get into the highly nuanced debates - and there will be many of them, because this is obviously going to be a great legal *tour de force* in many ways - you have to accept the basic principles. As I have just said, and we have examples and we do not hold a proud position in the pantheon of denying organisations. We have, as I said, the Catholic Church and other bodies that have chosen to deny and have landed in an incredible mess as a result. The opening assumption must be: we will try to be as open as possible. All agencies of the government will co-operate with that openness. I think, insofar as I can read this, because I do get the feeling there are different agendas at work here and it is a bit hard to read between the rather nuanced way in which this is being presented, we have to go with Deputy Tadier's view. It does not remove the role of professional advisers. This is the way it has been put forward, that it is one or the other. It is not one or the other. It is quite possible to have professional advisers advising the committee. The committee or commission or whatever will make the decision and they will do the interpretation on the basis of presented professional advice. That strikes me as eminently sensible. The fact that they are lay-people and clearly be eminent lay-people makes it even better, because they can step away from the notion that lawyers are protecting lawyers, police are protecting police or whatever.

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

Just listening to what was supposed to be an argument from the Chief Minister against this amendment, I am sitting here a little bit perplexed by what it is exactly we are trying to say that Deputy Tadier cannot do. Because I refer back to the main proposition, we are entrusting the Chairman to change the terms of reference to what he sees fit. I may not be a professional lawyer in that area, but from a Scrutiny perspective you would look at the information in the reports and the evidence that has been put before you and determine whether those terms of reference were right as to how you were going to set out and do that inquiry or review that you are going to do. I am sorry. I just think the Chief Minister is making a song and dance out of this. If this is so difficult and we cannot trust a professional Chairman to determine it appropriately for this

Committee of Inquiry to be carried out in the appropriate manner I want to hear the proper and hard evidence, arguments, against Deputy Tadier's amendment and I am not hearing those.

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

I state from the very beginning, and I think we have all got to this point, that it is important that we lance this boil once and for all. If we do not, it will fester and will cause pain and suffering for many years to come. It is important we get this right now, so we do not have to revisit this time and time again in the future. I also happen to agree with the Chief Minister that we need to have transparent government. I believe that all public authorities, and that also extends to the Law Officers' Department and Judiciary and police also need to be totally transparent. I do not believe that the Chief Minister is correct in one sense that the decisions of the prosecutors are going to be heard in public. They are not. They are going to be heard by experts. I agree with them, it has to be people who have prosecution decision experience. The information will be assessed, not in light of current thoughts on it, but in light of the files and the information they contained at the time. There is nothing to fear from that. I do not believe that the law officers have to fear that someone is going to turn around and say: "You have it wrong." We all get it wrong at some point or other. But they also could have got it right. It is for the independent person with the prosecution experience to look at the evidence of the time and decide whether everything was fine. If that sort of scrutiny goes ahead I think everyone would be reassured by it. But the actual process in which it is done should not be prescribed. This is the key thing, because if we get too prescriptive then we could cause the thing not to be reviewed in the right way. I think it is vitally important that the Chairman of the panel should be allowed to do it. I would like to just mention one thing, Deputy Tadier mentioned that in the U.K. at the present time Keir Starmer, the Director of Public Prosecutions, is speaking at 4.30 p.m. this afternoon and is setting out what the U.K. are doing. They are not afraid to revisit previous decisions. In fact, one of the things they are going to do is set up a national scoping panel to review complaints of sex abuse not pursued by the police and prosecutors. This proposal is expected to be approved by Chief Constables. What it is going to do is review complaints made in the past, which were not pursued by police or prosecution, if requested. Now, we should not be afraid to go through and look at those things and allow this Committee of Inquiry to look at it in a proper way. What I would say is, it is not a case of people are criticising the law officers and therefore we have to be prescriptive in the way that these files are looked at. Let the panel get on, let the people review it in the proper context and then everybody knows it has been properly scrutinised and either what they have done in the past is upheld or it is not. No one would say that it is an easy decision, as Keir Starmer has said in some of his press releases. What they have said is - this is important and I know that this inquiry is looking at the time and the circumstances - obviously the Jimmy Savile sex scandal has opened this whole thing up again and people have really got to start looking at what we do. It could be they may say: "At the time that the decisions were made they were appropriate." But they also could say: "Well, if we are going forward, we need to take a much wider sort of view." So, for example, Keir Starmer has said he is going to criticise the police and prosecutors for an overcautious approach when he sets out the new policy on child sex abuse. He will admit that there are a larger number of victims than were previously thought. He will say that the strategy and response to the Jimmy Savile sex scandal shows a disturbing level of offending and basically he is commenting on the various bodies that have been revealing the sex scandals and the extent of it, such as the *Times*. Basically prosecutors and police are going to be encouraged to look beyond the traditional test of alleged victims' credibility and consider all the surrounding circumstances. Now, we may find that the law officers were correct with the evidence that they had at the time and looking at the credibility of the witnesses that maybe they reached the right decision. What is coming up now is that the test may have been wrong. We need to look at going forward a much wider test. They are stating that police and prosecutors should be encouraged beyond the traditional test of the alleged

victims' credibility and consider all the surrounding circumstances. They say that, for example, police and prosecutors need to face up to their shortcomings. They are scrapping the existing guidance that they give and they are going to come up with a new policy. There are 19 different policies on how they should approach all these cases. So, no one needs to be worried about how they made their decisions in the past, if they are following one set of guidance. The whole thing needs to be looked at. They are saying that the traditional test of credibility and sex abuse cases has not served the police or prosecutors well. The D.P.P. (Director of Public Prosecutions) believes leaving an identifiable group of vulnerable victims unprotected by the criminal law, says: "Police and prosecutors currently look at factors such as the compliance delay in reporting an offence." Many people are too ashamed to report or too fearful to have reported earlier. They say that the consistency of the account and whether the person drinks or is on drugs affects their credibility. If I was sexually abused like some of the people who have come to me and told me their stories, I would either be on drink or I would be on drugs or I would be in a mental institution in some cases. I think what they have been through is horrific. But, we need to say that these factors are taken into account. What he is saying, he favours the change - and there is going to be a public debate on this - in focus away from one that is victim specific to one that tests the subject, while also exploring the patterns of behaviour of the suspect who allegedly perpetrated the abuse. He is also bringing in protection to protect those people as well. So, what I am trying to say is, the Law Officers' Department and the law officers who took all these decisions in the past should not be fearful of their cases being reviewed. I think we should all have confidence in this Committee of Inquiry and give them the widest degree of, I would say, latitude in getting the advice and the information and not be too prescriptive, so we can finally get to the bottom of this particular case. I am not going to labour the point ...

**Senator I.J. Gorst:**

Sir, would the Deputy give way?

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

He appears to, yes.

**Senator I.J. Gorst:**

The Deputy is saying much with which I agree. He is talking about what is going on in the U.K. at the current time, which is about changing their policy and arrangements going forward. What this amendment is talking about is the process to be undertaken to look at past decisions. But, past decisions are not considered in light of current policy or guidelines, so they are 2 quite different things.

**Deputy M.R. Higgins:**

If I can just follow up on what the Chief Minister said, I have said that. All these cases will be reviewed with the law at the time, with the evidence that the law officers had at the time and so on. Yes, I accept that. But, what I do believe, and I believe this is about transparency ... okay, we have gone a long way on these terms of reference, from what they were to where we are now. Again, I complimented everybody who has been involved in doing it. I think we need to take that final step and just adopt Deputy Tadier's amendment. Then no one at any time in the future can turn around and say: "The Council of Ministers, again, are trying to be prescriptive. They are trying to hide something." Let us just get that out of the way. Let us accept the amendment, go forward with the Committee of Inquiry and find out what really went on. So, I am going to stop at that, but I do urge Members, please go with this amendment and we can put all this behind us and we get the inquiry underway and find out the truth of what went on, no barriers in the way to finding that information out.

### **2.2.7 Deputy J.M. Maçon:**

I am struggling with this one in the sense that what the Council of Ministers propose of the way forward and what Deputy Tadier is asking. They are not mutually exclusive. It is not the case of either/or. Because what Deputy Tadier is proposing, the Council of Ministers, when assembled, might come back and say: "What the Council of Ministers propose is how we wish to proceed." In which case I really am struggling to find what the objection to Deputy Tadier's amendment is. My big question here is: who should be making that decision? I believe it is more appropriate for the Chairman in that committee to be making that decision than us at this stage. Therefore, I will be supporting Deputy Tadier's amendment, because I do not think they are mutually exclusive. I think one can be included in the other and I do not have a problem with that.

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

Briefly, I am struggling as well to find any reason why the Chief Minister is strongly opposing and continues to oppose this amendment. I do so with reference to 2 factors really. One, in my time as chair of Scrutiny Panels I never wanted to be faced by anybody, any witness saying: "That is not in your terms of reference." We had a catchall phrase: "And any other matter that the committee decides is relevant on every set of terms of reference." Secondly, to repeat, Deputy Tadier's amendment does not eliminate any mechanism by which evidence could be gathered. It could well be that the committee say: "The appropriate thing to do is examine by an independent expert in the criminal law, et cetera, et cetera, exactly the way it is prescribed there, the committee could do that." It could say in every case: "That is what we want to do, follow that to the letter." Or it could say: "No, we want to examine evidence in a different manner." That is fine. That is up to the committee. That is what we should allow. I cannot see why we are stood here arguing the toss here today, because we should not be. We should be accepting this amendment as giving the committee full scope to conduct itself as it sees appropriate.

## **LUNCHEON ADJOURNMENT PROPOSED**

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

Yes, the adjournment is proposed. The Assembly will reconvene at 2.15 p.m.

[12:45]

## **LUNCHEON ADJOURNMENT**

[14:15]

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

The debate resumes on the amendment of Deputy Tadier. Chief Minister you have already spoken, but I understand you wish to briefly address the Assembly on a matter of procedure.

### **Senator I.J. Gorst:**

If I may, Sir. I sensed the mood of the Assembly this morning. I have been consulting over lunch and I would just like to make a comment on Deputy Tadier's amendment, if I may. I personally believe that the process outlined by the Council of Ministers for reviewing the prosecution files is the correct one. I believe it is the one envisaged, as Senator Le Gresley said, by Verita and Williamson in their reviews. The Members that I have spoken to generally tend to agree with that, but they feel, like Deputy Tadier, that now is not the time to prescribe that process into the terms of reference, that they would rather the committee and the Chairman make the ultimate decision about that process once they have been appointed and potentially prior to them [**Approbation**] bringing forward any recommended changes. So, in light of that, perhaps I could say, as I said 2 minutes ago, I believe this process is the right one. I hope that the Chairman and the committee will as well, but that will be a matter for them. In light of and on that basis, I am prepared to accept the



amendment. Because, as I said, in my opening remarks, what is important today is that we, as an Assembly, send a resounding message that we support this Committee of Inquiry, that it has a broad base support and that they can get on with their work. On those grounds, I am happy to accept. [Approbation]

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

Very well, the Chief Minister has indicated his stance. The amendment is technically still open for debate, but does any other Member now wish to speak?

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

I was going to speak before. I will not do that now. I just wonder if it is possible to ask the Chief Minister to clarify what he just said. Are we to expect the Committee of Inquiry will decide this procedure before they begin work? Because, if that is the case, then I completely endorse what he has just said. I just think we have heard a lot about transparency and that is what I was going to touch on before the Chief Minister's intervention. I just think that transparency is something that all parties need to be sure of. I am sure that all the interested parties in this debate would want to know exactly how things will pan out before the inquiry has started.

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

I am not sure the Chief Minister can answer that question, because by definition this will be a matter for the Chairman.

**The Connétable of St. Mary:**

I just wanted to know what he said. I wanted clarity on that.

**Senator I.J. Gorst:**

Perhaps, Sir, I could help. You are quite right. It will be a matter for the committee. By accepting this amendment that is what the Assembly is accepting and approving. I did verbalise the hope that perhaps the process could be considered prior to bringing forward the selection of the Chairman for approval by this Assembly. That was quite simply because part (e) of the overall proposition says to also set out the proposed process for conducting the inquiry, having consulted with interested parties where necessary. I believe that what I said was in keeping with what I am asking the Assembly to approve.

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

That was about your third speech, Chief Minister. Now, do you wish to reply Deputy Tadier? I do not think any other Members wish to speak. Does any other Member wish to speak on the amendment? I call upon Deputy Tadier to reply.

**2.2.10 Deputy M. Tadier:**

I will indulge the Minister, even if he did make 3 speeches, because I know that they were probably solicited one way or the other. I thank the Council of Ministers, particularly the Chief Minister and Senator Le Gresley, because I know they were busy talking over lunchtime, to drop their resistance, which I think is the right thing for all of us to do. I do not need to do a laborious speech now, because I think we have come to a consensus. I will just simply ask for the appel.

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

Very well, the appel is called for on the amendment of Deputy Tadier. I invite Members to return to their seats. I will ask the Greffier to open the voting.

<b>POUR: 38</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
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Senator P.F. Routier				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy M. Tadier (B)				
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 J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				

### **2.3 Committee of Inquiry: Historical Child Abuse (P.118/2012) - as amended**

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

Very well, the debate opens on the proposition of the Council as amended. Does any Member wish to speak on the proposition? Deputy Maçon?

#### **2.3.1 Deputy J.M. Maçon:**

Very, very briefly, I just want to echo the words of the Chief Minister when he says that these matters, to those involved, getting to where we are now is incredibly important, for the transparency and truth and being able to tell their stories in a way which they feel they will be able to illustrate some of the burdens on them and be able to inform the public on what sometimes they felt has been a blind eye turned towards them. I think this is incredibly important. I want to thank all the Members who have helped overtly and covertly to get us where we are today. I will most certainly be supporting this proposition.

### **2.3.2 Connétable M.P.S. Le Troquer of St. Martin:**

Following up from what Deputy Trevor Pitman said this morning, I had prepared notes and I do declare an interest as such. As Members are aware, and it follows on unfortunately from the previous debate, I was a police officer in the States of Jersey force between 1975 and 2003. But I do not believe I have a conflict of interest on this matter. I am not aware of being involved in any investigation or decision-making that relates to any of the prosecutions likely to be investigated. Furthermore, on my retirement in 2003 I took on a post in the Parish of St. Helier working in the Prosecutions Office, assisting the Honorary Police with their court case work, in particular the Centeniers, but in an admin position and not in a decision-making role as to whether individuals associated with children's care homes were to face prosecutions. Again, I do not believe I have a conflict of interest. I think I can just about understand, although I am not totally convinced, with the comments contained in the Council of Ministers' report that the establishment of a Committee of Inquiry into historical child abuse on Jersey is the right way forward, the correct course of action for the whole community. I accept, of course, that this was the will of the previous States Assembly following the approval of P.19 in 2011. That being the case, I am not quite sure why we are faced with paragraph (a) on the proposition again. Surely we have passed that stage and are now debating the terms of reference themselves that are featured further in the proposition and which, as we know, are subject to 2 amendments before we have even reached this stage. I suppose the latter parts of paragraph (a) of the proposition take it a bit further and relate to the chairman and 2 other members with suitable skills and experience coming from outside the Island. I believe it was just the terms of reference that were to be debated today. The Chief Minister and the Council of Ministers have attempted to produce a terms of reference that is acceptable to Deputy Tadier, including former Members of this Assembly who seemed to have maintained an interest with their past colleagues, as well as representatives from the interested parties, many are upstairs in the gallery this afternoon. Nevertheless, here we are apparently ready, or nearly ready, to go. I thank the Attorney General for his comments paper. That has been very helpful. Also, to the Minister for Treasury and Resources for his comments paper explaining how this is to be funded and with what appears to be an updated cost working analysis for the inquiry. I note that the Minister for Treasury and Resources comments paper is dated 4th March 2013 and is therefore dated after some of the amendments of Deputy Tadier's original proposition that were accepted by the Chief Minister and Council of Ministers some time ago. I am therefore assuming that the broadening of the terms of reference have been taken into consideration by the Minister for Treasury and Resources with his calculations. Because the initial estimates for the inquiry in the Verita report were considerably lower, just over £2 million, although I accept that those Members that attended the various presentations and the Council of Ministers' proposition also makes broad reference to possible additional costs, with broad comments like: "Experience has shown that witnesses, those named by witnesses and other organisations, will require legal support. This is in addition to the legal support provided to the inquiry team and all to be paid for by the States." It goes on elsewhere: "This does not include legal fees, which could be significant." I suggest the words "will be significant" would be more appropriate. Then further: "The best estimate for the total cost of a Committee of Inquiry, including legal costs, is likely to be in the region of £6 million. This is the first mention of £6 million and note that is in the November original proposition, before the amendments were made. Further on it states: "The cost estimate does not include officer time in departments, which have dealings with the committee. For example, if liaising with the inquiry team, recovering documents, taking legal advice about disclosure and supporting those who are witnesses. Further cost implications of temporary staff to do the jobs of those who are assisting the Committee of Inquiry doing those tasks." I wonder if the £6 million that I have mentioned is really a conservative and truly reflective figure, because this £6 million is indeed mentioned on 6th November 2012 with the proposition of the Council of Ministers that I have just quoted from. Deputy Tadier's accepted broadening terms dated 26th February 2013 and obviously an even more far-reaching investigation

that was originally further increased, than was originally agreed by the Council of Ministers on 27th February. My worry, my concern, is that I would like to know, as would I suspect many others, the public at large, how much this Committee of Inquiry, if approved, is finally going to cost. The simple answer is, we just do not know whether the estimates will now be in addition to the fees already paid for the Verita report, the Williamson report, the Williamson updated report, travel to the Island and, of course, officer time again. It is very difficult to start this debate all over again and seek to change a decision to hold this proposed Committee of Inquiry. It is even more difficult for those Members like myself to seek something that was agreed by a previous Assembly. This appears to have happened too many times in the past on other matters. This Committee of Inquiry is being brought forward by the Council of Ministers after what appears to be lengthy and thorough consultation. Even with the suggested late amendments to what occurred in the first place to be a quite thorough proposition, but has now been taken on board by the Chief Minister. As the proposition says, it is to investigate specific and often controversial events that have given rise to public concern. I accept that. However, I am sorry to say that I am really concerned that we need an inquiry to tell us something that may have occurred back in the 1960s, probably issues that we can do nothing about today or people that cannot answer. I hope after all the experiences that we as an Island have now gone through in the last decade and after the 8 reports we have had since 2008 that have been prepared in relation to Children's Services on Jersey. I believe the proposition is likely to be approved today with terms going back to 1960 as a starting date. The tills start clicking. I have no doubt that the Committee of Inquiry will cost this Island many, many millions. There are no other model costs shown, only the minimum. So we are unaware what we are going to be committing to spending. I am not an expert on costings, but I would like the Chief Minister to tell this Assembly, tell the public of the Island, to confirm that he just does not know what it will cost and that indeed it could cost far more than the £6 million conservative estimate. Tell the public, tell the taxpayer that it could cost £10 million. I do not wish to hear and read media reports tonight or tomorrow where we see the inquiry is going to cost £6 million if we do not know how much it is going to cost. If the media reports at the end of last month are true on the mid-Staffordshire hospital inquiry, which was released last month, on matters relating to a far shorter time, the period between 2005 and 2008, it cost in the region of £13 million. I think Mr. Williamson may have suggested £16 million at one presentation about the Staffordshire inquiry, not ours. But I might be mistaken on that.

[14:30]

Of course, the argument will be that the Committee of Inquiry will answer everything and that we will have a far better system of care for the children on this Island at the end of it. I very much hope so. I hope that it will show something new and that something new comes from it. Something that has not already been learned from all the police investigations that have taken place so far, the departmental inquiries that have followed, the 8 various reports commissioned or received in the last 4 years, the change in culture of everybody since 1960 and 1970 and, of course, the fear of the workers in the children's care homes that know that every single action that they take is closely scrutinised by employers, by individuals and by society. Deputy Higgins made comments yesterday morning during question time, I think, when he was putting questions relating to the compensation scheme and was worried that the only winners were likely to be the legal firms attempting to resolve the claims. I am very concerned that many people will make a lot of money from this inquiry when that money may have been better used to assist the victims or those children who are in care homes now. I suspect that Members might be aghast and surprised at my comments and think that I have no compassion for victims or desire to rectify wrongs. They could not be further from the truth. I would be the very first person to fully investigate something, seek and secure as much evidence and be a prosecution to a court. I like to think, to hope, like every

other Member here today that we all care about people, not just victims. I cannot imagine the hurt that some of the victims must be feeling on how they were dealt with in the past as children. However, I do believe that we have a duty to bring these aspects of the proposed Committee of Inquiry to the public's attention today. This has nothing to do with my previous career and indeed any colleagues that I may have worked with in the past. I was not working in 1960, believe it or not, I was still at school. But, at the end of it, I just hope the inquiry achieves what every interested party wants from it. I hope the Committee of Inquiry, if approved and I am sure it will be, sets out and achieves its role and satisfies this Assembly, the victims and the public alike, albeit, I suspect it is likely to be the next Assembly that eventually discuss the final Committee of Inquiry report. Even if it is in the term of this Assembly, then it will be the next Assembly that will endure the continued written and oral questions that will sadly follow. I very much doubt that everything will be answered to the satisfaction of all. Will everybody be reconciled? Will there be resolution between the different parties? Will there be reassurance by the public? I very much doubt it. I am sorry, but I very much fear the complaints and criticisms will continue long after the completion of the Committee of Inquiry. As the Council of Ministers state, the hope of the Committee of Inquiry will be the first step, and note the first step, in the healing process. Alas, it is just a hope of the Council.

### **2.3.3 Deputy G.C.L. Baudains:**

In his opening speech this morning the Chief Minister said that it would enable people to relive their experiences to the Committee of Inquiry or similar words. I must say I was somewhat concerned by that. Will this Committee of Inquiry turn out to be a second bite, albeit through the Committee of Inquiry rather than the previous police case? Because if that is the case I have major concerns. I believe that would simply open old wounds and those affected will be disappointed a second time. This and the costs involved I believe is a recipe for disappointment and bad feeling all round. I do not believe it will put the matter to bed. However, as this is an inquiry which seems to be mainly into the procedures and the process then it will have my full support. I do not want to see a rerun of the previous ... No new evidence is going to come to light. I do not want people to be more disappointed than they already are. So, I am going to rely on the clarification from the Chief Minister in his summing-up as to which way I go. Because I would like to support it, even if it is only to sort out the mess which has been the Children's Service over the last few years, but on the other hand I do not want to waste public money on causing yet more anguish.

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

Just 2 points of clarification, I am with the department who is administering the redress scheme and I am a trustee of Haut de la Garenne Trust, which looked ... mid-2005/2006 for the short time that it was a youth hostel. This has been a long journey to get to this point of debating the terms of reference for the Committee of Inquiry. The Council of Ministers acknowledge that there were failings in residential care. I hope the first step was the apology. I cannot begin to imagine what the victims went through and for some are still going through. The redress scheme is now in place and going through that process and will continue to go through the process until it is all sorted out and all the victims have gone through that process. Regarding terms of reference 3, looking at Children's Service up to the current day, I very much welcome that. I have every confidence in my Children's Service today. Indeed, I think over the last 3 or 4 years it has been very open and very transparent, having various investigations, the Williamson review, the Care Inspection report 2 years ago, to name but a few. The Care Inspection report will continue this year when they return for further inspection. All these reports have been put in the public domain. But, also the recommendations to be implemented have been overseen by the Children's Policy Group and the Jersey Child Protection Committee. I do not want the experiences of what happened in previous years to happen again. Indeed the service is much more open, again, with the Board of Visitors and

especially hearing the voice of the child ... but, I am sad to say, might have not happened in the past. The Committee of Inquiry is important so that victims do have a voice, a voice that needs to be heard and that their terrible experiences will never, ever be repeated. I am sorry that child abuse in residential homes did happen in the past. I cannot turn the clock back, but I can try and ensure that it will never happen again in children's residential homes. We need to hear what happened, understand from the past, learn lessons and put in place any recommendations that improve the services for all children in my care for the future.

### **2.3.5 Deputy J.H. Young:**

As a recent Member of the House I only know what I have read in the media and listened to and nobody cannot be moved by what we have heard. I am fully behind the need for this inquiry. It is very good that we have an inquiry of real substance here to investigate these matters. I was impressed by those 6 purposes of the inquiry, which are summarised on page 4 of the report of the Council of Ministers. I think they are worth just dwelling on: establishing the facts to make sure there is full and fair account of what has happened; learning from events and preventing their occurrence, really importantly providing an opportunity for reconciliation and resolution between parties; rebuilding public confidence; holding people in organisations to account and transparency. I think what I have read in the papers, for the first time, do that for me. I could not let the Treasury comments pass without comment, which is my real reason for speaking. I have here to declare an interest as being in a former life practice director of a local law firm. I know very well how legal costs can run, run completely out of control. I know that how for some lawyers, not all, these are seen as commercial opportunities and for other people they are a barrier to people getting proper legal advice. So, I think it is absolutely right that the arrangements we have here provide for legal costs to be available not just for the inquiry team who have got to manage all this, but for witnesses and others. It is absolutely right there is no doubt, and I have seen letters, that say that people in the past have had difficulty in getting legal representation. I know that our legal aid system in Jersey is full of defects and that many people who are deserving of legal advice do not receive it and there are many barriers. That is a story for another day. So I am very pleased that we have got an arrangement here that provides a more even situation for people, but I cannot let it go by without commenting on the danger of having open-ended costs. One has read of media reports of inquiries in the U.K., for example the disaster that was Bloody Sunday that is reported to have cost, I think, some £300 million or £400 million in legal fees which were absorbed by major London practices. Here, fortunately, we are much more modest. We have on the table a proposal. This will be £6 million and clearly there are risks that the costs will not stay there and I agree with the Constable of St. Martin, that it could well be a lot higher but I think it is a thing that we have to face. The issue for me is it is important that these costs are managed. I see in the spreadsheets that are produced in the Treasury paper, which I assume have come from Verita, there is £2.5 million worth of legal fees here and I would want some measures in place that this is not just what one would call a starter for 10, £750,000 for the inquiry team and £1.5 million for witnesses and those named and others. Of course the daily rates I found really surprising when I got my glasses off and looked at the small print. £3,000 a day is quoted for witnesses and others and £5,000 a day for the inquiry legal team. I was a bit relieved to see that the £5,000 a day is explained by the fact that they are proposed to be a team of 5, one Q.C. (Queen's Counsel), 2 other lawyers, and 2 paralegals, so that is a big team and that could explain the cost. I am aware that the Royal Court does have arrangements for public law work where it introduced lower rates. I think it is called the Factor A rates which is currently £232 an hour for a partner and £188 for lawyers, £154 for paralegals. Those rates are there to try and contain the costs for those sorts of legal aid matters. I do not think it is appropriate to suggest that this arrangement be imposed here, because the point is made in correspondence that people need to have their own choice of legal advisers. I think that is a different issue to the entitlement to full reimbursement of every cost, if they choose to use lawyers

which are of very high costs. So I would like very much to hear from the Chief Minister in his reply that, in addition to what he said, were the control and checks being run by the Minister for Treasury and Resources, that there will be some recognition by the committee itself of the means to manage these. For example, one possibility is, is the situation going to be open for lawyers practising in the U.K.? I know from practice that it is often much cheaper to get lawyers coming from that jurisdiction compared to local law firms. Often many local law firms contract to councils and others in the U.K. for precisely that reason. So I would like to think there are no artificial barriers for getting value for money here. Also, for example, the possibility being considered of having a panel of local lawyers and inviting lawyers to tender and go on that list, and obviously part of that would be their capability, their legal qualifications, but also the rates that they would charge. Also to have those bills subject to some taxing arrangement. Of course the overriding thing here is that none of these things that I am suggesting should get in the way of people having support for participation in the inquiry to ensure their legal rights are properly protected.

[14:45]

I am not objecting to that, but I do think there is a role, though, for perhaps the committee itself and/or their support team to exercise some thought about this as to how we can avoid the situation of runaway and open-ended costs. So that is an issue of management. By making these remarks I am trying to come up with some constructive suggestions to help think about how that minimum bill of £2.4 million does not become £5 million, £7.5 million, £10 million or whatever, and to make sure that we end up with a good process which is well managed and everybody is happy with and the cost is reasonably sustainable. I am not being negative. This inquiry is absolutely essential for all those reasons stated in the Council of Minister's report. I will support it wholeheartedly but I would like to see the Minister at least take on board some of my comments about cost management, which is quite normal in legal circles, and take that away and discuss that with the Minister for Treasury and Resources and find some way of managing that particular element of the cost. I make no comment on the other costs. We have got people of substance on the panels and therefore those people are an elite team and they do not come cheap. If we want well-qualified, able people we have to pay that. Thank you.

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

This is not really a speech, it is just a few points as a response to the Chief Minister. Really, I start by saying - and I do not think I have said this since he persuaded me to vote for him - well done, Chief Minister, well done. Common sense, coming together, compromise, whatever the reasons, fair play. He has done the right thing for the Island and the right thing for people. I am sure normal service will be resumed next sitting, but on this case he deserves a lot of credit and I think we should all echo that. There was no problem with what Deputy Tadier was trying to do. A number of us, myself included, had worked with some of the victims, other stakeholders, careleavers to get to this place and I am assuming it is going to go through now. I hope so, and I think a lot of credit should also go to the Citizens Media campaigners out there, to the careleavers, because this is all they have been pushing for: justice. You have probably got to say to us, for once, it might be the last time in Assembly, well done to us if we pass this today, because if we do nothing else we will have done something important and something good, and something that might bring some closure to a lot of families of people. If we do pass this we can hold our heads up high. I have to say that we should not kid ourselves. I will say this now as Jersey's justice system, in my view, and many others - and I will be doing a major interview on this outside the Island next week - is an embarrassment in many aspects. That is a fact, and I appreciate the Minister for Home Affairs and Deputy Higgins said sometimes it is only when you go through things yourself you see how shocking the system is. Jersey's justice system, and I would suggest anyone who has not done

so because it is relevant to this, read Advocate Sinel's deconstruction of the Jersey justice system. It is not fit for purpose. It is not fit for the 21st century. Fact. I know, I have been there. I am really pleased that this has been widened so that other institutions will be looked at. We might get some answers with which questions are normally met with attacks that you are a wrecker or you are trying to undermine, and you have just got to look forward. Well, to understand and to know where you are going in the future you have got to understand the past, and if we do this properly we can truly put the past behind us, maybe, and move on. We have got a justice system that is not accessible to many, many people. I do not think there is one person in this Assembly who would deny that. How can people who have got next to nothing access justice? How can some of these victims access justice easily if even people earning good money cannot? I hope there are a few lawyers out there listening, because they need to look at themselves. It is pretty horrific that we know that the people who are going to really benefit out of this is not going to be the victims, it is going to be lawyers. What does that say about the sick society that we are? People charging £600 an hour. It is disgusting. Those people should be ashamed, they really should. Things that we need to look at, and now we probably can, is how did things get swept under the carpet in the past? How do people who refuse to look at evidence of child abuse be allowed to become Jurats? That is very relevant as a fact. How could a person like that be allowed to sit for 14 years? I am not going to apologise for mentioning that, because I know the victims feel strongly on it, because that is the message it sends out about Jersey. We do not really care, it is image, image, image for Jersey. Well, I am saying it is justice, justice, justice. That is all these people want. There is a concern here about independent lawyers in the last amendment. That, I have to say to you, Chief Minister, this thing about independence remains, because independent lawyers, if this is going to have any weight at the end of the day, have got to be independent, and not like we saw in the recent past when this investigation started where lawyers who are described as independent have been engaged by the State for about 6 or 7 years. That is an absolute farce and it is another sign of a justice system that is not fit for purpose. It is a very sick joke. I was speaking to an ex-pupil from Victoria College only last week. What he had to say to me was very interesting and what he felt, and some of his contemporaries at the time felt, about issues of child abuse not being dealt with. We have heard that things are different today from even 10 years ago. I think largely they are, but let us not kid ourselves at all. I have got a case which is so shocking, and I touched on it yesterday, that if it does not result in resignations or sackings within both the police and the Children's Service then there is something very, very wrong, still, with our Island. So vigilance is the key word. Now, well, I could say a lot more about some of this and I will be doing so, but today this is a chance to really focus on the people that matter here, and that is the victims. Some of them are up there. Because they are people who for years and years have been ignored, ridiculed, humiliated, bullied and it is time at this Assembly we can be the Assembly to say that is not going to happen any more. We may have different political leanings but on this we can all stand together. I would like to think that that is the case and certainly the Chief Minister's acceptance of Deputy Tadier's amendment would suggest that. I would just say, Members, do put those victims first. Credit where it is due to the Chief Minister and let us hope this can be the beginning of the end of the misery and hurt for those people. I share Deputy Young's concerns about cost. We all do, but surely that can be manageable. Surely it can. I think I will leave it there. Again, well done, Chief Minister. You probably will not hear me say it again, but credit where it is due.

**Deputy M. Tadier:**

Sorry, I think my light was obscured.

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

I do not think it was on, Deputy.



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

Maybe it was not, Sir. I had forgotten with the amendment that the Chief Minister had already spoken, and I was waiting for him to speak, but clearly he can only do that at the end. I think it is important to acknowledge where we have come from in this whole process. I did touch on it earlier but strangely enough I was in a position 5 years ago where I was not a politician but nonetheless about almost this very day 5 years ago I was in the Royal Square with a whole number of other people who were very concerned to hear the revelations that had just come out for members of the public about what had happened historically, and there were some lovely daffodils in the Square and I think roughly about 300 or 400 people there showing solidarity with victims, often in disbelief and many of them not directly involved with what had happened, but knowing this was something that Jersey needed to deal with. That is what we have done and we have come from a position where 2 years ago we were presented with a report from the then Council of Ministers saying: "We are not going to have a Committee of Inquiry." A report, not a proposition, seeking States Assembly approval but simply a report and the clear thinking Senator Le Gresley who is even politically more young than he is now said: "This cannot be right. I want to rescind that." Of course we had the Deputy of St. Martin, Bob Hill, who said: "Let us set some terms of reference out" and it has really come on from there. It has not been an easy process. We have had to work diligently to make sure that this was kept on track, because we know that the Council of Ministers have been working in a coalition with those who do not have, let us be honest about it, any interest and do not want a Committee of Inquiry and those who have acknowledged the fact that it is important and I think that certainly, as we know from what has happened in the U.K. and elsewhere, things do develop and the more knowledge we have of things that happen the more we realise our processes do need to be scrutinised and do need to be changed. That is a very mature way for any society to deal with these kinds of difficult issues. We do now have a position whereby we are going to have under term of reference 2 the ability to look at non-States-run establishments providing for children where abuse has been alleged. That is very important because we have to remember that child abusers, no matter when it happens, do not discriminate between the public and private sector like we might. They do their heinous crimes and they do them towards those who are vulnerable, and they may move between the public and non-public domains, as we have seen in the very high profile case with Savile and that is still being revealed. We have to remember also the scope of this. There were 192 alleged victims that came forward following on from 2008 and around that period. There were 553 separate allegations that were made to the police. I can understand why this Assembly wants to make sure that money is spent correctly in a worthwhile way, but when we have people standing up comparing this perhaps to the Staffordshire Inquiry in which I think £30 million was quoted, are we saying that was not an important job to do? Are we saying that the money that has been spent here, what it is investigating, is not important? I do not think we can say that. I think what we have to say is that there are causes and consequences and we ran a system, albeit not necessarily under our control now, but in the past where systemic abuse did occur, where our most vulnerable were often put away and the correct checks and balances did not seem to be in place, so that even when children did come forward, and I have a constituent in my district who said to me: "We did go to the police. We ran away from our home where we were. We tried to tell people about that and they sent us back. They told us we were bad children and that we were lying and that we should behave ourselves" they no doubt got the required punishment when they went back to that place. This is where, of course, going forward, we will need to look at our legal system and the areas to do with time-barring, for example. This has been a massive issue which has led to our redress scheme, because we know in Jersey time-barring I would dare say, and I do not know a lot about it, but the test for it is a lot harder to meet, to bring back accusations in Jersey, than it would be in the U.K. How do we really expect somebody who has been in care perhaps 40 years ago, who may have been abused when they were 12 and tried to tell somebody at the time, who then leaves it, to have

gone straight to the police at the age of 18 or 20 and say: "This happened to me"? They simply would not have any faith in the system, especially if the same people were in the posts at the time when that was happening. It has to be said while we appreciate the redress scheme is trying to do a good job of this, firstly I think we put the cart before the horse. We should have done this before the redress scheme was up and running. Secondly, it seems to me that what we are going to be paying out to victims in terms of redress is going to be far outweighed by the legal costs, which is another contradiction. Why could we not just have put that money in and believed those coming forward, that what they said was true and give them the money, rather than giving it to expensive lawyers instead?

[15:00]

I think there is an issue which was raised by Deputy Young as well. It seems to me from correspondence I have been given, there was a letter written from a U.K. lawyer to the Acting Chief Executive, I do not know if I should name him. I probably do not need to, the Acting Chief Executive of the States on 5th March. I do not think he is acting any more, but it does say that at the top.

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

A lot of people know who you are referring to.

**Deputy M. Tadier:**

Thank you, Sir. He would wish to represent his clients over here at a Committee of Inquiry, if they so wish him to do so, but it seems to me that from the advice that has been given by the Chief Executive is that under the Interpretation (Jersey) Law 1954 an advocate or solicitor is an advocate or solicitor of the Royal Court of Jersey and accordingly there does not appear to be a provision within Standing Orders that would permit representation by any person who is not an advocate or solicitor in Jersey. There is an obvious issue here. We were talking earlier when we were discussing the amendment about the need to use independent lawyers for the Committee of Inquiry, but yet it does not seem that Jersey abuse victims who want to come forward and talk to the Committee of Inquiry will not be given a choice about using a U.K. lawyer, which seems very counterintuitive and possibly counterproductive in a sense that they may feel more comfortable employing a U.K. lawyer. They will not necessarily feel comfortable using a Jersey advocate, not to mention the cost. The cost may be different, so I would ask, and I do not know if this is the correct form, but I think it is important to state this on record so that when the Committee of Inquiry are putting their terms of reference to that they may be able to look at that. Perhaps this is an opportune juncture to ask for advice from the Attorney General on that issue?

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

The position is as stated by Deputy Tadier. The Standing Orders provide that a Committee of Inquiry can permit a witness to be represented by an advocate or solicitor, the Interpretation (Jersey) Law provides reference to an advocate or a solicitor must be an advocate or solicitor of the Royal Court. So as matters now stand the Committee of Inquiry could not authorise the representation of a witness before it by anyone other than an advocate or solicitor of the Royal Court. In fact that was mentioned in the comments that I lodged in connection with this discussion before the States and there was reference made to the possibility of an amendment to the Standing Orders to accommodate that difficulty.

**Deputy M. Tadier:**

Thank you. So if I got that last bit correctly, I would hope that there would be an amendment to Standing Orders so that that could be done. It seems entirely sensible to get that set up to give

those coming before the inquiry the flexibility. Hopefully that can be done. There is one last point that I want to make, and it is a general point. I think it came out in the comments. Nobody at any point has been suggesting that if and when the prosecution files or elements of prosecution cases are looked at nobody is saying that should be done in a public forum. There was a comment made, and I think it was the Attorney General's comments which I will try and quote from memory, but I do have them in front of me if I need to be corrected. It is basically saying it is not appropriate for a political assembly or a body appointed by a political assembly to be looking at the prosecution files. I half agree with that. It is completely inappropriate for politicians to be trying to determine the rights and wrongs of prosecution cases, but there is nothing wrong with a body which has been set up to be independent from the States or the Judiciary to scrutinise those. I think we have come to a point today where we understand that we are setting up an independent Committee of Inquiry. It will be by nature expensive, but it is a relative cost that we have to bear, and the *quid pro quo* for that is that we will have experts who we can have confidence in to do the job properly and it will now, at this point, take it out of the hands of politicians and leave it with the experts so that they can report back to us. I will finish just by referring again to the front page of the *Times* today and the editorial on the second page, which is that it is healthy that we should be looking at our processes in any jurisdiction so that we can make sure we move forward, and it is about providing justice, recourse and redress, as well as hearing the stories of those who were abused. It is also, I would say, more important that we as a society can move forward, understand what happened in the very difficult cases, and then move on. If I might say, just thank you to all those who have been working diligently in the background. If this were left to mere politicians, not simply left to the Committee of Inquiry, but even if it were left to the rest of us, without the pressure and the grassroots support from the careleavers in their group or those who have left care but not necessarily in their group, I have to echo the words of Deputy Trevor Pitman, without the constant surveillance - and that is not the right word - but the scrutiny of bloggers who have been putting pressure on us to make sure questions are asked and that processes are adhered to, we would not be in the position today, I dare say, of having a Committee of Inquiry, or certainly it would not have been as robust as it is now. I have to thank all of those people who have been involved, including former politicians, who have given up their time. They are not getting paid and they often get nagged by their wives for coming out at night when it is not even their job any more. These all have to be acknowledged, and I think this can be seen as a very good example of how grassroots democracy can work and how the decisions of governments can be changed so that complete U-turns are made, hopefully for the benefit of wider society.

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

It is only a brief point. It is just for the Chief Minister. Would the Chief Minister please state categorically when he sums up, for the benefit of any abuse victim who has settled with the States under the Historic Abuse Scheme, that by accepting compensation they are not prevented in any way from talking about the abuse they suffered or from giving evidence to the Committee of Inquiry, despite any letters that they have received from the scheme lawyers? I know I have asked this question of the Chief Minister before, and he has said there was none, but I have been told today again that some people have been given letters which they believe prevents them, and I am just asking the Chief Minister to state categorically that it is not the case, they are free to speak out. Thank you.

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

I did not want to spoil Deputy Tadier's valedictory speech, but I shall have to in the sense that I was terribly disappointed by my very good friend, I hope, the Constable of St. Martin, Constable Le Troquer. Why I was disappointed, I think he did damn with faint praise, and he is absolutely right, as have been other people like Deputy Young, to refer to legal expenses and yes, the Bloody

Sunday inquiry was 10 years, I think it was £100 million largely to Northern Irish lawyers and it was an amazingly odd sort of procedure which brought closure of a kind, obviously, but at what expense and in what way. Why I am very disappointed with the Constable of St. Martin in particular, it has to be remembered if you have a structured process it is one overseen by people totally independent of our institutions who can go where maybe we would not want to go, who do not have the mind-set which either consciously or unconsciously we all develop. I have worked in one of these organisations, not here, elsewhere, and I know how mind-sets develop. It is unconscious, it is not malicious, but mind-sets develop, blinkers start growing around your judgments and it takes very brave people in organisations to stand up and say, even to know: "Something is going wrong and I am going to do something about it." Just to see it is often a very difficult thing because you get bogged down in minutiae, in details, and in peer pressures. You go to canteens and discussions are held and things are minimised *et cetera*. What I would like to tell the Constable, with a properly structured inquiry with properly, totally detached and independent people, remember also those wrongly accused will get their say as well. I have been approached by a couple of these people who feel that for various reasons they have been found guilty by blog sites or whatever and remember they will get a chance. It says something about the magnanimity of an organisation or a society that it is prepared, and I have got to be careful with the *Magdalene Laundries* case in Ireland, to wash its dirty linen in public. They are people who also want to say it is going to be very embarrassing, and it always is in a small society when these things are discussed in public, because these things get, as we well know, very personal. But it is important they have a say and therefore it is important that there be a proper structure. It is no good saying: "Well, this is too expensive, what are we really going to learn?" and so forth. I would also tell the Constable, what are we going to learn and if I may be grandiloquent and quote the American phrase, which I think I am losing now, but: "The price of democracy is eternal vigilance." Organisations always have to be looking at themselves. They do get complacent and they do do wrong things, and they do go off in wrong directions. You just cannot put a line under organisations and say: "Great, everything is wonderful, we are operating to modern standards, no need to go back" and so on. So those are some of the lessons I would say to the Constables. those are some of the lessons that we will learn and, as I said, remember that there are all sorts of people who want their say and I think if we are magnanimous, as I am sure we are, they will get their say and hopefully at long, long last they will feel they will get justice in the small "j" sense of the term, if not in the fully legal sense of the term.

### **2.3.10 Senator F. du H. Le Gresley:**

I would like to start my speech today with a quote: "We like to imagine ourselves as being some kind of model community; a safe, well-governed and happy group of people. While I cannot speak in detail of individual sufferings now nor of the many betrayals, I can say this: that as far as I am aware the coming months and years are going to require the most painful reconsideration of our communal values, our communal failure in the entire 800-year history of Jersey as a self-governing jurisdiction." Some Members will perhaps recall that these were the words of former Senator Syvret which I have taken from his Christmas greeting speech of 5th December 2007. At that time he was the Minister for Health and Social Services and the longest-serving Senator in this Assembly. This was a speech that struck a chord with the victims of child abuse, but shocked this Assembly to the extent that the then Bailiff decided to adjourn the sitting before Senator Syvret could complete his speech. Having replaced Senator Syvret in this Assembly, I have felt an obligation and later a determination to pursue his wish to have a full, public inquiry into historical child abuse which we now know did occur in State-run homes and in foster homes in our Island. When my proposition P.19 of 2011 as amended by Deputy Tadier and former Deputy Bob Hill was debated on the first 2 days of March 2011, I was delighted with the support it received from 37 Members of this Assembly. However, of the 11 Members who opposed the proposition, 6 are

currently in the Council of Ministers and 2 are Assistant Ministers. Fortunately our Chief Minister had a change of mind and has been steadfast in his resolve to set up a Committee of Inquiry. The fact that today this proposition is brought in the name of the Council of Ministers is testament to the unanimity that has been achieved, even though it has taken nearly 2 years to bring robust terms of reference for approval by this Assembly today. In common with the Chief Minister I would like to praise the work of Verita who have helped us understand the issues and focused our minds on the detail that needed to be included in appropriate terms of reference.

[15:15]

It was an astute move by the former Chief Minister to appoint Verita, as they have been able to consult with interested parties and have, in my opinion, correctly gauged what the process should be to appoint the Chairman and members of the Committee of Inquiry. It is paramount that victims of abuse and those who have been falsely accused of being perpetrators have absolute confidence in the appointment process and independence of the committee. The terms of reference proposed by Verita in their original report of November 2011 have formed the basis of the terms of reference we have before us today. We have consulted with the managing partner of Verita throughout the process of considering amendments proposed by Deputy Tadier and I believe that we have arrived at a position where victims of abuse, careleavers, bloggers, sceptics and even detractors can be confident that we will have a robust inquiry. Of course there will still be those members of our community who are opposed to the setting up of a Committee of Inquiry, but I urge the majority of Members to keep uppermost in their minds the undeniable fact that sexual and physical abuse of children in the care of the State did occur. We know that 168 inquiries were received by the N.S.P.C.C. (National Society for the Prevention of Cruelty to Children) from alleged victims, that the police brought 7 successful prosecutions and that there have been 130 claims under the redress scheme. In the same way that the doubting Members of the Council of Ministers have been persuaded that establishing a Committee of Inquiry is the correct course of action for the whole community, I sincerely hope that Members will agree that historical child abuse is definitely a matter of public interest and that the Committee of Inquiry will provide a trusted forum where witnesses can share their experiences. We have ensured in term of reference number 7 that witnesses who wish to give evidence in private may do so, as the Council of Ministers is aware that a number of victims and some former staff who worked with children have concerns about attending a public hearing. It will of course be for the Chairman of the committee to determine whether and to what extent all or any of the evidence should be given in private. Under part (e) of the proposition the Chairman is required to set out the proposed process for conducting the inquiry. Having consulted with interested parties where necessary Verita in their original report commented that any inquiry is by nature inquisitorial but a number of people they met stressed the importance of the work being conducted in a non-adversarial way. The potential for cross-examining of witnesses is a common concern in inquiries of this sort, and the managing partner of Verita had this to say in an exchange of emails I had with him in June of last year: "In my experience the usual way to deal with this issue is by the Chairman and the inquiry team developing robust inquiry procedures or rules of engagement, which are then agreed with all the interested parties. Indeed, there are a number of inquiries which have been conducted into abuse where no one has been allowed to ask questions directly of others. Rather, all questions have been routed through counsel or lawyer to the inquiry and he or she has decided whether or not they are relevant or appropriate to put to participants. Routing questions in this way dramatically reduces the tension and potential for hostility and also ensures the inquiry is kept on course. Such procedures would undoubtedly be needed for this inquiry." I believe we have produced robust terms of reference which set out the task ahead, but not the procedures explaining how the business needs to be done. The 2 need to fit hand in glove. We would have to place our faith in the Chairman, who will undoubtedly be a

person with a legal or judicial background to set out equally robust rules of engagement. Turning to the potential cost of the Committee of Inquiry raised by a number of speakers today, I believe the written comments from the Minister for Treasury and Resources should help to alleviate those concerns, but I understand the views expressed by Deputy Young in particular. It is accepted that the budget for legal fees for witnesses of £1.5 million may be understated, but the need for legal representation can be mitigated if the Committee of Inquiry resolve to deal with all allegations of abuse in private and then determine what should be contained in the final report. As is stated in terms of reference 7, it will be for the Committee to balance the interests of justice and the public interest. Very recently Members were circulated with a news release from the Department for Health and Social Services about a seminar being held in Jersey on the psychological and physical abuse of people with learning disabilities and autism. The news release included the following quote from the officer responsible in Health and Social Services for learning disabilities and autism: “We are not saying that this type of abuse is happening in Jersey, but constant vigilance about this issue when we as professionals deal with some of the most vulnerable people in society is absolutely essential. We know that this type of abuse is appalling and distressing, and there is no place for it in care, particularly as people in this group cannot speak out for themselves, but there are wider questions to consider, such as why it happens and more importantly when it does happen why do some staff speak out and others do not and above all, how can we prevent such abuse from happening? We all have a role to play in ensuring such abuse never happens and how those who might have concerns can raise them without fear.” Members will I hope agree with me that such enlightened and compassionate views were sadly lacking at Haut de la Garenne and other institutions run by the States. The departing Chair of the J.C.P.C. (Jersey Child Protection Committee) has recently given strong endorsement of the work of the J.C.P.C. and all its partners who ensure the safety and wellbeing of all children in Jersey today. However, we know that the care system that operated historically for children failed some of our children in a serious way. A Committee of Inquiry can start the healing process for those still alive today who suffered abuse when they were children in the care of the State. The founder of ChildLine, Esther Rantzen, recently stated in a television interview that child abuse is an attack on a child’s soul. We cannot change what has happened in the past but we can today show our support for the victims of child abuse by voting for this proposition. **[Approbation]**

### **2.3.11 The Dean of Jersey:**

I rise very briefly to endorse what Members have said about the welcome that should be given from all areas of society to this proposal and I am particularly glad that it has been enlarged to include the third sector, so that we are not simply saying this is about government-run institutions or government-run child care but is about all those who in any way provide things in which children and young people participate. Of course it is right that there must be justice for those who have suffered. There must also be justice for any who consider themselves to have been falsely accused or tried by innuendo and rumour. I rose some years ago when Haut de la Garenne first broke and asked the then Chief Minister, Senator Frank Walker, for 3 assurances. One was that there would not be any financial limits on the investigation. The second was that there would be no place to hide no matter what connections or influence anybody involved in this should have, and the third was that looking to the future Jersey would develop 5-star gold standard ways of dealing with children and young people. It seems to me that this proposition is where the answer to that finally lies. Of course when the report is made we will then have to think about how we implement recommendations and indeed how we evaluate those recommendations. But as somebody who did take an interest those years ago and indeed where we arranged the first service at St. Martin de Gouray for those who had been involved in any way and for the police who were conducting the investigation, it seems right that I should welcome, in the name of the charitable and third sector, this particular proposition and also to undertake on behalf of my colleagues who have any

leadership responsibility in that charitable and third sector our utmost wish to co-operate and encourage others to co-operate in whatever ways seem appropriate not only with the inquiry, but also to make sure that we genuinely achieve that 5-star gold standard for the future. We are not necessarily, in this Chamber now, responsible for what may have happened 20 or 30 years ago, but we are most certainly responsible for what happens in the next 20 and 30 years.

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

If no other Member wishes to speak I will call on the Chief Minister to reply.

**2.3.12 Senator I.J. Gorst:**

It may not come as a surprise to Members that I have thought about this day on many occasions over the course of the last 15 months and I think it is a testament to all those people who have been involved in whatever way that I never imagined it quite as it is now. I cannot say more clearly how grateful I am for Members of this Assembly and to members of our community who have joined together across the political divide to ensure that we could support a terms of reference for a Committee of Inquiry into what happened in our community in the way that we have today and I am personally grateful to all those people. I am not sure that I can sum up in any better way than Senator Le Gresley has done, however I do feel that I should touch on and endeavour to answer probably 2 or 3 questions that have been raised by Members who were perhaps still uncertain about which way they will vote this afternoon. Firstly, if I could turn to Deputy Baudains who was concerned that we were not, by setting up this Committee of Inquiry, going to allow people to have a “second bite of the cherry” to use his parliamentary term. He has said that he is supportive of a term of reference that looks at process and procedures, but has concerns when that is broadened out to allow victims to have this second opportunity. I have to be quite honest with him and say that the terms of reference before us today while not allowing a “second bite of the cherry” do allow most clearly and most purposefully victims to come forward and talk about their experience and I believe that that is the right thing and it is absolutely as should be with regards to this Committee of Inquiry.

[15:30]

But if I could just refer the Deputy back, which I hope will alleviate his concerns, to my opening comments and that is that the inquiry is not a court of law and will not be able to judge the guilt or innocence of individuals mentioned by witnesses. Its role is, however, to understand what happened to cared for children by allowing victims to describe what happened to them by allowing those accused of abuse, but not charged with a crime, to have their say and by collating information from past investigation and reviews and setting those within the societal norms and standards at that point so that we can understand what went wrong; so that we can understand what was done at the time and so that we can see who was accountable. So a number of Members also mentioned costs. Again I had hoped that my comments earlier and the comments of the Treasury Department would have addressed Members’ concerns in that regard and I believe that they do. The Connétable of St. Martin is right; I cannot stand here this afternoon with certainty and tell Members what the absolute cost will be, but I can stand here with certainty and say that the figure estimated of £6 million has got a good basis. It has been provided by Verita who, as I said, have experience of similar inquiries elsewhere. It has been reviewed by the Greffier’s Department and also further work has been undertaken by the Treasury Department and therefore I am confident that those figures are robust and, as I said earlier, it does include £1 million for contingency so there is latitude for perhaps changes. So I hope that no Member will decide to vote against this proposition today because of cost; the work has been done. Members can be confident that the proper processes of budget management will be put in place. Deputy Young makes very pertinent points and perhaps I could offer him assurance by saying that it is the nature of such inquiries that the Chairman and panel

members will consider what has been said today in supporting this proposition because that is what you would expect of independent, diligent individuals being tasked to do such an inquiry. Therefore they will have heard what has been said today and I have no doubt that they will take that into consideration in the way that they themselves manage their budget. Perhaps if I could turn to Deputy Higgins; we have sparred across this Assembly in relation to the historic redress scheme and I am sorry that we have done that because I believe that we both have the same aim in mind. I am not sure if he has seen the agreement that those receiving payment from the scheme are asked to sign, but it is quite clear and the Council of Ministers were quite clear that individuals receiving compensation under the scheme are absolutely free to speak out about their experience and to attend the Committee of Inquiry. What that agreement does say is that they will not talk about the amounts that they have received under the scheme and we were and have been quite clear from day one that that was the only perimeter in that regard. What I did not say to him yesterday, because he did not press me in that direction, but I will say it today, is that I understand that some lawyers have suggested to individuals who are making claims under the scheme not to sell their stories, as it were, until they have had their payment agreed, so that might be where there is some confusion, but there is no confusion with regard to the agreement that individuals are being asked to sign. Deputy Pitman right at the start of this debate suggested that some Members might have a conflict of interest. I do not believe that I have, but for the record I would like to say that a member of my family has in the past been in the care of the State in Jersey. I do not believe that that provides any conflict whatsoever, but in the interests of that transparency I would make that comment. I am grateful to Deputy Pitman for his kind words. Unfortunately that is about the only agreement I think that he and I share today, but we will leave that for another occasion. So I have acknowledged publicly this morning that things have gone wrong in the past and it is right for us today to approve this Committee of Inquiry, but I do not want Members to be shocked. Some of the stories that we as Government and members of the community will hear throughout that process will be shocking and will be surprising, but it is absolutely right that those individuals have the opportunity to talk about what happened to them and they will need our support through that process. I hope that this Committee of Inquiry will help us to learn lessons from those past failings. As I have said it may not be pleasant, but it is something that we as a Government and as a community must face up to. I believe that by establishing a thorough and trusted independent process of inquiry, which is what I believe we have before us, the experiences of all witnesses will be accorded their rightful importance and they will play a part in ensuring that we have the correct framework to protect all Islanders, especially our most vulnerable, into the future. Therefore I repeat as I said at the start, it is my sincerest hope and belief that this Committee of Inquiry will be that first step in the healing process for all of those who have suffered and I thank some of them for attending our deliberations today. I know that that has not been easy for all of them, but I thank them for that and I hope also that it will help the healing process which needs to take place across the whole community. I finish as I started my closing comments, and I hope that I will be proved right that we can come together and give these terms of reference our wholehearted support and thereby let the independent inquiry begin. **[Approbation]**

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

Very well, the appel is called. I will ask Members to be in their correct seats for the appel especially on the Connétables' benches. If all Members are in their designated seats I will ask the Greffier to open the voting.

<b>POUR: 38</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator A. Breckon				
Senator S.C. Ferguson				



Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.G. Le Hérisser (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy M. Tadier (B)				
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 J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				

### **3. Draft Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201- (P.2/2013)**

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

Very well, we come to the Draft Control of Housing and Work (Residential and Employment Status) (Jersey) Regulations 201- (P.2/2013) and I will ask the Greffier to read the citation.

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

The States, in pursuance of Articles 2 and 44 of the Control of Housing and Work (Jersey) Law 2012, have made the following Regulations.

#### **Senator I.J. Gorst (The Chief Minister):**

Perhaps I could ask my Assistant Minister who is the Chairman of the Migration Advisory Group to act as rapporteur for this and the following.

#### **3.1 Senator P.F. Routier (Assistant Chief Minister - rapporteur):**

The Control of Housing and Work Law was approved in July 2011 by the Assembly. Today I propose the Regulations that will support this much needed new law. The Regulations were published alongside the main law in 2011 and remain largely the same as those before Members today. I will start by reminding Members why we need this new legislation. Our current law is outdated; they do not contain sufficient powers to secure compliance; they do not give us enough information to detect non-compliance and they are cumbersome and bureaucratic. This is not an acceptable position when Islanders are so concerned about immigration. I believe our job is to work together to enact the new law and these Regulations as soon as possible and with the knowledge and experience to be gained from their operation we then progress any enhancements that may be needed in the future. We must also strike the right tone between the value and benefits of immigration and the need to have some limits in the best interests of our small Island community. The Migration Advisory Group is very pleased to see that the Scrutiny Sub-Panel led by Deputy Power has issued their very thoughtful and helpful report, which I can say that we have a large measure of agreement with. Indeed we can and have committed to progress their recommendations. I would also like to thank the sub-panel for meeting the agreed timetable so that we can at last get this essential law in place. The purpose of the main law is to provide the availability of work and housing in Jersey for people with strong connections and associations with Jersey and more generally in such a way that is in the best interests of the community. So today we have the Regulations which outline how a person obtains and retains their residential status. This will govern their ability to find work or housing in the Island. There will be 4 categories of residential and employment status; that is Entitled, Entitled for Work, Licensed, and Registered persons. It is proposed that there will be 6 ways of gaining entitlement; 4 based on a length of residence of 10 years and 2 discretionary provisions relating to social and economic benefits for hardship. The objective of the 4 categories based on length of residence is to give preferential treatment to persons born in Jersey or brought to the Island under the age of 16 or arriving before the age of 20 if they are a child of an Entitled person. With regard to Entitled for Work, persons are entitled for work generally by being residents in the Island for 5 continuous years. This will enable them to work anywhere in the Island. However, they are restricted in where they can live and can only lease registered accommodation, lodge or live with their spouse or civil partner. Looking at Licensed; persons are licensed by way of being essentially employed and are generally able to lease or purchase the property in which they live. As for Registered, all other persons are registered and only able to lease the registered accommodation in which they live. A business must have a licence to employ someone who is Licensed or Registered.

[15:45]

I am sure Members will have noted the similarity of the qualifying criteria under the old and new laws. This will ensure a smooth transition to the new law. As for these regulations, they provide a reasonable formula for how a person gains and retains their residential status. I propose the principles and am happy to answer any questions.

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

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

**3.1.1 Deputy R.G. Le Hérissier:**

I have had chats with the Assistant Minister and he has been most helpful but basically he cannot deliver on this issue, but I will ask again. Within the confines of these Regulations, will it be possible to reduce the number of group or bulk licences that are out there and that are clearly fuelling the unemployment situation at the moment?

### **3.1.2 Senator L.J. Farnham:**

I wonder if the Assistant Minister can explain briefly if possible the process for employers, for example, would have to go through to employ Licensed and Registered persons?

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

Yes, we are talking about the principles, are we not?

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

We are.

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

So I can make general points while the Regulations go through. Yes, I served on the sub-panel that took a look at these Regulations and while a number of recommendations that were made have been accepted by the Assistant Minister, there are a number of issues that I think that we failed to get to. For example, I believe we are doing this the wrong way around. We are introducing the mechanism by which we can control migration and population before we have a policy, so we do not quite know, while these are here to control migration, what that migration... how substantive that might be. The key question here is that we have been trying to control population and migration for the past, at least, decade, and we have singularly failed. We have failed, not because we do not have the mechanisms to control population and migration and the numbers, because we do, we have failed because we have not exercised the political will to do so. Where I think the Scrutiny sub-committee failed in its questioning, although it tried, was to try to determine whether the political will existed in Ministers that came before us to ensure that these powers, which are now strengthened, were going to be used. Try as we did, and we did, it was very difficult to get any commitment from Ministers as to what these Regulations would mean. The problem for me in that panel, in this work, was that it is all very well, as we are saying today, that we have tightened up on immigration and permissions to employ in the light of the fact that we currently have an unemployment problem and we are going through a bitter and deep recession. We have a pool of unemployed that could and ought to be employed before importing any workers. While that exists it is very easy to say: "We are clamping down on permissions to employ people who do not have a connection with the Island." What happens - the question I was asking repeatedly and I never received satisfactory answers - when we are out of recession and the economy takes off? History says we open the floodgates, we allow inward migration, and that is what happens. I do not know which way around you do it. The economy takes off and we open the doors. The population rises, inward migration rises; that is what happens. That is how we fuel an expanding economy. In the past, we have failed markedly to control population. So, for example, the target is and has been for some time that we allow inward migration to the extent of 125 heads of household, which is around 220 people. The reality is that year in/year out for the past decade we have permitted 650 people to come into the Island year after year after year on average. The question is, what happens when the economy takes off again to these Regulations, will they be used? I am afraid what we heard was the same answers that were given way back, and I can remember the words, by the likes of Senator Walker in his days when he used the phrase about our controls, the old controls, are like a tap, we can turn it on and we can turn it off. Some Members in the House will remember what happened then, because the very prospect of turning the tap off and stopping this inward migration, immediately business went up in arms saying that we were closed for business. I get a nod from Deputy Baudains who remembers the words, he remembers it happening. Yet, when I asked the Assistant Minister about whether there was a political will to use this mechanism, these new powers, he has used exactly the same phrase, he said, and I quote: "The piece of work we are currently doing is putting in place a law, which virtually is a tap, you can turn it on and you can turn it off. The legislation is very flexible to enable you to do either thing, whatever the economic

circumstances are.” The Chief Minister also referred to past solutions, again proposed in the time of Senator Walker. When asked by me: “However, when the recession is over and we go into a positive economy and the unemployment goes down, how can you then start controlling these licences, non-locals and locals?” He said words to the effect: “This is about people who are under-employed as well so there is capacity there in our market. On top of that, there is a body of work of all those people who have some form of inability to work and have no work currently but could do some work. So there is a whole other capacity element within our economy that could be accessed as well.” Again, those of you who were there at the time will remember this argument coming from Senator Walker: “We can employ women, those with a disability, *et cetera*.” Theirs was the marketplace, they were the workforce. It never happened. So the question, will it happen this time, needs to be asked time and time again. Whatever our targets are for population growth and migration, will we use these new rules to enforce them? Will we stick to the targets? Again, the Minister for Economic Development, I said to him: “So you can make the rules work now to strip out non-locals? Is that a product only of the economic situation and the level of unemployment?” The Minister for Economic Development said: “If you are asking, ‘Have we tightened up?’ yes we have in terms of the determination of requests from businesses coming in. We are now looking very closely at the business plans being presented to ensure there is a justified rationale and that they have been through a process of seeking to employ locally, been down to Social Security, and also have in place a good training scheme and are prepared to do a proper training programme for young people and staff.” Exactly the same sorts of statements have been made continuously for the last decade. Remember (j) cats? At one stage they were only for training purposes, you come in, work for 3 years, train up your successor, and then we would expect you to go. That was the solution. Exactly the same phrases from the Minister for Economic Development today. Question: these tough and more flexible rules, will they be used or will they, like the previous set, be ignored when push comes to shove and a large financial institution comes to the Minister and says: “I need 20 skilled employees, cannot find them here, let me bring them in or I will outsource this particular job to the Isle of Man”, will there be Ministers, will the Chief Minister or his Assistants be saying: “No, we have a limit, you cannot have them”? That is the fundamental question that needs asking. No matter how good these rules are, will they be applied; is the political will there to apply them? So justify rationale, do you need them to expand your business? Assuming they do, that you have sought to employ locally and not been able to find it; that is exactly the same rules as now. Then, only for training posts, we have had that for the last; certainly we had that 10 years ago, only for training posts. Do you train people up? Is that happening? Will that happen in future? So the question must be asked, and I think we deserve some answers today, as to what is the political will. You now have an improved tap, will you be turning it on, will you be turning it off when push comes to shove and business starts to expand and comes knocking on the door requesting, demanding to let in extra workers, will you say no? That is the question that the Assistant Minister needs to answer today because he certainly did not answer it during the course of the Scrutiny review. In fact those comments and those quotes were not included in the Scrutiny review, they were deemed to be unimportant, but I think they are absolutely central to the effective working of these particular Regulations.

#### **3.1.4 Deputy T.A. Vallois:**

I would like to speak to 2 areas of the report on the proposition, on page 5. One in particular is the area about the ability to levy fees. Understanding that you are wanting to have the level playing field of levying the fees for the administration of producing this particular law and ensuring the controls are effective, my concern lies within the ability to control the increase in the fees going forward, particularly my concern lies around the intention of the Inflation Strategy that was brought in, in 2008, which seems to be completely ignored by various departments when increasing charges, and I just want some reassurance from the Assistant Chief Minister that that will be taken

into account in particular under the financial direction that is imposed under the Public Finances Law by the Treasurer. My other area of concern is I would like to say thank you very much to the Scrutiny Panel for their hard work and their report that has come out and I note the response that the Minister has provided to the panel and I have to say I find it completely unacceptable for the Chief Minister to not have an absolute target date for completion of actions or recommendations. If he accepts a recommendation there should be a deadline that his department are going to meet. If they do not know the deadline then there is just an excuse that rolls on that: "Yes, we knew about that but we had something more important."

[16:00]

It is very difficult for Scrutiny or other Members of this Assembly to hold the Minister to account to ensure that they are implementing their priorities as per the Strategic Plan. I have already spoken to the Chief Minister about this at a previous meeting with the agreement of the Chairmen's Committee, about the way that Ministers accept recommendations and their target lines. What does concern me is the post-implementation review, which seems to hold all this together, they say: "Having outlined the benefits, following the introduction of the new law, a post-implementation review will take place in order to assess the effectiveness of the new controls, including the appropriateness of the 5-year rule in relation to becoming entitled to work." I think that is a great idea that they are going to have that post-implementation review and it is absolutely welcomed, but then all the accepted areas of the Scrutiny Report on the recommendations, they refer back to the post-implementation review. No target dates, one where they have not even accepted a recommendation, so I would ask the Chief Minister get his ducks in order and come back to the Scrutiny Panel with dates by which his department are going to ensure that this is delivered and that the Scrutiny recommendations are put through his department as he has accepted them. Thank you.

### **3.1.5 Deputy S. Power:**

Members may remember, it seems like a long time ago now, but it was yesterday that I read a statement accompanying the sub-panel report and I said, and I am going to repeat it: "Having read through the Ministerial responses to the review, I must advise Members that I think a degree of urgency is also needed in the actions to follow through by the Population Office if it is to carry out what we regard as urgent implementation of key recommendations." That may in some way pacify Deputy Vallois as to how target dates are to be brought in or targets for recommendations are to be implemented or enacted by the Council of Ministers and indeed the Chief Minister himself. We are, as an Assembly, facing differences in the way net inward migration is occurring and it is clear from the latest report by the Statistics Office that the pattern of migratory movement among people annually, the annual wave of migration that hits Jersey through hospitality of the seasons, that more people are staying longer and less people are leaving. The significance of the provisions of the Control of Housing and Work Law for the future are that unless we deal with the next wave of net inward migration we will not be able to cope. I think Deputy Southern alluded to some of the comments that were made in the Scrutiny Report about how effective will be the response from Chief Ministers and he talked about holding the Council of Ministers to account, in my view, unless this new series of provisions is enacted, enabled and enforced in the forthcoming spring and summer months, it will be the public that will hold the Council of Ministers to account as much as any Member of this Assembly or anyone who authored a Scrutiny Report. So we are facing some serious issues and we do have to grasp it now. The success or otherwise of this new legislation and the extent to which it works is completely dependent on how it is policed and enforced. There is no point in passing complex laws to do with housing and work unless we have a mechanism to enforce it and that is what this is all about this afternoon. I have absolutely no doubt in my mind that unless the new powers under the Control of Housing and Work Law to cease illegal activity immediately

will provide an important means of compliance with the law provided these powers are exercised. Provided these powers are exercised; that is the conditional tense. I spoke to the Director of the Population Office on the other side of these doors to my left and we talked about what sort of compliance team he thinks he will need and he does admit that he is under-resourced from a compliance point of view. The conversation I had with him in the last hour suggested that a compliance team of a multiple of 4 times that might be needed to be considered in the next year to effectively allow the provision of Housing and Work Law to work, so that is up to the Chief Minister, it is up to this Assembly first, and then it is up to the Chief Minister's Department to decide what is next. In all other respects, I think that our work is done. I did pick up on one point that Deputy Southern did say in relation to unemployment among locals and unemployment about the local young, and it is obvious that some local people now need to be educated and trained to undertake work in areas that were traditionally associated with non-qualified people, I cannot hesitate to emphasise that too much. I finish on this: last night I had a phone call - I did have a dream afterwards **[Laughter]** - I had a phone call from all I can describe as a frazzled businessman who is very worried about the headlines in the *Jersey Evening Post*, which talks about random raids and so on. He is in the hospitality industry, he has invested a great deal of money in the last 4 years, and he said to me that if the thing is enforced along the lines that he anticipates he has 2 problems: one, he finds it almost impossible to keep people who are locally qualified in work because they do not seem to have, for whatever reason, the approach and ambition and drive to start at the bottom and work their way up, and he said he has advertised numerous times in the local media, the local papers, and for every one local applicant he gets, he is getting 9 or 10 who are not born here. So he said, and then when he does trial somebody for 3 days, 3 weeks or whatever, inevitably the local applicant does not last. He finds it incredibly frustrating, and I am talking about a Jersey man. The second issue he has is that with the imminent arrival of the hospitality industry intake of seasonal staff, he is very afraid of losing the staff that he has just trained over the winter to operate his business, and he operates about 18 people at weekends, he has real worries about retaining those 18 people. So there are concerns on both sides of the equation in this thing. On the one hand we must enforce the law properly, the new law that is about to be approved I hope, but on the other hand there are issues out there and it is really important that young people on this Island who are qualified, who are born here, do consider to take on work areas that traditionally are associated with new arrivals, and I cannot emphasise that too much. I know that Senator Le Gresley has been doing some fantastic work in that area, as have other States departments, but it seems to me that unless we tackle this approach to entry-level work there is going to be a major problem. Thank you.

### **3.1.6 Deputy R.J. Rondel of St. Helier:**

For the past few months I have worked alongside Deputies Power, Labey and Southern as well as the Constable of St. Saviour in examining and producing the second part of this Population and Migration Review. A significant amount of our own manpower and womanpower has been put into this investigation and I feel that since the passing of the Control of Housing and Work (Jersey) Law and the Register of Names and Addresses (Jersey) Law this review really has become one of necessity. This is because without acknowledging the issues, which our review raises in its report, and addressing them accordingly, there is a strong possibility that this legislation will be largely ineffective and the issues regarding population and immigration will continue in a similar manner to that of the Regulation of Undertakings and Development (Jersey) Law, which has not succeeded in achieving its desired objective. I will try and outline some of the key points that we have come to as I feel that they should be discussed in this open arena in order to show my fellow Members and the public alike the problems that face us if we do not act now. Firstly, like any piece of legislation, without the means of enforcement, it is largely irrelevant, in fact totally irrelevant. Currently, we have a total of 1½ enforcement officers who work with the Population Office. Over

the past 12 months they have conducted 3 checks of the harbour; this is totally inadequate. If we want to get serious about cutting down on the white van men, among others, from coming here to work and taking from our local economy then we need to be prepared to match our words with action. It is simply not enough to enact a piece of legislation and expect results. Yes, we are in a time of austerity and it may be difficult to justify the increase in expenditure. However, I believe it is false economy to make savings through not increasing the numbers of enforcement officers. I would like to think the necessary number of staff needed could be found from within the existing departments. By failing to ensure we are cutting down on economic leakage, we are going to lose money; money that could be earned by the hard-pressed Jersey taxpayer. Similarly, the policy of whistle-blowing is being encouraged by the States of Jersey to local people as well as local businesses to ensure that those working in Jersey are entitled to do so. While this is all well and good and I do encourage it, I believe that the public cannot look on this as a credible policy if the States themselves are not prepared to invest the time and energy into enforcement. Enforcement is the key. Indeed, a cynic could look upon this as the public doing the work of the enforcement officers. This should not be the case. We need to work together to ensure a better future, not by doing the minimal amount possible, but rather by creating a policy of enforcement and diligently administering it. Further to this, the Corporate Services Scrutiny Sub-Panel also came to the conclusion that we should not just be proposing the adoption of a registration card, but rather a registration card that contains a photographic I.D. (identification). It is important that any preconceptions over this are dismissed; this is not big brother trying to keep tabs on the hard-working Jersey men, rather this is the best and most succinct option available that will allow for the effective administration of the Housing and Working Laws. By creating a registration card with a photographic I.D. we are allowing immigrants to carry the card rather than carry the card plus another form of photographic I.D. This not only allows for greater policing of the law, but it also reduces the bureaucracy, something that I am sure we all want to achieve when introducing new legislation. In one of our hearings, the Minister for Social Security himself said that, barring the possibility of an initial rush, there should not be any more registration cards than we have presently with the social security card. Consequently, we should not anticipate an increase in costs and with the Population Office being in a position to also create the registration cards, there should be greater flexibility than we have presently. It has been forecast that, as things stand, we can only expect 5,200 cards to be printed in the first 5 years additionally. Currently, we have an initial grace period of 90 days in which those moving to Jersey are allowed to find their feet. It is my opinion that this grace period is too long and that the Chief Minister should review this grace period in order to encourage workers who have moved to Jersey to obtain a card as soon as possible. By doing so, we will be able to see where they are working and again this will be beneficial to the enforcement of the new legislation. Moving on to political responsibility, it would appear that the topic of population seems to be a little bit like a political hot potato. While the Chief Minister will be ultimately responsible for the control of population and migration, it is clear that some responsibility remains with other departments such as Economic Development and Housing.

[16:15]

It is imperative that we ensure we have a direct line of political accountability and enforcement. A smudging of these lines and responsibilities will only lead to certain duties falling between the 2 stools. We need to ensure that we cover every angle, but not at the expense of failing to get the job done. I cannot reiterate the importance of clarity and removing any doubt of who is politically responsible. This report has been an interesting experience and something that I have worked diligently on with my fellow sub-panel members. The role of Scrutiny is an important one and in many ways it is more important now than it was envisaged to be during the creation of Ministerial government. I have enjoyed participating in this process and I look forward to seeing our

recommendations being acted upon. I thank all of those in the Executive who have provided us with evidence as well as the staff who have assisted us with the publication of this report. However, it will be all in vain if this is thrown into the political long grass. This is your time to act, Chief Minister, it has been said that this is the year of job creation; well I hope you are right.

**The Bailiff:**

Through the Chair.

**Deputy R.J. Rondel:**

I hope the Chief Minister is correct and I hope that our recommendations will go some way towards helping the Chief Minister with this. Thank you.

**3.1.7 Senator S.C. Ferguson:**

I am very pleased to be able to follow members of the sub-panel of my committee and I think they have done a fabulous job and it is a splendid report with a lot of very useful recommendations and I think it is greatly disappointing to have the usual Council of Ministers response of: “Yes, yes, they are excellent”, the pat her on the head “good dog” approach. Sit. **[Laughter]** I am not a good dog. I think you may have got the sex wrong too. When you have a Minister of the U.K. Government, Iain Duncan Smith, this morning coming on to the media and saying that there is an immigration crisis facing the United Kingdom then there is a considerable degree of urgency for those such as ourselves who are connected with the United Kingdom to do something. Will the Council of Ministers go away and come back with a proper plan to ensure these controls are up and running quickly as has been highlighted by previous speakers? The fiscal stimuli we have been applying appear to have accelerated in aggression and many of the benefits, according to a leading local businessman, appear to have disappeared across to the mainland or anywhere else but Jersey. As Iain Duncan Smith says, there is a crisis, we must have a Plan B, Scrutiny has given some excellent recommendations to the Council of Ministers; will they please put them into practice now and come back to the Assembly with the progress report by the beginning of May? Thank you.

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

I was not intending to speak today but I applaud this new legislation. One of the reasons I need to speak firstly is that I spent 30 years working in the construction industry and I think some of the most vociferous calls I have had in my 15 months as Constable have come from people that I have either known or have worked with in the past moaning about, as we have already mentioned, from white vans appearing on sites and people coming over and working what they consider to be illegally. I have taken it up with the relevant authorities over the last 15 months and apparently we could do nothing about it. So I do applaud this legislation if it has teeth, and I think I just want to touch on what Deputy Power and one or 2 other speakers said: the enforcement. It does need to... we do need enough people to enforce it, otherwise it will not work, and I just want to make sure that we do have that level of enforcement. It is not just construction, I have had complaints about people coming over and dabbling in retail and apparently again we have had no way to deal with it. I just think local employees and local residents deserve a level of protection from any further unnecessary inward migration and I think it is important that, if this is to work, we do enforce it in the correct way. I know whistle-blowing has been mentioned and I suppose that is what has come my way from people that have worked in certain parts of the local economy, but if I get calls in the future I do not really want to go to departments in the States and not get the right answers because that is what I have had in the past, I have had all the wrong answers. I am going to be expecting in the next 6, 9 months, a year, the right answers from people when I ask the right questions. Thank you.

**3.1.9 Senator A. Breckon:**



Deputy Southern mentioned it has been a problem for about a decade but I think he is well out there, it has been a problem for about 40 years. I probably have a suitcase full of papers on this and Senator Routier will certainly remember, and Deputy Duhamel, not that long ago in this Assembly one of the debates we had was about capping the population at 80,000 and then the Policy Resources Committee of the time said 85,000 and then they said: "Let us not put a number on it at all otherwise we cannot work with it, we cannot control it, Jersey is closed for business", there was all sorts of things. There are some things in here, it says in the report about how this approach of restricting housing and work is similar to that adopted in Guernsey. I remember in Guernsey they used to have a very effective system, they used to have C.I.D. (Criminal Investigation Department) officers on the docks and when people disembarked the mail boat they used to put them back on if they did not have anywhere to go and they did not have a job. Whether that was compliant with whatever, human rights or anything else, did not matter; that is what they did. Then Guernsey brought in a right to work and a right to live law and I remember at the time about 15 years ago Deputy Duhamel and certainly Senator Routier, we discussed in this about having names and addresses and certain controls and whatever else and at the time we said: "We do not really need those, it is a bit much", and there is a cost for doing that and they said: "It will be 6 or 8 officers, civil servants" depending on what you had to do there. But the other side of that, and that is why the enforcement is important and needs to happen, if you do not enforce it then the consequences are that the Minister for Education, Sport and Culture will have to build another school. The Minister for Home Affairs was congratulating himself yesterday about the prison population going down. If we do not have some control, one of the reasons why it has gone is because we have not had some controls and if people are coming to the Island carrying illegal substances we have to deal with that and that is one of the problems that we have had to deal with. So it is important that, as Deputy Power has pointed out, the enforcement must be there because without it we might as well just not bother at all. The other thing is we have never really known what the population was and the last Census was a bit of a surprise and we were dissuaded from doing an interim Census in 2006, this House agreed it, Policy and Resources went away, did not do it, came back and said: "We do not want to because we do not need to, let us forget statistics and all the other places and we know what the population is." When we received the result of the last Census it was higher than what we believed it to be. The reason I say that is that we as Government, without prying, have a need to know, and the need to know is because when the Minister for Health and Social Services was asked a couple of weeks ago: "How many people is the new hospital for?" ... I am not sure I heard the answer but we need to deal with these sort of situations for the population and that is why we need to know for vital services like health and education, but also for other things, municipal services like we are dealing with rubbish and other things, car-parking and roads and traffic, all that sort of stuff, so that is why we need to know, and hopefully we will have some measures, not only recording it, but also able to do something with the result if it is one way or the other. Deputy Southern mentioned, well, all right, if we are just going to let the brakes off, but there might be times when that needs to happen but in a measured way and we do need people from outside this Island to provide some vital services and that does not do anything against these Regulations and in fact gives it some control. The other thing, I did go to a meeting at the Town Hall last night and in here it mentions about registered tenants but sometimes - and this came out at the meeting - is that people are scared to say anything if they are living in accommodation that is not very nice, because they do not have any security and they could finish up out on the street. I think it is good that finally we are coming to recognise that many of those people are law-abiding and do pay their dues and make a contribution to the community and I think it is right that we should treat them proper in a housing sense. The other thing that I would like to finish on, there is another point in there about visiting traders selling services and purchasing goods and I do not know the intricacies of the hawkers licence and permitting system, whatever it may be, but I do know that it has been a problem in the past where traders come in and had some sort of an event at

a hotel and sometimes the things they are selling are not that much cheaper or better, but it is just seen as a way to attract trade and they have done that, and also more recently there has been people coming to the Island purchasing things, mostly jewellery and gold and things like that and sometimes it is not that good a value compared with what is available. So the advice to anybody is to look around and if you are buying or selling to seek the advice that it is good that this also touches on that and that is mentioned on page 5. It is long overdue but having said that, as Deputy Power has mentioned, it needs to be enforced and that may cause a little bit of discomfort for a while but we need to do it because otherwise there is no point bringing in Regulations if they are just going to be on the shelf. They need to be there and that protects people in the community from rogue traders and it also allows people who are entitled to live and work the rights that they deserve and it is good that we are recognising that. Thank you.

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

I would just like to pick up on a couple of points, clearly I will be supporting this but as a member of the Migration Advisory Group that meets, including myself, the Minister for Economic Development, the Minister for Social Security, the Assistant Minister and sometimes the Minister, or both, and the Assistant to the Chief Minister, Senator Paul Routier. We meet every fortnight to run through different applications including those for (j)s, for which I have the responsibility; and unlicensed, for which the Minister for Economic Development has responsibility, but it is a shared collective discussion and decision. We find it incredibly frustrating, I think I can speak for us all, that at the present time the licences that are in place cannot be changed until they come up for renewal at the end of their 3-year period, whenever that might be. So some at the moment could have 2 years to run and under the current law we cannot change it. This law will allow us to change it. Deputy Southern asked, I think to paraphrase what he said, will these toughened laws be used? Yes, they will be used, but they will be used appropriately, because it is, as Deputy Power said, very difficult sometimes when you have employers, good employers, good local employers that have good training schemes in place that take their responsibilities seriously, and I would really like to name a couple of the firms that I know do that but it would be wrong to do so, they still have some difficulty filling posts and that is the difficulty we have as members of the Migration Advisory Group. We do take into consideration the work that they have done in terms of training their own people, the plans they have for succession planning, all that sort of thing, but this law will give us much greater power. One of the first things I want to get on with, once this is approved, is to get in and review those licences that have a long time to run and appropriately adjust them. So this will be very helpful.

[16:30]

We have talked about compliance; I think Deputy Southern asked about compliance, it might have been Deputy Power that asked about compliance, we do not have enough people on compliance, about 1.5 I think, there are plans to increase that and we may have to increase it more, but I have no problem with members of the community being our eyes and ears, Deputy Rondel seems to have a problem with that. I have no problem with that if people want to help us to ensure that what work is available is available for locally qualified people. But we need this Law, the Migration Advisory Group need this law, it will be enforced and there will be clear accountability, you will be able to hold us to task on it.

### **The Bailiff:**

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

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

We have had quite a wide-ranging debate, some not about these Regulations, but just generally about the population issue, which is as, we all know, vitally important to all of us. Deputy Le Hérisier started off by asking about the bulk licence issues and how we are able to call them in. I think the Minister for Housing has very clearly demonstrated that the way we operate is when current 3-year licences come up for renewal with our existing legislation we are able to strip out any excess non-locally qualified or registered people within that licence, so we are able to do that under the current system. But under the new system, under the new law, what we will have will be the power to call licences in at any stage if we feel that there is a need to do that, and we will be doing that, and specifically we will be looking at various industries where there is a high number of people who are non-locally qualified and we will be doing that on a gradual basis, so we will be calling those in. From the other side of that discussion, Senator Farnham was interested in how employers were able to get to employ licensed people and registered people. It will be the same process as currently exists, a business will make an application to the department for a number of people for their business and we will have to make a judgment about whether we think that is the right level of non-locally qualified people in that business, keeping in mind, as we all know, that we have so many local people in this Island currently who are unemployed, and that is, thinking about what Deputy Southern was trying to make the point about, is there any will for this policy to work? There is will for this policy to work. It quite eloquently repeats what was being said in various Scrutiny Panel meetings and previous people who have been involved with us about this is a tap, and he did say it is an improved tap, he said it himself; what we will have before us in our new legislation is an improved tap and it is down to whether there is the political will to do it and currently we have that political will; that is we want to get on, we want this new law in place so that we can ensure that we get our local people into jobs. That is what we must do and the way we are going to be able to achieve that is by stripping out those non-locally qualified licences from in businesses and this new legislation will enable us to do that. But I have to be clear what I say when I say that, we cannot make anybody who is currently in employment unemployed, so it will be the excess licences that are in businesses, we can take those out of the licences, and then get the employers to employ local people from the pool of local people who are available. Deputy Vallois wanted to find out about the fees and the mechanism for setting the fees. We have gone out to consultation about the level of fees for the various licences and we have had good feedback from the business community about the fees that will be levied. They will be made by an Order so if any Members are not satisfied with that level of fees they will have an opportunity to rescind that if they so wish, but certainly that is the process that we are going through. Of course these are the new fees that were being introduced into this legislation and are replacing some older fees, which will no longer be used under the old legislation, for instance, the housing fees that are paid when people want to buy properties; that is one fee that will be no longer in place. Deputy Vallois also took us to task about not setting any target dates on our response to the Scrutiny Panel Report. I accept that along the tables it does not have any dates but in the opening comments of the introduction we do make it clear that there are some that will be incorporated immediately, for example, it is accepted that more resources will need to be directed for compliance and data management functions. Other recommendations, for instance the photograph on the registration card, the 90-day exemption for individual visiting workers, and the 5-year rule, we will look at that probably towards the end of this year, but that is quite clear in our introduction, so we will be doing that as soon as we have had the law in place and we are able to judge how it is working. Deputy Power, I have to say that working together with this Scrutiny Panel has been a joy because they have managed to meet the target dates that we are trying to get this legislation in place. They asked for an extension, we were able to agree to that, and we will now be able to bring this legislation into place towards the end of April. I think a lot of people have spoken about compliance and Deputy Power reinforced that. But compliance is a 2-pronged thing; there are feet on the ground, but there is also the legislation. The legislation will give us the powers that we currently do not have but I

can say that there are some times when we have wanted to make prosecutions but the process that we have to go under the existing legislation is so convoluted and time-consuming that it has not been possible to take those prosecutions forward. But this new legislation, if for instance a white van man turns up at the docks and was not supposed to be operating in Jersey, we can stop that immediately under this new legislation. An enforcement notice can be placed and then they can appeal against it, but at least the work would stop immediately under the new legislation. I have to say, a lot of these things I am talking about now is not anything to do with these Regulations; this is all in the main law, so I just mention that, but it is all there. Deputy Rondel mentioned, other than the enforcement side, about the photographic I.D.; I think I have said that we will certainly look at that after a period of time. Senator Ferguson was very keen, I am sorry she is not in the Chamber, but certainly she was keen that we came on to this very quickly, we will be doing that. The Constable of St. Brelade mentioned the construction industry and the answer I just gave about the white van man I think will be something that we will be able to be more effective with than we currently have been. Senator Breckon raised the issue of visiting traders. The new legislation does mean that anybody who is coming, buying or selling goods in Jersey, will have to have a licence and there will be a fee to pay, so they will have to make a commercial judgment whether they are prepared to pay that fee and we will see how we go with that. I think the Minister for Housing and the rest of the Migration Advisory Group supports the work that we are doing, and I want to assure Members that we are diligent in looking at all applications for non-locally qualified people, we have been toughening up on all the ones that have been coming towards us over the last year or 18 months and with the new legislation we will have more powers to keep that work going. I maintain the proposition and ask for the appel.

**The Bailiff:**

The appel is asked for then in relation to the principles of the Regulations. I will ask 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 P.F. Routier				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				

Deputy S. Pitman (H)				
Deputy M. Tadier (B)				
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 J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				

**The Bailiff:**

Senator Ferguson, do you wish this matter to be referred to your Scrutiny Panel; I take it not?

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

I think we have done that once.

**The Bailiff:**

Assistant Chief Minister, do you wish to propose the Regulations together?

**3.2 Senator P.F. Routier:**

Yes, I think so, I could test the mood of the House and propose them *en bloc* and I am prepared to answer any questions. **[Approbation]**

**The Bailiff:**

Are the Regulations seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? All those in favour of adopting Regulations 1 to 6 kindly show. Those against. They are adopted. Are you proposing them in Third Reading?

**Senator P.F. Routier:**

Yes.

**The Bailiff:**

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

**4. Draft Control of Housing and Work (Transitional and Consequential Provisions) (Jersey) Regulations 201- (P.3/2013)**

**The Bailiff:**

We come next to Projet 3, Draft Control of Housing and Work (Transitional and Consequential Provisions) (Jersey) Regulations 201-, lodged by the Chief Minister and I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

The Draft Control of Housing and Work (Transitional and Consequential Provisions) (Jersey) Regulations 201-. The States, in pursuance of Articles 44 and 52 of the Control of Housing and Work (Jersey) Law 2012, have made the following Regulations.

**4.1 Senator P.F. Routier (Assistant Chief Minister - rapporteur):**

I now propose the Transitional and Consequential Regulations, which are essential to ensuring a smooth transition from the old laws to the new law. The principles are simple and will ensure that for instance that people who are residentially qualified under the old Housing Law are entitled under the new law; that businesses, which have permissions for 1(1)(j) employees or licences under the old laws retain those permissions under the new law. However, as we were just debating just now, importantly in today's circumstances under the new law those permissions may be varied, for example by removing all excess licence capacity held by a business or by imposing a condition that all new recruitment be in respect of Entitled or Entitled for Work persons only. The Regulations also set out that all existing conditions attached to individual houses or businesses carry over unless they are dealt with under the new law itself or that they are disapplied if they are not needed under the new law, for example, conditions that regulate the number of residential or business units in the Island, which are really matters for the Planning and Building (Jersey) Law 2002. Finally, the Regulations ensure that all other legislation that makes reference to the old Regulation of Undertakings and Development Law and the old Housing Law is changed and instead make reference to the new Control of Housing and Work Law. I propose the principles of Regulations.

**The Bailiff:**

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? Deputy Tadier.

**4.1.1 Deputy M. Tadier:**

I do not know if this is the correct time to raise this but I think it is mentioned in schedule 1. It is a question that I have been asking for quite a while and under the new processes will it be possible for companies who have a certain number of licences... let us say it is a supermarket that has 50 staff, 10 of whom are on a licence for unqualified. If one of those staff who is unqualified then leaves will they automatically carry on having the right to employ somebody who is non-qualified? So a job comes up and they say: "We can take a non-qualified person on now because one out/one in", or do we simply say: "That is not the case, you have to make the case, not simply when the licences are reviewed periodically but when it would seem to be more pertinent to do that is when the job vacancy becomes available." Will that be taking place and, if not, why will that not be taking place?

[16:45]

**4.1.2 Deputy J.H. Young:**

I would just like to speak briefly on the question of the change and removal of the Housing Law provision, which cancels the Regulation that used to take place on no diminution of housing stock and speak briefly, though this is obviously a very good move because to my mind it opens up the way for us to look at planning policies, for example, on multi-generation homes where we do not have the flexibility and those individuals that have situations where they have extended families for whatever reasons - it may be a disability in a member of the family or it may be the personal circumstances of children, married children and so on - there are lots of reasons why families may wish to form multi-generation homes. At the moment, this provision in the Housing Law works against because if dwelling units, if they are more than one dwelling unit, people have problems who want to merge those units into one. So I think this is very good. But I think I am setting a big flag here by these comments that it is a good thing in principle that the powers go to the Minister

for Planning and Environment under the new law to make those decisions. But my reading of the Island Plan is that our Island Plan simply does not cater for this and I would like to see, or hope very much that the Council of Ministers will be working with our Minister for Planning and Environment to have a look at this once this transitional Regulation comes in, because we do need the flexibility in order for properties, it is better use of properties that houses or buildings that are capable of being used for more than one unit can be if the circumstances work, or merge back into one. So that is the first point I want to make. The other one is really a query: also on the bottom of page 1-4 it talks about the requirement where now there is no longer a need for those members that used to be called “essential employees” and I think are now called “Licensed”; there is no need for them to buy through companies and that they can buy those properties in their own name. But I see the report suggests, and I do not think I have misunderstood this, that those people that are Licensed, if they lose their licence for whatever reasons, before they reach Entitled, there is a requirement that they will be required to vacate and sell their properties. I find it really puzzling that can be forced on people because I thought, under Jersey law, property rights were absolute and here we have a situation... so I would certainly like to see some clarification from the Chief Minister on that, and if he cannot, perhaps the Attorney General can help us on that point. I think the rest of the provisions are excellent in terms of the flexibility that is now in place, the common sense that deals with children of those who originally came to the Island under the old Housing Regulations for essentially employing someone, and I have to declare an interest, my own children fall into that category, so I declare the interest. But as an interest to society as a whole, those provisions are obviously very common sense. But those are the only comments I wish to make and I am supportive of it but I would like answers to those particular points.

**The Bailiff:**

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

**4.1.3 Senator P.F. Routier:**

Turning to Deputy Tadier’s point first, if a business has a licence for, the example he gave was 10 non-locally qualified people, there is no automatic reduction in their licence from 10 down to 9, it will be at the time when we will review the licence; that is the way it is happening. But we will be taking a close look if we feel there is an opportunity to reduce the licence at any time, the law allows us to do that, but there is no automatic position with that at all. Deputy Young, about the planning matter and the diminution of housing; when we were reviewing this whole legislation it was just felt that it was not appropriate for it to be part of this particular legislation and that it was far better for it to be a planning matter rather than for it to be anything to do with controlling population or controlling work; it is more of a planning decision really about whether properties are knocked together or used for multi-family circumstances, and that was the view that was taken and that is the way the legislation has been drawn up. With regard to licensed people now being able to buy in their own name, the view was taken, with advice, that the current system of having to buy through a company was just more hurdles for people to buy a property and that they were having to buy it through a company but when they moved on they had to sell the company, and it was a very convoluted way of having access to housing. But you are quite right, if someone was to lose the position, the job that they had, which allowed them to gain their licensed position and for them to have access to housing, they would have to move out of the property. Deputy Young did ask about the rights to the property, which he was hoping that the A.G. (Attorney General) would be able to respond to, and hopefully I can, somebody can own a property but they cannot live in it under this legislation, it is about whether you occupy the property or not, so the rights of owning a property are still available to somebody but they cannot live in it under this legislation unless they have the licence or they are entitled to live in it. So hopefully that answers questions and I maintain the proposition.

**Deputy J.H. Young:**

Could I just ask for a check on that: the reports we have - on page 5 - about this question of requiring somebody to vacate a property, it says in brackets: "And sell the property." From what the Assistant Chief Minister said that would suggest that it is not so; that they will be required to vacate but they cannot be forced to sell. Is that the situation?

**Senator P.F. Routier:**

The Attorney General has arrived in the Chamber now; I do not know if he is able to advise on that.

**The Attorney General:**

I am sorry, I was out of earshot of the Assembly so I am afraid I do not know what the question was and I apologise.

**The Bailiff:**

I will invite Deputy Young to put his question again.

**Deputy J.H. Young:**

Sorry, I should have given notice to the Attorney General; my apologies for that. I was raising a query under pages 4 and 5 of the report, which deals with the requirement, which replaces the requirement to purchase through a company if one has essential employees status under the current law, which now moves to allowing the person to buy the property in their own name as long as they have licence. My query was, in the event of them losing their licence for whatever reason, and they own the property, can they be forced, as the report says, to both vacate and sell their property?

**The Attorney General:**

I would require just a moment and I do apologise for not being in the Assembly.

**Senator P.F. Routier:**

I can perhaps add a little bit more to that. Under the current legislation we do force people to vacate and to sell; that is under the current legislation and I will wait for the Attorney General to confirm whether that follows through into the new legislation, but certainly we do it under the current legislation.

**The Bailiff:**

The wording seems to suggest that this power is in the main law rather than in these Regulations.

**Senator P.F. Routier:**

Yes, exactly.

**Deputy M. Tadier:**

Am I able to ask a point of clarification?

**The Bailiff:**

Of whom?

**Deputy M. Tadier:**

Of the rapporteur.

**The Bailiff:**

If it is a genuine point of clarification.

**Deputy M. Tadier:**



I think it is, it is certainly something I need to clarify. **[Laughter]**

**The Bailiff:**

The 2 may not be synonymous. **[Laughter]**

**Deputy M. Tadier:**

I just wanted to ask, in relation to the point that Deputy Young is asking about, is whether human rights advice was taken from the A.G. and I would probably want to ask the A.G. a question about Article 14 of the E.C.H.R. (European Convention on Human Rights).

**The Bailiff:**

Let us wait and see what the Attorney says.

**The Attorney General:**

If the Deputy would like to ask what the question is about Article 14 then.

**Deputy M. Tadier:**

I know the Attorney General can multi-task; it is really to know whether it is really that bracket of where it says to vacate and to sell the property, because Article 14 deals with the enjoyment of rights and freedoms to do with property and whether it may be on the one hand fine for us to ask, under the new law, to vacate the property, but whether they should still be able to enjoy that and what complications that would leave us open to legally as a States Assembly.

**The Attorney General:**

Article 17 of the principal legislation, the 2012 Law, indicates that no one can occupy a unit or dwelling accommodation other than that they hold certain categories, including that of being an Entitled or Licensed person. Paragraph 2 of Article 17 provides that the Minister can grant consent for a person to remain in occupation, and there are of course rights of appeal inherent in the law. All of that taken together I think would not cause any difficulty with human rights issues, and certainly significant human rights consideration has been given to the provisions within this legislation. As to whether a requirement can be made for an individual to sell, I am afraid I am not able to put my hand on that statutory provision just at the moment and I would need to look at it a little bit further and I apologise to the Assembly for that.

**The Bailiff:**

Do members wish to wait for the Attorney General's consultation or are Members happy to proceed?

**Senator P.F. Routier:**

I think Members will have a view, but as far as this legislation is concerned it is about people having access to occupy housing as far as controlling population.

**The Bailiff:**

What it does appear to be is that, whatever the provision is, it is not in these Regulations.

**Senator P.F. Routier:**

No, exactly.

**Deputy J.H. Young:**

Could I help the Assembly; I would be personally content to have that answer circulated later; I would not want to hold up the decision for that.

**The Bailiff:**

Thank you, Deputy, and, as I say, particularly given that it appears that, whatever power there is, is in some other legislation rather than in these Regulations. So all those in favour of adopting the principles of the Regulations kindly show. Those against. The principles are adopted. Senator Ferguson, do you wish this matter referred to your Scrutiny Panel?

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

No, thank you.

**The Bailiff:**

Senator Routier, do you wish to propose Regulations 1, 2 and 3?

**4.2 Senator P.F. Routier:**

I propose Regulations 1 to 3 and schedules 1 and 2.

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak on the individual Regulations? All those in favour of adopting Regulations 1 to 3 and the 2 schedules kindly show. Those against. They are adopted. Do you propose them in the Third Reading? Seconded? **[Seconded]** Does any Member wish to speak on Third Reading? All those in favour of adopting the Regulations in Third Reading kindly show. Those against. They are adopted in Third Reading.

**5. Draft Financial Regulation (Disclosure of Information) (Amendments) (Jersey) Regulations 201- (P.7/2013)**

**The Bailiff:**

We come next to Projet 7.

**Senator I.J. Gorst:**

Sorry, just before we do that perhaps, I understand that the Jersey Football Team has managed to overcome their foes and won 2-1 and I would like to congratulate them and I expect the Assembly would as well. **[Approbation]**

**The Bailiff:**

So the BlackBerries are not just used for States business. **[Laughter]**

**Senator I.J. Gorst:**

Indeed that has not come via the BlackBerry; it has come via a tablet. **[Members: Oh!]**

**The Bailiff:**

Very well, Projet 7 lodged by the Minister for Economic Development and I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Financial Regulation (Disclosure of Information) (Amendments) (Jersey) Regulations 201-. The States, in pursuance of Articles 1(2), 20 and 30A of the Collective Investment Funds (Jersey) Law 1988, Articles 5, 45A and 51 of the Banking Business (Jersey) Law 1991, Articles 2, 32A and 41 of the Insurance Business (Jersey) Law 1996 and Articles 4(2), 38(3) and 42 of the Financial Services (Jersey) Law 1998, have made the following Regulations.

**The Bailiff:**

I see the Minister is not here; who is proposing this in his absence?

**5.1 Deputy J.P.G. Baker (Assistant Minister for Economic Development - rapporteur):**

The draft Regulations make amendments to 4 regulatory laws administered by the Jersey Financial Services Commission. These are the Banking Business (Jersey) Law 1991, the Collective Investment Funds (Jersey) Law 1988, the Financial Services (Jersey) Law 1998 and the Insurance Business (Jersey) Law 1996.

[17:00]

Each of the regulatory laws provides for information gateways; this enables the J.F.S.C. (Jersey Financial Services Commission) to share confidential information with third parties, mainly other regulators, in certain circumstances prescribed in the regulatory laws. The release of restricted information by the J.F.S.C. other than under an information gateway would constitute a criminal offence, which can result in unlimited fine and prison sentence. The presence of information gateways in the regulatory laws is in recognition of the fact that there will be circumstances when it is appropriate for the J.F.S.C. to pass restricted information to a third party, for example the J.F.S.C. regularly uses information gateways to pass restricted information to an equivalent regulator such as the U.K. Financial Services Authority, to the police or to the Attorney General to assist in investigations, and to the public typically via the J.F.S.C. website to show whether a person is licensed by the J.F.S.C. to carry on financial services business. The draft Regulations seek to enhance the existing information gateways and it is proposed that the regulatory laws be amended by means of the Regulations to enable the J.F.S.C. to disclose restricted information in prescribed circumstances to supervisors of securities markets such as the Channel Islands Stock Exchange, to the European supervisory authorities and also to Jersey authorities with licensing, registration or consent functions such as the Population Office. It is also proposed that the Regulations would amend the regulatory laws to allow the J.F.S.C. to make public the fact that a person was previously registered under one of the regulatory laws. The first major amendment is in relation to gateways to supervisors of securities markets. The J.F.S.C. already had a gateway to many supervisors, for example the stock exchanges, if they are a relevant supervisory authority. This is defined as an authority outside Jersey that discharges any function that is the same as or similar to a function of the J.F.S.C. However, the J.F.S.C. has come across instances where certain supervisors of a securities market do not meet the current statutory definition of a relevant supervisory authority and in such cases the J.F.S.C. is unable to pass this information across. Two examples close to Jersey are the Channel Islands Stock Exchange and the London Stock Exchange. To address this lacuna it is proposed that the regulatory laws are amended to introduce an information gateway to a supervisor of a securities market, which is defined in the draft Regulations. The draft Regulations amend the regulatory laws to provide the same safeguards as those specified in the laws when the J.F.S.C. is considering whether or not to disclose this restricted information. The second major amendment relates to a gateway to the European Union supervisory authorities and the European Systemic Risk Board. On 1st January 2011 the E.U. (European Union) established what it refers to as the new European system of financial supervision and as part of this the E.U. established, on a statutory basis, 3 bodies collectively referred to as the European Supervisory Authorities. The European Systemic Risk Board sits above these and is responsible for the macro-prudential oversight of the E.U. financial system in order to contribute to the prevention of systemic risks to financial stability in the E.U. While it is possible that in certain circumstances an existing gateway in the regulatory laws may be able to be used to pass restricted information across, it is considered appropriate that an explicit gateway should be put in place to put this position beyond doubt. Moving on to the third major change, this is in relation to gateways to Jersey's licensing authorities. Currently, the regulatory laws contain an information gateway that

allows the J.F.S.C. to pass restricted information to assist an authority in Jersey where it is exercising a statutory function in relation to a person in respect of whom the J.F.S.C. also exercises this function. By way of an example, this provision may currently be used in circumstances where a person has applied to the Population Office under the Housing Regulations and the J.F.S.C. has restricted information on that person that would assist the Population Office in determining whether or not the granting of this licence would satisfy the “in the best interests of the community” test. The draft Regulations extend that gateway further, allowing the J.F.S.C. to disclose information on any person to an authority in Jersey, for example a States department, for the purpose of enabling or assisting that authority to exercise the functions conferred on that authority. The draft Regulations will allow the J.F.S.C. to disclose information on all individuals and not simply those in respect of whom they exercise a statutory function, for example the principal persons. The fourth and final change is in relation to a gateway to publicise former registrations. While there are existing gateways that enable the J.F.S.C. to make public things such as the fact that a person is currently registered, the gateways do not explicitly permit the J.F.S.C. to make public a former registration and any conditions that were attached thereto. This change would enable J.F.S.C. to make public former registration. It is expected that the disclosure by the J.F.S.C. of conditions that were attached to registration would be on an exceptional basis only. In relation to consultation, in June last year the J.F.S.C. publicly consulted on a draft of the Regulations and responses to the consultation were supportive. The Economic Affairs Scrutiny Panel were briefed on the matter by both the department and an officer from the J.F.S.C. in January this year and the response from the panel was supportive of the Regulations and most helpfully the panel have published a set of clarifying comments, which have been distributed to States Members in advance of today’s debate. I hope that all Members have received them as amended versions of the 4 regulatory laws and the draft Regulations that seek to amend. I propose the principles of the draft Regulations.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on any of the principles? Deputy Le Hérissier first.

**5.1.1 Deputy R.G. Le Hérissier:**

I was not going to ask the Assistant Minister if he could repeat all that again. I wonder, he mentioned at one point towards the end of his most impressive peroration, he mentioned about the fact that people would have access to anyone who could be named in bodies like the States of Jersey, it seemed to be an awfully wide sort of access that he was describing and I wonder if he could comment on that. What happens if somebody is dealt with by one of these gateways and feel they have been unfairly treated; what redress is there?

**5.1.2 Senator S.C. Ferguson:**

I wonder if we could have a little more information about the organisations to which these information gateways will lead. The European Banking Authority; that is not exactly the European Central Bank I do not think, I think it would be helpful if the Assistant Minister could explain a little more about the place of these institutions in the whole regulatory framework and what exactly they do.

**The Bailiff:**

Does any other Member wish to speak? Very well, I invite the rapporteur’s reply.

**5.1.3 Deputy J.P.G. Baker of St. Helier:**

I will not repeat it all I am afraid, Deputy Le Hérissier I am sure will be disappointed. Yes, if the remit did appear broad that is not meant to be the case, it is simply an enhancement. The J.F.S.C. can currently disclose information on a person for whom they exercise a statutory function, the

principal person, but it currently does not extend to all individuals or companies, so senior staff members, board members, directors, *et cetera*, and that is what the difference is there, particularly to do with (j) category housing. Currently the J.F.S.C. is not able to disclose information to the Housing Department and that will probably be the best example. Senator Ferguson mentioned the European Central Bank I think?

**The Bailiff:**

European Banking Authority, which is referred to in Regulation 2.

**Deputy J.P.G. Baker:**

The 2 regulatory authorities I refer to for Europe are sort of super-regulators, they were both put in place really in the current climate to try and provide some additional oversight to provide or stave-off a further European economic crisis. That is the purpose of them. If you would like more detailed information I am afraid I will have to get back to Senator Ferguson.

**Senator S.C. Ferguson:**

That would be helpful.

**Deputy J.P.G. Baker:**

Hopefully that answers those 2 questions.

**Deputy R.G. Le Hérissier:**

On a point of clarification, it strikes me, it is interesting the Assistant Minister mentioned (j) category people, would the intention be to ensure that if a person is, to use a phrase, blacklisted - and of course names are mentioned in the *J.E.P. (Jersey Evening Post)* as we know, advertisements are taken out, blacklisting people essentially - would that mean you would get in touch with the Housing Department to withdraw their (j) licence if they were one of these people?

**Deputy J.P.G. Baker:**

I think I am straying outside of firstly my understanding and secondly my remit; I think that is probably more a housing matter in terms of withdrawing a (j) or a (k) permit. I would not know.

**The Bailiff:**

Very well. All those in favour of adopting the principles kindly show. Those against. They are adopted. The Deputy of St. Martin, do you wish this matter referred to your Scrutiny Panel?

**Deputy S.G. Luce of St. Martin (Chairman, Economic Affairs Scrutiny Panel):**

No, thank you.

**The Bailiff:**

Deputy Baker, do you wish to propose the Regulations *en bloc*?

**5.2 Deputy J.P.G. Baker:**

If I may do so.

**The Bailiff:**

That is Regulations 1 to 23. Are they seconded? **[Seconded]** Does any Member wish to speak or ask questions about any of the individual Regulations? Very well, all those in favour of adopting Regulations 1 to 23 kindly show. Those against. They are adopted. Do you propose the Regulations in Third Reading, Deputy Baker? Seconded? **[Seconded]** Does any Member wish to

speaking on Third Reading? All those in favour of adopting the Regulations in Third Reading please show. Those against. They are adopted.

## **6. Rate Appeal Board: appointment of members (P.9/2013)**

### **The Bailiff:**

We come next to the Rate Appeal Board: appointment of members, Projet 9, lodged by Minister for Treasury and Resources and I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion in pursuance of Article 44 of the Rates (Jersey) Law 2005, to appoint the following: Mr. Ian Ridgway; Mr. Graeme Marett; Mr. Peter Hanning; Mr. Peter Routier, and to reappoint the following: Mr. Thomas Slattery; Mr. Timothy George Cartwright; and Mr. Jethro Adams, as members of the Rate Appeal Board, for the period ending 31st December 2015.

### **The Bailiff:**

Deputy Noel, are you presenting this?

### **6.1 Deputy E.J. Noel of St. Lawrence (Assistant Minister for Treasury and Resources - rapporteur):**

I am going to be brief as that seems to be the mood of the Assembly this afternoon. These are straightforward appointments, we have advertised the proposal locally, we had 4 candidates who expressed an interest; all 4 were short-listed and interviewed. The process was done in conjunction with the Appointments Commission and the Minister and I am very grateful for those 4 candidates that put their names forward. Their brief C.V.s (curriculum vitae) are in the report so I am not going to bore Members in reading those out but we are extremely grateful to those 4 candidates. There are also 3 candidates coming up for re-election and again in compliance with the Appointments Commission Code of Practice we are offering those 3 individuals up for reappointment. For the sake of completeness, Members will be aware that there are currently 5 members of the panel, 2 members are not due for re-election and so if these appointments and reappointments are successful we will have a total panel of 9 and I can confirm to Members that these posts are honorary and as far as I am aware no expenses are currently paid or envisaged to be paid. I make the proposition.

### **The Bailiff:**

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

#### **6.1.1 Deputy T.A. Vallois:**

I would just like to note that Mr. Ian Ridgeway, who is being appointed on the Rates Board, is also a member of the Public Accounts Committee.

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

It is a general point really, very similar to what Deputy Vallois has just said, no comment at all on the applicants themselves, but I do notice other names appearing here, which are being appointed to other panels and other positions and I just wondered if it is something that ought to be looked at in the round so whether there should be some sort of oversight of how many panels and committees and review boards, *et cetera*, people serve on. I am sure we are all very grateful for their

volunteering; we can only select from people who do volunteer, but it is very important I think that we do keep an overview of what is happening.

[17:15]

**6.1.3 Deputy M. Tadier:**

Can I emphasise that; I think, while we should always be grateful for people putting themselves forward and there is an argument that you give more work to a busy person, I think certainly when a person has more than one role to do, both of which may have their own arduous demands, then one certainly has to demand: “Where does my time go, do I spend my time here or do I spend my time somewhere else?” I think we have to all be careful that we do not overstretch ourselves. But it is nice to see nonetheless a former Constable putting his name forward; I worked with him on P.P.C. and he is obviously going to be giving specific expertise in the area of rates and that is something I would hope that maybe more Constables, even sitting Constables, can do in the future if perhaps they do not have other jobs that may take up some of their time.

**6.1.4 Connétable J.L.S. Gallichan of Trinity:**

It is just to allay the fears of Members who think they may be arduous and too many hours of work. I think we have approximately about 4 appeals a year so do not worry, I think they could cope. But it is good to have new blood; the rating system is quite complex and it is good to have a diversification of people on those boards and I thank the nominations; it is overdue, we need these men and I thank them for their service.

**The Bailiff:**

Does any other Member wish to speak? Do you wish to reply, Deputy Noel?

**6.1.5 Deputy E.J. Noel:**

I would just like to pick up on the points that have been made by the Constable of St. Mary and by Deputy Tadier. I agree, but we can only appoint people who put their names forward. I am quite happy to take that point and feed that back to the Appointments Commission, but I would just like to reiterate, like the Constable of Trinity, we are grateful that Islanders do put their names forward for these honorary roles and we should applaud them for that. I maintain the proposition.

**The Bailiff:**

The appel is called for in relation to the proposition of the Minister for Treasury and Resources. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 40</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				

Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

## **7. HSBC Middle East (HBME): investigation (P.10/2013)**

### **The Bailiff:**

The next matter on the Order Paper is Projet 10 - HSBC Middle East (HBME): investigation - lodged by Deputy Southern. Do you wish to proceed at this stage or will you be asking to go tomorrow?

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

I am happy to proceed at the moment because I believe I have come to an arrangement with the Chief Minister that means that I may be able to withdraw.

### **The Bailiff:**

Very well, in which case I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion to request the Minister for Economic Development, in conjunction with the Chief Minister, to investigate the issues relating to Jersey contained in the U.S. (United States) Senate Report "U.S. Vulnerabilities to Money Laundering, Drugs, and Terrorist Financing: HSBC Case History" and to report his findings to the States by 31st July 2013.

### **The Bailiff:**

Yes, Deputy.

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



I still have not received the agreement from the Chief Minister, he says he sent it to me electronically; my electronics are outside.

**Senator I.J. Gorst:**

Perhaps the Deputy would like me to read out ...

**Deputy G.P. Southern:**

I would love to rely on that ancient form of communication called words.

**Senator I.J. Gorst:**

... the message that I sent to him earlier, so that not only does he have the electronic form, he has the Hansard recorded version, it says: "Dear", I cannot read that bit because it is not a Parliamentary way to refer to the Member. **[Laughter]** Indeed, it is his Christian name: "Further to our conversation, this email is to confirm that once the HSBC investigation is completed I will make a statement in the Assembly. The statement will advise the outcome of the report and any actions arising that the J.F.S.C. is permitted to make public. Regards ..." and I refer to myself again by a non-Parliamentary term.

**Deputy G.P. Southern:**

Under those circumstances, I do feel able to withdraw this proposition because I believe that fundamentally should meet what I think is the important thing, is that there was serious actions taken at HB Middle East, for which we are the home regulator, and I believe it is important that the public are aware of what went wrong and how it has been put right and that the findings of any investigation that has gone on are made public. I think it is important to our reputation internationally; I think it is important to our residents on the Island to know that things are functioning in a transparent as well as effective way. So, on that consideration, and with that form of words, I am happy to withdraw this particular proposition.

**8. Jersey Police Complaints Authority: appointment of members (P.11/2013)**

**The Bailiff:**

Then we come to Projet 11 - Jersey Police Complaints Authority: appointment of members - lodged by Minister for Home Affairs and I will ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion, in accordance with Article 2 of, and the Schedule to, the Police (Complaints and Discipline) (Jersey) Law 1999, to appoint the following as members of the Jersey Police Complaints Authority for a period of 3 years: Mr. Howard Cooper; Mr. Graeme Marett; Mrs. Diana Taylor-Cox.

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

The Police Complaints Authority has responsibility for overseeing the investigation of disciplinary complaints against police officers who are below the rank of Deputy Chief Officer. In so doing, they do not investigate, but they have oversight of the investigation. They are also able under the law to make recommendations for disciplinary action to be taken; in fact they can ultimately insist that disciplinary action be taken against a particular officer. This is therefore an important role. Three members have retired fairly recently, in fact last year. I have already paid tribute to 2, Mr. Tom Slattery, who was a former chairman of the authority, but also I now pay tribute to Mr. Andrew Cornish and to Mr. Tony Beaumont, both of whom have served extremely well and I am very grateful to them and to Mr. Slattery. We had difficulties, as Members will see, in finding

replacements, the initial advertisement was unsuccessful. We then placed another advertisement and as a result of that, and as a result of the selection process, I am now able to recommend to this Assembly that the appointment of 3 individuals who are named in the report, namely Mr. Howard Cooper, Mr. Graeme Marett and Mrs. Diana Taylor-Cox, as members. Members may also have noted from the fourth paragraph of the report that in fact technically we have been in breach of the law for some time because we are meant to have a minimum of a chairman and 6 members; this appointment of 3 additional members will now bring us back within lawfulness, so I recommend those 3 members and move this proposition.

**The Bailiff:**

Is this proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition?  
The Constable of St. Lawrence.

**8.1.1 The Connétable of St. Lawrence:**

It is always interesting to have reports describing the merits of the successful applicants for boards such as this. What I would like to know from the Minister for Home Affairs is what the advertisement said were the requirements to be able to undertake the role of sitting on the Police Complaints Authority, what skills were needed. So that is one question; the second question is I could not quite make out from the Minister's speech whether it was only these 3 applicants who applied or whether there were other applications and these were the short list of successful applicants. But my main concern is what were the attributes that were sought for members of this panel.

**8.1.2 Deputy G.C.L. Baudains:**

Just a very quick question: I wonder how often the members meet on an annual basis.

**8.1.3 Deputy M.R. Higgins:**

With the information that I have been receiving recently, I begin to wonder why we even bother having this body. It is not an independent policy complaints body and they do not even appear to investigate certain things. I am aware of one recently where a person received back a response saying: "We have looked into your complaint and we have found no basis for it" and yet they had not interviewed some of the people who they should have interviewed. So I have serious concerns about this body and in fact will probably be raising them in the near future, which also includes a lack of action on the part of the Home Affairs Department to complaints that have been brought to their attention.

**8.1.4 The Deputy of Grouville:**

In a similar vein, I would like to know who this body are accountable to and what appeal process there is in place for people that make complaints and either do not receive any response or an unsatisfactory response.

**8.1.5 Senator S.C. Ferguson:**

I would just echo the comments of some of the other Members who have spoken. I do know of a case where a complaint was made to the Police Complaints Authority, it was investigated by the Professional Standards and a letter was sent to the complainant saying that there was no case to answer and it was signed by the officer about who the complaint had been made.

**The Bailiff:**

Does any other Member wish to speak? Very well, then I invite the Minister to reply.

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

I do not know exactly what was put in the advertisement; I did not get involved with that. I would have thought that it would merely have indicated what the functions were and I would have thought that the decision in relation to what the suitability of people would have been at the selection process rather than in the initial process, but I do not know because I was not involved in that process. The second question asked was an extremely good question because, reading my notes in preparation today, I realised they did not tell me that, and it is a very good question because what the information I have been provided with tells me is that there was a short-listing process and 3 people were interviewed, but I do not know whether that means that more applied than 3. I am sorry I do not know that. Clearly 3 were interviewed and therefore if there were other applicants they must for some reason have been deemed not to have been suitable for interview, but I do not know that, it does not tell me that and I am sorry I do not know that.

**The Connétable of St. Lawrence:**

I wonder if the Minister would give way a moment. I think it is pertinent that, although it would be after the event, I wonder if the Minister would be able to provide Members with the details of what the requirements are to sit on this panel, because it does not tell us here what the function of the Police Complaints Authority is, and, although I have had dealings with them when I was on Scrutiny, I cannot remember that and I think it is necessary for us to know that, albeit that I am happy to go ahead with the proposition.

**The Bailiff:**

I must confess, I can say from the Chair, I think that would be very helpful. I would have thought, with all these appointments, the first paragraph ought to simply give a very, very brief summary of what the particular panel does.

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

I thought that is what I had done in the first paragraph of my address today.

**The Bailiff:**

In the report it does not say what the Authority does at all.

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

I accept that; that is why I filled in that gap.

**The Bailiff:**

No, but I think it would be helpful for Members to have it in the report in future, not just you, I think it is just a standard policy that I think should be applied.

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

I agree with that, it would be very helpful indeed, but, as I say, I tried to fill in the gap when I perceived it today, and I had not perceived it before. I am very happy to circulate to Members the advertisements, there were 2 advertisements placed, and I am very happy to also circulate details as to whether there were more than 3 candidates initially in relation to that process. I am also happy to make inquiry of those who sat on a board as to what criteria they were looking for if that was not clear.

[17:30]

I know what criteria I would have been looking for if I had been sitting on such a board; I would have been looking for people with analytical skills and the ability to ensure that a proper investigation process was going to take place, because that is their functionality. That could be a

whole variety of skills frankly in order to advise a panel, because people arrive from different disciplines who do that as the Connétable knows from the role of Centeniers, for instance, where the skill is to know whether there is something missing and to ask for further investigation before a decision is made does not require any particular skills, but I can make that third inquiry. I just make a note of that. So I was asked the question as to how often they meet. The methodology normally is for the Chairman to look at particular complaints, which have come in, and then to delegate dealing with particular complaints to an individual. However, they do meet from time to time, I know because they do send a report, I am just about to approve a Ministerial Decision that will provide that to the States as a report. I do not think they meet that often generally, but I do not know the answer to that, because, as I say, the method is to assign particular cases to particular individuals to deal with. The issue of independence; I think that Members may be confusing different issues here, they are independent because they are appointed by the States of Jersey, albeit on the recommendation of the Minister for Home Affairs, after an appropriate appointment process. I think that where Members may have concerns may be in relation to the outcome of specific cases and as to whether people who have made complaints in the first instance feel that there has been a fair process or investigation. I am afraid that is always going to occur because people will not always be happy with the outcome of a particular investigation. The accountability in relation to the system lies with me; it lies with the Minister for Home Affairs. I have responsibility to oversee the system and to ensure there is a proper system in place, but there is no right of appeal and it certainly would not be right for me to be intervening in relation to particular cases and particular investigations because then the whole process would cease to be independent. But I do have the responsibility; I have indicated to Members previously, and do again, that we have for some time been in the process of reviewing the process and indeed employed an outside expert to provide a report on this. Regrettably, he has been rather slow in producing his report, the latest information I have is that we are anticipating his report sometime next month. I am not promising that because we are dependent upon how soon he produces that. He is a high-level expert and this is part of a process of trying to review and to improve the system. I think I have answered all the questions. I have one extra note, which says: "Details of that", but I do not know what my note means other than perhaps the details that were being requested. **[Laughter]** If I have missed a question, someone please stand up and repeat it? I maintain the proposition.

**The Bailiff:**

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

**9. Jersey Overseas Aid Commission: appointment of non-States Commissioner (P.14/2013)**

**The Bailiff:**

We come to the final matter of Public Business - Projet 14 - Jersey Overseas Aid Commission: appointment of Non-States Commissioner, lodged by Senator Routier. The Greffier will read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to appoint, in accordance with paragraph 7.4 of the Constitution of the Jersey Overseas Aid Commission as set out in Schedule 1 to the Jersey Overseas Aid Commission (Jersey) Law 2005, Mr. Peter Le Seelleur as a non-States Commissioner for a further period of 3 years.

**Senator P.F. Routier (Chairman, Jersey Overseas Aid Commission):**

I am hesitant in getting up because I notice at the top of our report we do not have what the Jersey Overseas Aid Commission does, but if Members had read last night's evening double-page spread they will get a very good idea of what the Commission does. I am pleased to ask the Assembly to reappoint Mr. Peter Le Seelleur as a non-States Commissioner for another 3 years. Firstly I would like to thank Mr. Le Seelleur for all of his work and commitment to the promotion of the objects of the Commission, and I am grateful for the endorsement of the Appointments Commission who have followed the process that has led to this appointment. Finally, Mr. Le Seelleur is not only a Commissioner who attends our regular meetings, he also is a hands-on person, he gives of his time freely, later this month he is a member of our work project team, which is going to be building an extension to a maternity clinic in Uganda. May I take this opportunity to thank all Islanders who in the past have gone on work projects because it is an important part of the work of Overseas Aid and I think we should recognise the work all these people do on projects outside the Island. **[Approbation]** I make the proposition.

**The Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? All those in favour of adopting the proposition kindly show? Those against? It is adopted. That concludes Public Business, so we come then to Arrangement of Public Business for Future Meetings and I invite the Chairman of P.P.C. (Privileges and Procedures Committee) to speak to it.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**10. Connétable A.S. Crowcroft of St. Helier (Chairman, Privileges and Procedures Committee):**

The arrangement is as set out under M on the Consolidated Order Paper with the exception that the first item, P.4/2013 - Code of Conduct for Elected Members: Commissioner for Standards - is to be withdrawn and placed down to 14th May. That is because after we lodged this we noted the imminent arrival of our opposite numbers from Guernsey and it struck us as a useful thing to do to see whether there was an opportunity for a pan-Channel Island Commissioner for Standards rather than just one in Jersey. So that matter is going to be discussed. Also with the addition on 16th April of P.35/2013, Draft Register of Names and Addresses (Register Entries) (Jersey) Regulations 201- added to 16th April.

**The Bailiff:**

Does any Member wish to say anything about future business? Senator Breckon.

**10.1 Senator A. Breckon:**

Just I notice that Deputy Southern has down there, which is fairly substantive, Green Initiative Fund. The reason I say that is sometimes we get comments from Ministers on our desks on the day of the sitting; it would be helpful if any Ministers do have any comments to attach to any propositions that are on it, because it is a fairly substantive agenda, if they could have them as early as possible it would be helpful to others who are preparing for those dates. Thank you.

**10.2 Deputy J.H. Young:**

Could I also flag-up, the comments of the Minister on the Independent Planning Appeals Tribunal are awaited; could I also ask that we have the comments as soon as possible please.

**The Bailiff:**

Do Members agree to take the business as listed with the exception of Projet 4 and the addition of Projet 35 to 16 April? Very well. So that concludes the business of the Assembly, which will reconvene at its next sitting.

**ADJOURNMENT**

[17:38]