

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 4th JUNE 2013**

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[9:30]

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

## **APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS**

### **1. Nomination of Mr. Robert Charles Parker as an unelected member of the Public Accounts Committee**

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

Under F, the nomination of Mr. Robert Charles Parker as an unelected member of the Public Accounts Committee; no other nominations have been received before expiry of the deadline, so in accordance with Standing Order 124 he is appointed. Chairman, do you wish to say anything about this?

#### **1.1 Deputy T.A. Vallois of St. Saviour (Chairman, Public Accounts Committee):**

Yes, Sir. I would just like to take this opportunity to thank the Appointments Commission in assisting us with this appointment and especially to those candidates that put their names forward; we were very lucky to have an excellent calibre of persons coming forward to serve on such an important committee and hope they will consider it again in the future should the opportunity arise.

### **2. Nomination of Deputy G.P. Southern of St. Helier as a member of the Education and Home Affairs Scrutiny Panel**

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

Next, the nomination of Deputy Southern as a member of the Education and Home Affairs Scrutiny Panel has been received.

#### **2.1 Connétable M.P.S. Le Troquer of St. Martin (Vice-Chairman, Education and Home Affairs Scrutiny Panel):**

Yes, in the absence of the panel Chairman, Deputy Maçon, who is not in the Assembly today on States business away, I would like to propose Deputy Geoffrey Southern of St. Helier to join the Education and Home Affairs Scrutiny Panel. We have a heavy workload at the moment and his experience will bring vast knowledge to the team, a very inquisitive and probing ability, I can propose.

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

You propose that on behalf of the panel? Are there any other nominations? Very well, then I declare Deputy Southern has been elected as a member of the Education and Home Affairs Scrutiny Panel. **[Approbation]**

## **QUESTIONS**

### **3. Written Questions**

#### **3.1 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE ANNUAL RUNNING COSTS OF THE COMMISSIONING UNIT:**

##### **Question**

What are the annual running costs of the recently established Commissioning Unit?

What savings are predicted on an annualised basis for the next 5 years?

**Answer**

The three Commissioners came into post in January 2013. Their role is to ensure that the people of Jersey are getting the best services and the best value in health care and treatment.

Responsible for supporting delivery of the ambitious programme of change under the ‘Caring for Each Other, Caring for Ourselves’ White Paper, the Commissioners are working closely with the local voluntary sector and health and social care professionals, on the redesign of the health and social care system.

This is a significant challenge, which involves both local and off-island negotiations on health care and social services, in order to ensure the right services are available for Islanders at the best value for money.

The department has agreements with over 80 different hospitals, healthcare and social services providers in the UK alone, for medical treatment, children and adult placements and mental health care.

By understanding where gaps in services exist, developing service specifications and robust agreements, tendering for services to ensure best value and monitoring standards of delivery, the Commissioners are building close working relationships with new and existing providers that are based on trust, openness and transparency.

This drive to deliver the best value for money and, in particular, through developing robust overseas placements and Agreements for services with overseas providers – including hospital services off-island and individual high cost placements – is contributing significantly to the £7m CSR savings the Department has set out to achieve in the 2011-2013 CSR programme.

Other benefits from the process have seen enhanced community based services, which are helping to improve quality of life for many people who are, with this support, able to remain in their own homes rather than being cared for in hospital.

Furthermore, without the work of the Commissioners in the renegotiation of service provision, funding for other areas of investment – including long term conditions such as Diabetes and increased clinics to target outpatient waiting times – could not have been achieved.

The three Commissioners posts were created as part of the initiatives identified in the White Paper proposition to deliver effective change across HSSD. The posts were evaluated appropriately through the Hay Evaluation system, in line with States policy, and recruited through established HR recruitment procedures.

The total budgeted cost of employing the three Commissioner staff, including on-costs, is £269,450 per annum.

All HSSD staff are expected to contribute to the delivery of the department’s CSR savings targets, as well a driving business and initiatives to ensure value for money and improve the quality of services being provided. The Commissioners, over the next five years, will actively contribute to delivering the Department’s CSR savings.

### **3.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE CHIEF MINISTER REGARDING A DECLARATION OF INTERESTS BY CIVIL SERVANTS:**

#### **Question**

Does the Minister consider that the move to Ministerial government has resulted in the transfer of substantial amounts of decision-making to the public sector and, if so, does he believe that officers involved should be required to make a declaration of financial and property interests in the same way as States Members, to allay suspicion of influence during decision-making and, if not why not?

#### **Answer**

Within our system of government, Ministers are responsible for policy decisions and make decisions according to the powers and duties identified in the law. Ministers may delegate functions to an Assistant Ministers or to an officer. Officers support Ministers in developing and implementing policies, and in delivering public services. Officers are accountable to Ministers, who in turn are accountable to the Assembly.

Accounting officers are required to disclose all material interests and these are included in the Accounts if they are considered to be significant to the individual's role. Under Financial Reporting Manual requirements a Register of Interests/Related Parties Declaration is completed each year by senior officers. This records details of company directorships held by officers or their close family, details of other interests and details of close family members referred to in any disclosures or who have material transactions with the States.

### **3.3 DEPUTY G.C.L. BAUDAINS TO THE CHIEF MINISTER REGARDING THE APPLICATION OF NEW WORK LEGISLATION TO "ZERO HOURS" CONTRACTS:**

#### **Question**

Further to assurances given on 14th May 2013 by his Assistant Minister, would the Chief Minister explain precisely how the new control of work and housing legislation will be applied to zero-hour contracts, given that the Employment Tribunal has declared people working in that environment cannot be classed as 'employees'?

As well as increasing compliance and monitoring to ensure that licences are adhered to, what steps, if any, is he is taking to ensure the use of zero-hour contracts is not used by firms as a means of avoiding employment legislation?

#### **Answer**

The new Control of Housing and Work (Jersey) Law, 2012, applies to zero hours contracts. The Employment Law naturally deals with a narrow definition that relates to employees who are employed under a contract of employment. In contrast, the new Control of Housing and Work (Jersey) Law applies to a broader spectrum of workers.

In particular, the new law defines "work" in Article 1 as follows:

*"work" means any of the following –*

*(a) work governed by a contract of employment;*

- (b) engagement in any trade, business, profession or vocation;*
- (c) the holding of an office;*
- (d) engagement by a person in any other activity described in Article 23(1)(c);\**

*\* activity involving work or services performed for, or offered to members of the public, including a section of the public (Article 23(1)(c))*

The Law then goes on to outline in Article 24 that a person starting new work must have a registration card, with new work defined as follows:

*(4) A person starts new work for the purposes of this Article –*

*(a) if the person works under a contract of employment for a person for whom the person has not previously worked;*

*(b) if the person works under a contract of employment for a person for whom the person has previously worked and the continuity of the period of the person's employment has been broken within the meaning of the Employment (Jersey) Law 2003<sup>15</sup>; or*

*(c) if there is no contract of employment, the person works in or for an undertaking –*

*(i) in or for which the person has not previously worked, or*

*(ii) in or for which the person has previously worked but the length of time which has elapsed since ending that work is such that the person would ordinarily be regarded as starting new work.*

Article 27 then provides that:

*(1) If the Minister decides to grant a business licence under Article 26(4), the Minister shall specify as a condition of the business licence –*

*(a) the maximum number (which may be nil) of individuals with Licensed and Registered status respectively who are permitted to work in or for the undertaking; and*

*(b) if any individuals with Licensed status are so permitted, each description of work which may be done by an individual with that status.*

Exemptions under the Law have then been drafted to be introduced by Order, such that an undertaking does not require a licence for a person on a zero hours contract if they are not actually performing any work.

As to compliance with the Employment Law, that is a matter for the Minister for Social Security and the Employment Law, not for the Control of Housing and Work Law, but the structures of the Employment Law, including the Jersey Advice and Conciliation Service and the Employment Tribunal, have been designed to offer advice and a redress mechanism in relation to breaches of the Law, including in relation to any firms using zero-hour contracts as a means of avoiding employment legislation.

### **3.4 DEPUTY G.C.L. BAUDAINS TO THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING THE SUBMISSION OF COMMENTS TO PROPOSITIONS:**

#### **Question**

Does the Chairman consider it satisfactory that comments and similar information arrive so close to a debate that members may not have sufficient time to digest their contents and, if not, will his Committee be addressing the matter?

#### **Answer**

This would not be a satisfactory state of affairs were it the norm. Thankfully, both the executive and scrutiny functions have a generally satisfactory record of presenting comments and similar information to the Assembly in good time.

In the case of comments, Standing Order 37A requires that comments forwarded to the States Greffe after noon on the preceding Friday be accompanied by a statement explaining the reason for their lateness. There have been 24 such statements made since the Standing Order came into force during 2011, with 6 having been made so far in 2013. Although the majority were made by the executive, some were submitted by Scrutiny.

I have written to the Chief Minister inviting him to consider whether anything might be done to further limit the number of occasions on which the executive presents a late comment to the States Assembly.

### **3.5 DEPUTY G.C.L. BAUDAINS TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE LODGING OF A PROPOSITION RELATING TO DEATH BY CARELESS DRIVING:**

#### **Question**

Further to the responses received from both the Minister and the Minister for Home Affairs to my written questions of 19th February 2013 and 19th March 2013, will the Minister advise what progress, if any, has been made towards amending the Road Traffic (Jersey) Law 1956 to provide for 'causing death or injury by careless driving' and when he anticipates bringing forward the necessary amendments for debate by the Assembly?

#### **Answer**

The Minister for Home Affairs has recently established a working group to examine the current maximum penalties for all road traffic offences. The group comprises representatives from the Law Officers' Department, the Courts, the States of Jersey Police, the Honorary Police, the Home Affairs Department and the Transport and Technical Services Department. At its first meeting the group discussed the introduction of a new offence of causing death by careless driving and were in agreement that this offence should be introduced in Jersey with penalties aligning with those for this type of offence in the UK. The possibility of creating an offence of causing death or serious injury by careless driving was also discussed and it was agreed to review UK practice, where an offence of causing serious injury by dangerous driving had recently been introduced.

The group's work on this issue, as well as traffic penalties generally, is continuing. I anticipate receiving the recommendations of the group by the end of this third quarter, following which I will instruct my officers to provide law drafting instructions for the Law Draftsman as soon as possible.

### **3.6 THE CONNÉTABLE OF ST. JOHN TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE ESPLANADE QUARTER OFFICE BUILDING:**

#### **Question**

Following his decision to approve the application by the Jersey Development Company (JDC) to construct a 56,000 sq ft building on the Esplanade car-park site would the Minister advise –

- (a) whether this approval is consistent with the Esplanade Quarter Masterplan approved by the States in 2008 (P.60/2008)?
- (b) whether this approval is compromised by the ongoing litigation between the JDC's predecessor the Waterfront Enterprise Board and Harcourt Developments?
- (c) if the Island Plan 2011 needs to be amended if elements of P.60/2008 are not now to be carried out, specifically the sunken road and approved scheme and, if so, should the Island Plan have been amended by the States before this approval was issued?
- (d) if the 31 conditions associated with the approved application reflect the Island Plan 2011 and the Esplanade Quarter Masterplan 2008 (P.60/2008)?

#### **Answer**

Before dealing with the specific points (a) to (d), may I initially point out that the proposed building in application P/2012/1141 is 80,000 sq ft (gross) / 67,000 sq ft (net), not 56,000 sq ft as referenced in the above Question.

*(a) whether this approval is consistent with the Esplanade Quarter Masterplan approved by the States in 2008 (P.60/2008)?*

My determination of P/2012/1141 includes an understanding that the application is for a single building and is not, in itself, delivering the Esplanade Quarter Masterplan – clearly the scope of the Masterplan is way beyond this individual building. I am content that as an individual building, the application is consistent with the Masterplan, in that its footprint and scale are as the Masterplan envisaged for this part of the site. Further, at a broader level, I am also content that this building is compliant with the wider aspirations of the Masterplan as it supports the on-going delivery of its aspirations and the longer-term realisation of the original Masterplan objectives.

*(b) whether this approval is compromised by the ongoing litigation between the JDC's predecessor the Waterfront Enterprise Board and Harcourt Developments?*

I have no involvement with the litigation between Harcourt and SOJDC and therefore I am unable to comment. This question is therefore perhaps best directed to the parties involved in that litigation.

(c) *if the Island Plan 2011 needs to be amended if elements of P.60/2008 are not now to be carried out, specifically the sunken road and approved scheme and, if so, should the Island Plan have been amended by the States before this approval was issued?*

I am not aware that any elements of the wider Esplanade Quarter Masterplan are now not to be carried out. The planning system cannot make developments happen. It is permissive, in that it determines the applications as submitted to the Department by developers. The granting of planning permission for P/2012/1141 is perhaps a step towards making sure some of the Masterplan *does* get carried out. I cannot therefore see any need to alter the Island Plan.

(d) *if the 31 conditions associated with the approved application reflect the Island Plan 2011 and the Esplanade Quarter Masterplan 2008 (P.60/2008)?*

There are actually 34 planning conditions (for completeness, these are set out on the attached list).

Each condition includes a “reason” in italics, and you will note that each reason is referenced to a planning objective, as described by a policy within the Island Plan 2011. This form of referencing is standard and illustrates that the conditions are reasonably related to a planning objective.

In the main, the reasons will include reference to Policy BE2 of the Jersey Island Plan 2011, which is the policy concerned with the Delivery of the St Helier Waterfront, and which expressly references the 2008 Esplanade Quarter Masterplan. Therefore, the conditions do all reflect the Island Plan and the Masterplan.

Should any further information be required in relation to any element of the application and its determination, then may I please identify the resources on our website, being the application documentation, Department Report and the Ministerial Decision, available via the following links:

Application documentation

<https://www.mygov.je/Planning/Pages/PlanningApplicationDetail.aspx?s=1&r=P/2012/1141>

Department Report

[http://www.gov.je/SiteCollectionDocuments/Planning%20and%20building/M%20MM%202013-04-19%20\(A\).pdf](http://www.gov.je/SiteCollectionDocuments/Planning%20and%20building/M%20MM%202013-04-19%20(A).pdf)

Ministerial Decision

[http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=f04004e7c573de49d297f2f078db8e7c\\_MDs](http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=f04004e7c573de49d297f2f078db8e7c_MDs)

**P/2012/1141**

**PLANNING CONDITIONS**

**(with reasons in italics)**

1. The development hereby permitted shall not be commenced until details of the appointed Landscape Architect have been agreed in writing by the Minister for Planning and Environment and the appointed Landscape Architects shall have submitted to and have approved in writing by the Minister for Planning and Environment, a **scheme of landscaping** which shall provide details of the following;

- i) all existing trees, hedgerows and other plants, walls, fences and other features which it is proposed to retain on the site and on adjoining land within the same ownership;
- ii) the position of all new trees and/or shrubs, this must include the species of plant(s)/tree(s) to be planted, their size, number and spacing and the means to be used to support and protect them;
- iii) other landscape treatments to be carried out or features to be created, for example, any excavation works, surfacing treatments, or means of enclosure;
- iv) the measures to be taken to protect existing trees and shrubs; and,
- v) the arrangements to be made for the maintenance of the landscaped areas.

For the avoidance of doubt the scheme of landscaping shall include for increased planting within the temporary car park on the south side of La Route de la Liberation and include details of all hard landscape to include the segregation of cyclists and pedestrians in marked areas; all street furniture; roads and footpaths; areas of hardstanding; areas of public open space; flood protection measures; and, car park ramps.

*To ensure that before development proceeds provision is made for a landscaping regime that will enhance the appearance of the development and help to assimilate it into the landscape and to deliver a high quality development in accordance with Policies SP7, BE2 and GD7 of the Jersey Island Plan 2013.*

2. All planting and other operations comprised in the **landscape** scheme hereby approved shall be carried out and completed prior to first occupation of any element of the development.

*To ensure the benefits of the landscape scheme are not delayed, in the interests of the amenities of the area and to deliver a high quality development in accordance with Policies SP7, BE2 and GD7 of the Jersey Island Plan 2013.*

3. Prior to the commencement of development, a report setting out the arrangements for the **management of the landscaped areas** shall be submitted to and approved by the Minister for Planning and Environment, and that that any trees or plant(s) planted in accordance with the approved landscape scheme, which within a period of five years from the planting taking place; die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season, unless the Minister for Planning and Environment gives written consent for a variation of the scheme.

*To mitigate against the potential failure of trees and plants, and the extent to which that might threaten the success of the approved landscape scheme and to deliver a high quality development in accordance with Policies SP7, BE2 and GD7 of the Jersey Island Plan 2013.*

4. Prior to the commencement of development, a report setting out the arrangements for maintaining free and unrestricted **public access** to the landscaped areas shall be submitted to and

approved in writing by the Minister for Planning and Environment, to be implemented in full prior to first occupation, and maintained in perpetuity thereafter.

*To deliver a high quality development in accordance with Policies SP, BE2 and GD7 of the Jersey Island Plan 2013.*

5. No development shall take place until a scheme of foul drainage and surface water **drainage** (to include flow rates, and to cover the surface drainage of the relocated surface car park) has been submitted to and approved by the Minister for Planning and Environment. The approved scheme shall be completed before the development is first brought into use.

*To ensure satisfactory drainage arrangements in accordance with Policy GD2 and BE2 of the Jersey Island Plan 2011.*

6. Notwithstanding the information on the approved plans, prior to the commencement of development, full details including manufacturers specification and the proposed location of **petrol interceptors** for the temporary car park shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

*To ensure satisfactory drainage arrangements in accordance with Policy GD2 of the Jersey Island Plan 2011 and in the interests of preventing contamination, in accordance with Policy GD6, BE2 and NR1 of the Jersey Island Plan 2011.*

7. Notwithstanding the information on the approved plans, prior to the commencement of development, full details of **permeable paving / SUDS** to be applied to all hard surfaced areas shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

*To ensure satisfactory drainage arrangements in accordance with Policy GD2, GD2 and LWM2 of the Jersey Island Plan 2011*

8. Prior to the development commencing a full BREEAM pre-assessment demonstrating that '**BREEAM Excellent**' can be met by the development must be submitted to and approved in writing by the Minister for Planning and Environment. The pre-assessment must be drawn up by an appropriately qualified assessor. The development must then be carried out in accordance with the details specified in the approved assessment. Within six months of the first occupation of the building a post construction review shall be submitted - again drawn up by an appropriately qualified assessor - demonstrating that 'BREEAM Excellent' has been achieved.

*In the interests of sustainable development and energy efficiency, in accordance with Policy SP2 and BE2 of the Jersey Island Plan 2011.*

9. Prior to the occupation of the development hereby permitted, details shall be submitted to and approved by the Minister for Planning and Environment, implemented and thereafter maintained, of a **Green Travel Plan** covering the management of travel movements to and from the site. The Methodology for the Green Travel Plan shall cover a period of at least 10-years and shall first have been agreed with the Minister for Planning and Environment, and shall include provision for charging points for electric cars and electric cycles, and the provision of electric vehicles for the operational use of tenants. No office accommodation shall be occupied until a Travel Plan coordinator has been appointed and their details forwarded to the Minister for Planning and Environment.

*In the interests of promoting sustainable patterns of development, and to accord with Policies TT9, BE2 and SP6 of the Jersey Island Plan 2011.*

10. Notwithstanding the information on the approved plans, prior to the commencement of development, full details including manufacturers specification of the proposed **air source heat pumps** shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

*To ensure satisfactory drainage arrangements in accordance with Policy GD2 of the Jersey Island Plan 2011 and in the interests of delivering renewable energy in accordance with Policy NR7 and BE2 of the Jersey Island Plan 2011.*

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11. Prior to the commencement of the development hereby permitted, details shall be submitted to and approved by the Minister for Planning and Environment, implemented and thereafter maintained, of a **Skills and Training Plan**, to support the development and training needs of Island residents. The Methodology for the Skills and Training Plan shall first have been agreed with the Minister for Planning and Environment.

*In the interests of promoting sustainable patterns of development and supporting economic growth and diversification, and to accord with Policy GD1, BE2 and SP5 of the Jersey Island Plan 2011.*

12. A **Percentage for Art** contribution must be delivered in accordance with the Percentage for Art Statement submitted to, and approved by, the Minister for Planning and Environment. The approved work of art must be installed prior to the first use/occupation of any part of the development hereby approved.

*To accord with the provisions of Policy GD8 and BE2 of the Jersey Island Plan 2011.*

13. Prior to the commencement of the development hereby permitted, full details of the provisions and arrangements to be made for the storage, sorting, recycling, collection and disposal of operational office **refuse** must be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented prior to first occupation and maintained in perpetuity.

*To ensure that waste and refuse is stored and disposed of without harming the amenities of the occupiers of neighbouring properties or the surrounding area, in accordance with Policy GD1 and BE2 of the Island Plan, 2011.*

14. Notwithstanding the information on the approved plans, prior to the commencement of development, full details of the relocated **public recycling** facilities currently at the Esplanade car park shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter made available in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

*For the avoidance of doubt and in the interests of providing adequate recycling facilities in accordance with Policy WM5 and BE2 of the Jersey Island Plan 2011.*

15. Notwithstanding the information on the approved plans, prior to the commencement of development, full details of the proposed **off-street servicing**, including designated parking bays, shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter made available in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

*In the interests of providing adequate service infrastructure, in accordance with Policy GD2 and BE2 of the Jersey Island Plan 2011.*

16. Notwithstanding the indications on the approved plans, prior to the commencement of the development hereby permitted, full details of all **external materials** to be used to construct the development shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented prior to first occupation and maintained in perpetuity.

*To ensure a high quality of design and in accordance with Policies SP7, BE2 and GD7 of the Jersey Island Plan 2011.*

17. Prior to commencement of the development hereby permitted, details shall be submitted to and approved by the Minister for Planning and Environment, implemented and thereafter maintained, setting out the arrangements for **Waste Management** in relation to the proposed excavation. Following completion of the excavation, and prior to commencement of construction, a Waste Management Completion Report shall be submitted to the Minister for Planning and Environment.

*In the interests of securing waste minimisation, and to accord with Policy WMI and BE2 of the Jersey Island Plan 2011.*

18. Prior to the commencement of development a **Construction Environmental Management Plan** shall be submitted to and agreed in writing by the Minister for Planning and Environment which shall thereafter be implemented in full until the completion of the development. The Plan shall include an implementation programme of mitigation measures to minimise any adverse effects of the proposal, and shall include:

- A. A demonstration of best practice in relation to noise and vibration control; and control of dust and emissions;
- B. Details of a publicised complaints procedure, including office hours and out-of-hours contact numbers;
- C. Specified hours of working (to include that work resulting in noise being heard outside the application boundary occurs only between 8am and 6pm Monday to Friday, and 8am to 1pm on Saturdays, with no noisy working outside these times, and no noisy work on Bank or Public Holidays);
- D. Details of any proposed crushing / sorting of waste material on site;
- E. Details of the proposed management of traffic and pedestrians (to include for vehicle wheel washing);
- F. Measures taken to detect and manage any asbestos;
- G. Proposed piling methods;
- H. Any arrangements for dewatering.

*In the interests of protecting the amenities of the area to accord with Policy GD1 and BE2 of the Jersey Island Plan 2011 and in the interests of preventing contamination, in accordance with Policy GD6, BE2 and NR1 of the Jersey Island Plan 2011.*

19. Unless otherwise agreed in writing by the Minister for Planning and Environment, prior to first occupation of the development hereby permitted the **visibility lines** must be provided for 50m at a point 2.4m back from the entrance to the basement car park. Everything within the visibility sight lines, including gates, walls, railings and plant growth is to be permanently restricted in height to 900mm above road level. Any **vehicle barrier** or control point must be a minimum of 8m from the roadside kerb edge and prior to the commencement of development details of any traffic light control system should be submitted to and agreed in writing by the Minister for Planning and Environment to be implemented prior to first occupation and maintained in perpetuity thereafter.

*In the interests of delivering suitable vehicle infrastructure, in accordance with Policy GD1 and BE2 of the Jersey Island Plan 2011.*

20. Prior to the commencement of development a scheme of **external lighting** shall be submitted to and approved in writing by the Minister for Planning and Environment, to be implemented in full prior to first occupation and retained in perpetuity thereafter. Unless otherwise agreed in writing by the Minister for Planning and Environment all external lighting must be erected and directed in accordance with the Institution of Lighting Engineers Guidance Notes for the Reduction of Light Pollution 1994 (revised).

*In the interests of the amenities of the area and in accordance with the requirements of Policy GD1 and BE2 of the Jersey Island Plan 2011.*

21. Prior to the commencement of development details of the **CCTV** installations shall be submitted to and approved in writing by the Minister for Planning and Environment, to be implemented in full prior to first occupation and retained in perpetuity thereafter.

*In the interests of the amenities of the area and in accordance with the requirements of Policy GD1 and BE2 of the Jersey Island Plan 2011.*

22. Prior to the occupation of the development, a **Flood Risk Assessment** as applicable to the application site shall be submitted to and approved by the Minister for Planning and Environment, with any recommendations implemented prior to first occupation and thereafter maintained in perpetuity. The Methodology for the Flood Risk Assessment shall first have been agreed with the Minister for Planning and Environment.

*In the interests of ensuring adequate service infrastructure in accordance with the requirements of Policy GD1 and BE2 of the Jersey Island Plan 2011*

23. Prior to the occupation of the development, a scheme for **Air Quality Monitoring** during the construction phase shall be submitted to and approved by the Minister for Planning and Environment, to be thereafter maintained until first occupation. The Methodology for the Air Quality Monitoring shall first have been agreed with the Minister for Planning and Environment, and shall include provision for remedial actions in the event that air quality drops below reasonable levels to be agreed in advance with the Minister for Planning and Environment.

*In the interests of ensuring adequate air quality in accordance with Policy NR3 and BE2 of the Jersey Island Plan 2011.*

24. Prior to commencement of the development hereby permitted, a programme of recording and analysis of the elements of the **sea wall** to be removed, to the terms of a brief to be supplied by the Department, shall be submitted to and approved by the Minister for Planning and Environment, to be thereafter implemented.

*In the interests of the historic environment in accordance with Policy HE1 and BE2 of the Jersey Island Plan 2011.*

25. Prior to the commencement of any work on site which shall affect the **sea wall**, a Method Statement shall be submitted to and approved in writing by the Minister for Planning and Environment itemising the procedures to be followed for works to the sea wall, including the elements of the wall which are to be relocated. All the specified works are to be undertaken prior to further occupation of any element of the development and are to be maintained in perpetuity thereafter.

*In the interests of the historic environment in accordance with Policy HE1 and BE2 of the Jersey Island Plan 2011.*

26. Unless otherwise agreed in writing by the Minister for Planning and Environment, the **replacement car parking** on the south side of La Route de la Liberation shall be surfaced, demarcated, drained, accessible and in all other regards operational, prior to the loss of any car parking spaces within the existing Esplanade car park. The replacement car parking is approved on temporary basis only, to ensure a balance of 525 public spaces is maintained across the two sites. The temporary car parking shall cease to operate when 525 spaces have been re-introduced to the Esplanade site. At all times the number of operational spaces across the two sites shall comprise 525 public car spaces and 100 public motorcycle spaces (excluding the basement provision in the subject building). The replacement car parking shall be made available for general public users on the same terms (in relation to charging mechanisms, length of stay and operating hours) as the existing Esplanade car park.

*In the interests of securing adequate car parking provision, in accordance with Policy TT10 and BE2 of the Jersey Island Plan 2011.*

27. Prior to the commencement of development drawings shall be submitted to and approved in writing by the Minister for Planning and Environment to show the location of public parking facilities for 20 additional **bicycles**, with that provision being implemented prior to first occupation and maintained in perpetuity thereafter.

*In the interests of securing adequate bicycle parking provision, in accordance with Policy TT4 and BE2 of the Jersey Island Plan 2011.*

28. Prior to the commencement of development a technical note shall be provided to and approved in writing by the Minister for Planning and Environment to model the **capacity of the junction** of Castle Street and the Esplanade. Until such a time as that information has been provided, the details of the junction (including the potential for a slip lane between Castle Street and the Esplanade and the consequential alterations to the landscape scheme), are reserved for future consideration by the Minister for Planning and Environment. The Methodology for the technical note shall first have been agreed with the Minister for Planning and Environment.

*In the interests of securing adequate access and service infrastructure in accordance with Policy GD1 and BE2 of the Jersey Island Plan 2011.*

29. Prior to the commencement of development a detailed drawing (at no less than 1:20 scale) to show the **entrance to the temporary car park** at the junction of La Rue de L'Etau, specifically the geometry necessary to facilitate exit in both an easterly and westerly direction, shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented prior to first use and maintained in perpetuity.

*In the interests of securing adequate access and service infrastructure in accordance with Policy GD1 and BE2 of the Jersey Island Plan 2011.*

30. Prior to the commencement of development the **levels of potential contaminants** in the ground shall be investigated and any risks to human health or the wider environment assessed and mitigated, to the satisfaction of and in accordance with the requirements of Supplementary Planning Guidance Planning Advice Note 2 – Development of Potentially Contaminated Land. This will include: Phase 2 work to provide up-to-date site investigations and shall include ground conditions, soil, gas and groundwater data; and Phase 3 Remediation and / or Risk Management, with Completion Report and Certificate to be issued prior to first occupation of any element. Where required by the Minister, the completion report shall also include a plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Minister. For the avoidance of doubt the scope of all work must be agreed in writing in advance with the Minister for Planning and Environment and shall also include the site of the temporary car park.

*To ensure the development does not have an unreasonable impact on public health or the wider environment and to accord with Policy GD1, BE2, and GD6 of the Jersey Island Plan 2011.*

31. Notwithstanding the conclusions reached within site investigation work, should any **contamination** be found during the course of development hereby approved, work shall cease and the Minister for Planning and Environment contacted immediately.

*To ensure the development does not have an unreasonable impact on public health or the wider environment and to accord with Policy GD1, BE2, and GD6 of the Jersey Island Plan 2011.*

32. Prior to the commencement of development a **Hydro-Geological Model** shall be prepared for the site to fully understand the implications of the development on groundwater conditions. No development shall take place until details of this and any mitigation measures have been submitted to and approved by the Minister as part of a detailed application, with the mitigation measures to be implemented prior to first occupation and maintained in perpetuity thereafter. For the avoidance of doubt the scope of all work must be agreed in writing in advance with the Minister for Planning and Environment

*To ensure any long term impact of the scheme on groundwater conditions is clearly understood and any mitigation measures identified and to accord with Policy GD1, BE2, NR1 and GD6 of the Jersey Island Plan 2011.*

33. On the conclusion of all detailed site investigations, the groundwater quality data and a groundwater quality change model shall be submitted to the Minister for Planning and Environment, and prior to the commencement of any development a programme of **groundwater analysis** and sampling shall be submitted to and agreed in writing by the Minister for Planning and Environment for whole construction phase. For the avoidance of doubt the applicant shall fund and allow reasonable independent audit water sampling on site by the Minister for Planning and Environment whenever the Minister deems this to be appropriate.

*To ensure any long term impact of the scheme on groundwater conditions is clearly understood and any mitigation measures identified and to accord with Policy GD1, BE2, NR1 and GD6 of the Jersey Island Plan 2011.*

34. Prior to the commencement of development a **Phasing Plan** shall be submitted to and agreed in writing by the Minister for Planning and Environment. That Phasing Plan shall include details of the timetable for the delivery of the wider Esplanade Quarter works beyond Phase 1 (the Jersey International Finance Centre) to include the sinking of La Route de la Liberation and the balance of the works in the approved Masterplan for the Esplanade Quarter (as Amended).

*To ensure compliance with Policy BE2 of the Jersey Island Plan 2011.*

### **3.7 THE CONNÉTABLE OF ST. JOHN TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE MAINTENANCE AND RUNNING COSTS OF THE FUME EXTRACTION EQUIPMENT OF THE PROPOSED WATERFRONT SUNKEN ROAD:**

#### **Question**

With regard to the proposed sunken road at the Esplanade Quarter, would the Minister advise whether the annual maintenance and running cost of the fume extraction equipment is budgeted for within the suggested £500,000 annual spend (at 2008 figures), and would he further advise whether the fumes will be filtered before release into the atmosphere and, if so, the annual cost of this process?

Would the Minister advise precisely where and at what height the fumes/vent stacks will be released?

#### **Answer**

As part of the Esplanade Quarter Masterplan commissioned by the then Minister for Planning and Environment, Transport and Technical Services (TTS) advised on the feasibility and appropriateness of their proposed changes to the existing road network.

These changes included the diverting of a section of the East/West road into a tunnel, to allow unhindered development above. TTS determined that the proposals were feasible and Hopkins Architects (the Masterplan Architect for the Esplanade Quarter on behalf of the then Minister for Planning and Environment) subsequently included these proposals in the Esplanade Quarter Masterplan which was approved by the States in June 2008.

Whilst significant and detailed work was carried out on the feasibility of the tunnel and alterations to the existing road network, the detailed planning application for the below ground works was not determined by the Minister for Planning and Environment. The outline application however for both the below and above ground works was approved in July 2010.

An indicative estimate of £500,000 per year was put forward at the time for the overall tunnel maintenance, which would have included the running and maintenance costs of the extract system. No detailed design was finalised nor approved for the extract system, but it was conditioned to meet the appropriate air quality standards. The indicative design was based on the tunnels being vented via the East and West portals with the aid of forced ventilation in the tunnel negating the need for extract vents on the surface. This matter was addressed by a condition on the outline approval which required full details of all mechanical works in relation to ventilation to be submitted and approved as part of any detailed application.

The States of Jersey Development Company (SoJDC) will be delivering the Esplanade Quarter Masterplan in a number of phases. The first phase of the development will deliver the majority of the office content of the Masterplan and the lowering of La Route de la Liberation will not feature in this phase (this will form part of Phase 2). When Phase 2 is in the detailed design stage, the detail of the tunnel venting will be determined as will the annual running costs of the tunnel.

### **3.8 DEPUTY R.G. LE HÉRISSEUR TO THE CHAIRMAN OF PRIVILEGES AND PROCEDURES COMMITTEE REGARDING THE PROGRESS MADE BY THE MACHINERY OF GOVERNMENT PANEL AND THE SUBMISSION OF ITS FINAL REPORT:**

#### **Question**

What progress, if any, has the Machinery of Government Review Sub Committee made since submitting its interim report and when will the final report be submitted?

#### **Answer**

PPC essentially agrees with its Machinery of Government Review Sub Committee that a States debate on the Electoral Commission's final report and the outcome of the subsequent referendum is needed in early course. The outcome of that debate will set the context for further work on the machinery of government. With the foregoing in mind, PPC has now lodged '*au Greffe*' the draft States of Jersey (Amendment No.7) Law 201-.

In the intervening period, the Committee has received constructive comments on the interim report (R.39/2013) from the Council of Ministers and the Chairmen's Committee. Those responses are to be considered at the Committee's next scheduled meeting on 13th June. It is also anticipated that the Sub-Committee will meet this month to discuss next steps.

### **3.9 DEPUTY R.G. LE HÉRISSEIER TO THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING HARBOUR MUD BERTH CHARGES:**

#### **Question**

What have been the percentages and monetary fee rises in each of the last 5 years for Harbour mud berth charges and what rises are predicted for each of the next 2 years?

How are these rises justified?

#### **Answer**

At the end of 2009, Port of Jersey made a decision to review the outer harbour mooring dues and replace it with a simpler system based on overall length rather than square metreage.

This decision and justification, which received Ministerial approval was subsequently communicated to and accepted by interested parties, including representatives from Boat Owners Associations, Yacht Clubs and the newly established marine leisure development group. Consultation with and feedback from these interested parties continues and an open two-way communication process is actively encouraged.

Following an extensive UK and French based bench-marking process it was found that our charges were still considerably lower than those in the UK.

The percentage fee increases since 2009 are as follows:

2009 – Fees increase by 3.9%;

2010 – No increase as change of structure based on overall length rather than square metreage;

2011 – Fees increase by 20%;

2012 – Fees increase by 20%;

The proposed fee increase of 20% for 2013 has been deferred and split over 2013 and 2014. This has been approved by the Assistant Minister for Economic Development and communicated to interested parties

As an example, charges for an 6-metre vessel based in St Helier's Old Harbour, St Aubin or Gorey, increased by £33.50 per year from £206.50 to £240 per year

The fees have contributed to part fund major works programmes to improve conditions and facilities for mariners at numerous harbour sites, administered by Ports of Jersey. These include:

£700k - Dredging work at St Aubin's Harbour

£1.3m - Repairs to the north and south arm of St Aubin's Harbour

£72k - New crane at St Aubin

£700k - New pontoons at La Collette Yacht basin

£146k - Improvements to mud moorings at South Pier, St Helier

£50k - Replacement of chains and mooring buoys at Gorey Harbour

Forthcoming works to be carried out include:

£3m - Repairs to the Pier at Gorey Harbour

£36k - Grouting repair work at St Aubin's Fort

**3.10 DEPUTY G.P. SOUTHERN OF ST. HELIER TO THE MINISTER FOR HOUSING REGARDING THE ESTIMATE OF CURRENT DEMAND FOR SOCIAL RENTAL ACCOMODATION BY SIZE:**

**Question**

In the light of the Jersey Housing Assessment 2013-15, will the Minister estimate what the current demand for social rental accommodation by size is currently, and state what impact the 10 population projections published by the States of Jersey Statistics Unit in September 2012 will have on this demand in the short (2020) and medium (2035) term?

Will he also state the extent to which he expects to be able to meet any of the needs required by these projections over the short and medium term?

Further, in the light of the findings contained in the 2011 census report that there was a propensity for immigrants from Portugal and the EU accession countries to remain in Jersey following the reduction in qualification periods, and that some 90% of these recent arrivals were economically active and concentrated in elementary occupations, will he state what impact, if any, these factors may have on the demand for social rental accommodation?

**Answer**

The Affordable Housing Gateway month end report for May 2013 confirms that there are currently 1305 active applications on the list for social housing.

Only Bands 1, 2, 3 & 6 from the Gateway (which are the highest priority) should be compared with figures generated from the Housing Departments rental waiting list in the past, and therefore used to indicate true demand. In the absence of significant new supply we have to rely on void turnover within the current housing stock and the number of new applicants presently exceeds the turnover. Demand is likely to keep increasing until a significant supply of new homes is delivered mid 2014 – late 2015 for existing schemes that are in development.

The current requirement in terms of numbers of units need to meet the demands of the waiting list is broken down as follows;

Net Requirement (Bands 1,2,3, & 6 only)

Bed Size	Number
One Bed	305
Two Bed	234

Three Bed	139
Four Bed	31
Five+	1
TOTAL	710

The full month end report for May 2013 is available on the States website.

The Jersey Housing Assessment produced by the Statistic Unit states the potential shortfall (supply minus demand) for social housing over the three year period 2013 to 2015 is 420;

*“An overall potential shortfall of more than 400 dwelling units is apparent in social housing. Potential shortfalls were observed for every size of dwelling in this sector; the greatest demand, and potential shortfall, in the social rental sector is for 2-bedroom properties.”*

*“The largest component of the demand for social housing was from existing households wanting to move into this sector there was also notable demand from concealed households.”*

We can see from the current Gateway statistics that the greatest demand continues to be for one and two bedroom properties, it is also important to note a number of larger units that could be released if there was a greater supply of one bedroom properties, particularly for those waiting to downsize.

The concealed demand, which was highlighted by the Statistics Unit in their report, is something that I have raised concern about in the past and is one of the reasons why I brought forward my proposals in P.33/2013. I am committed to making housing more accessible for those that are in need of it, and expect the Strategic Housing Unit to consider the widening of eligibility criteria for social housing once the Island Wide Housing Strategy, already commissioned, is produced. Any widening of the criteria needs to be linked to an increase in supply but we need the strategy before considering that further.

The Jersey Housing Assessment 2013-15 report makes the very interesting point that over the short term (2013-2015) the need for social housing is unaffected by migration levels.

*“Although there is also demand from in-migrant households for accommodation in the qualified tenures (primarily from j-category households), the potential shortfalls and surpluses in the owner-occupier, social housing and private rental categories are relatively insensitive to the level of net migration in the short-term.”*

Over the short-term period defined by the Deputy's question (to 2020), the Jersey Housing Assessment does not take into account the potential effect of the large number of inward migrants in 2006-2008 (more than 1,000 people each year) who (if they remain in Jersey) will gain residential qualifications in 2016-2018 and may have a potential impact on the demand for social or affordable housing.

Any changes in migration, different to current trends, will no doubt affect the levels of the potential shortfalls or surpluses in qualified and non-qualified accommodation. However, it would be very difficult to predict the effects over the longer term as projections are based on a whole range of criteria.

It would be very difficult to predict the effects of population growth on the need for social housing over the longer term. The need for affordable homes is a complex issue that cannot be explained by changes in the population alone; demand for affordable housing and its sub-tenures is also sensitive to economic fluctuations.

The important thing is that we have put in place the structure necessary to respond to the changing housing requirements of the Island and have the capacity and flexibility to react to changing requirements.

The proposed Housing Company stock development plans are noted in section 5.4 and Appendix B of the Housing Transformation Programme Full Business Case (R.15/2013). The Housing Company plans to deliver a net 434 new social housing units. Additionally, certain Social Housing Trusts may be able to deliver a further 203 new social housing units.

The proposals also include the sale of 300 States social housing units to tenants which removes those tenants from the social sector and creates more home ownership. All the properties sold will be retained as affordable homes in perpetuity. These proposals taken together will allow 637 families to be housed from the Affordable Housing Gateway in addition to the normal vacancies created each year.

The next round of the Housing Needs Survey will provide further enlightenment as to any change in demand for social and affordable housing. In addition, should the Strategic Housing Unit require further homes to be delivered by Social Housing Providers, then these will be delivered as long as appropriate sites are made available.

### **3.11 DEPUTY G.P. SOUTHERN TO THE MINISTER FOR HOUSING REGARDING WEIGHTED AVERAGE RENT INCREASES:**

#### **Question**

Does the Minister accept that the figures he presented in his response to a written question on 14th May 2013, show that the weighted average rent increase resulting from the move to 90% of private sector rent levels from the current average of 74% under the Housing Transformation Plan on new tenancies in States social rented housing will be £35.51 per week (21%) and if not why not?

Does he further accept that the average rise for tenants on new tenancies for 2-bed properties will be £49 per week (27%)?

Will he explain to members why he stated in his answer that the policy “would add, on a weighted average, a further £11.89 or 6% on new tenancies”, when the correct figure for the level of rent increases was to be gained by comparison with actual rents (2012) and not with fair rents, as he had given elsewhere in his answer?

Does the Minister accept that in doing so he has misled the States and, if so, will he apologise for having done so?

#### **Answer**

As noted in my answer to the Deputy’s question (7639), the Housing Department has, for a number of years, operated a policy of uplifting rents for new tenancies to more appropriate levels following refurbishment. On a weighted average, this adds £23.62 per property per week compared with

weighted average rents at 2012 levels. The new 90% of market rents policy will add, on a weighted average, a further £11.89 or 6% to weekly rents on new tenancies.

For 2 bedroom properties, the current rent policy adds a weighted average of £28.84 and the new 90% of market rents policy adds, on a weighted average, a further £20.06 per week.

My answer to the Deputy's question 7639 clearly laid out the weighted average rent levels at the 2012 levels and compared this to the weighted average rent levels under the current rent policy and the new 90% of market rent policy. I therefore do not accept that I misled the States in any way and indeed my answer clearly laid out the implications at varying rent levels in tabular form.

I also noted in my answer to the Deputy's question (7639) that considering the impact on the tenant of the average change in rent levels is meaningless. The change in rent for existing tenants moving to new tenancies is dependent on a wide range of circumstances such as where the tenant is moving to and from and for what reason. Furthermore, all tenants on low incomes and receiving Income Support will be fully protected and only those tenants who move are subject to the current and new rent policy.

### **3.12 DEPUTY J.H. YOUNG OF ST. BRELADE TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE PROPOSED DEVELOPMENT OF PART OF THE ESPLANADE CAR PARK:**

#### **Question**

Following the recent announcement of his decision to approve plans submitted by the States of Jersey Development Company (SOJDC) for the proposed development of part of the Esplanade car for private sector offices, will the Minister advise –

- (a) the full details of the mandatory Planning Obligation agreement which he requires of the SOJDC to enter into as a pre-condition of this consent and the conditions which he has attached to such consent;
- (b) how the proposed Planning Obligation agreement will ensure that the approved Masterplan for St Helier, including lowering or bridging over the waterfront road to enable St Helier to be reconnected with its waterfront without public cost, is completed within the ten year timescale of the Island Plan which expires in 2021; and,
- (c) which conditions are attached to the consent to ensure public car parking is maintained, there is improved safety for the increased pedestrian footfall which will be generated, improvements in the public realm and minimization of the disruption to the public and users of the Waterfront?

#### **Answer**

*(a) the full details of the mandatory Planning Obligation agreement which he requires of the SOJDC to enter into as a pre-condition of this consent and the conditions which he has attached to such consent;*

The need for a Planning Obligation Agreement (POA) was identified in the consultation response from TTS Highways and deals with the payment of money (£172,190) as a contribution to transport infrastructure.

This rolls-forward the same approach (index linked) as in the completed POA for the earlier 2010 outline planning application, which included a formula for different land-uses within the wider Esplanade Quarter.

The full response from TTS Highways is available via the Planning section of the States of Jersey website, via the link below, following the “Application documentation” tab.

<https://www.mygov.je/Planning/Pages/PlanningApplicationDetail.aspx?s=1&r=P/2012/1141>

The conditions to be attached to the development are specified within the Department Report and my Ministerial Decision. Both of these are also available via the website (again, links are below), but for completeness they have been reproduced on the attached document.

Department Report

[http://www.gov.je/SiteCollectionDocuments/Planning%20and%20building/M%20MM%202013-04-19%20\(A\).pdf](http://www.gov.je/SiteCollectionDocuments/Planning%20and%20building/M%20MM%202013-04-19%20(A).pdf)

Ministerial Decision

[http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=f04004e7c573de49d297f2f078db8e7c\\_MDs](http://www.gov.je/Government/PlanningPerformance/Pages/MinisterialDecisions.aspx?docid=f04004e7c573de49d297f2f078db8e7c_MDs)

*(b) how the proposed Planning Obligation agreement will ensure that the approved Masterplan for St Helier, including lowering or bridging over the waterfront road to enable St Helier to be reconnected with its waterfront without public cost, is completed within the ten year timescale of the Island Plan which expires in 2021; and,*

The Planning Obligation Agreement does not relate to the sinking of the road – that was not part of the subject P/2012/1141 application, which was a full application (not reserved matters under the 2010 outline) for a single office building.

The planning system cannot make developments happen. It is permissive, in that it determines the applications as submitted to the Department by developers. Following the determination of a planning application, the Department cannot require development to actually take place – that is a commercial decision for the developer concerned. Neither does the Department deal with the funding of development projects – again these are commercial arrangements for the relevant developer. Therefore, I am not in a position to confirm the timetable, or costs (to the public or otherwise), for the sinking of the road.

That said, I have been extremely conscious of the relationship between this application and the wider Masterplan. I am content that this application is consistent with the Masterplan either as an individual building, or as the first phase of the complete project. You will recall that at the public meeting (where you were in attendance) I sought assurances from the developer on this issue, and in response the Minutes record that “It was considered that once the first permission had been granted, sufficient funds would be generated to provide for the lowering of the road within 10 years, with the second phase of development proposed to commence from 2017, once the first 6 units for which SoJDC would seek consent had been delivered.”

Of course, we all know that delivery is going to be occupier-led and subject to funding – which are matters outside my control. However, you will note that the permission is subject to a condition (34, on the attached list) which I specifically added in my Ministerial Decision requiring a Phasing Plan to set out the timetable for the wider works.

*(c) which conditions are attached to the consent to ensure public car parking is maintained, there is improved safety for the increased pedestrian footfall which will be generated, improvements in the public realm and minimization of the disruption to the public and users of the Waterfront?*

Condition 26 (as set out on the attached list) requires the balance of public car parking to be maintained at 525 car spaces and 100 motorcycle spaces (being the current level of provision) across the both the Esplanade car park and the replacement site to the south of La Route de la Liberation, with the same operational terms across both sites.

The Car Park Strategy Report submitted with the application (and so available via our website) shows that in relation to the replacement car parking arrangements, vehicles and pedestrians would use the existing road infrastructure and established crossing points. I am not aware there were any safety issues raised to the principle of these arrangements and condition 29 (attached) requires large scale details of the access to the replacement car parking site.

Elsewhere, significant elements of public realm works are proposed, both as hard and soft landscaped areas. These are primarily to the south of the proposed building, and around the junction of Esplanade and Castle Street. You will note that condition 18 requires a Construction Environmental Management Plan which includes mechanisms to minimise disruption.

**P/2012/1141**

**PLANNING CONDITIONS**

**(with reasons in italics)**

1. The development hereby permitted shall not be commenced until details of the appointed Landscape Architect have been agreed in writing by the Minister for Planning and Environment and the appointed Landscape Architects shall have submitted to and have approved in writing by the Minister for Planning and Environment, a **scheme of landscaping** which shall provide details of the following;

- i) all existing trees, hedgerows and other plants, walls, fences and other features which it is proposed to retain on the site and on adjoining land within the same ownership;
- ii) the position of all new trees and/or shrubs, this must include the species of plant(s)/tree(s) to be planted, their size, number and spacing and the means to be used to support and protect them;
- iii) other landscape treatments to be carried out or features to be created, for example, any excavation works, surfacing treatments, or means of enclosure;
- iv) the measures to be taken to protect existing trees and shrubs; and,
- v) the arrangements to be made for the maintenance of the landscaped areas.

For the avoidance of doubt the scheme of landscaping shall include for increased planting within the temporary car park on the south side of La Route de la Liberation and include details of all hard landscape to include the segregation of cyclists and pedestrians in marked areas; all street furniture; roads and footpaths; areas of hardstanding; areas of public open space; flood protection measures; and, car park ramps.

*To ensure that before development proceeds provision is made for a landscaping regime that will enhance the appearance of the development and help to assimilate it into the landscape and to*

*deliver a high quality development in accordance with Policies SP7, BE2 and GD7 of the Jersey Island Plan 2013.*

2. All planting and other operations comprised in the **landscape** scheme hereby approved shall be carried out and completed prior to first occupation of any element of the development.

*To ensure the benefits of the landscape scheme are not delayed, in the interests of the amenities of the area and to deliver a high quality development in accordance with Policies SP7, BE2 and GD7 of the Jersey Island Plan 2013.*

3. Prior to the commencement of development, a report setting out the arrangements for the **management of the landscaped areas** shall be submitted to and approved by the Minister for Planning and Environment, and that any trees or plant(s) planted in accordance with the approved landscape scheme, which within a period of five years from the planting taking place; die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season, unless the Minister for Planning and Environment gives written consent for a variation of the scheme.

*To mitigate against the potential failure of trees and plants, and the extent to which that might threaten the success of the approved landscape scheme and to deliver a high quality development in accordance with Policies SP7, BE2 and GD7 of the Jersey Island Plan 2013.*

4. Prior to the commencement of development, a report setting out the arrangements for maintaining free and unrestricted **public access** to the landscaped areas shall be submitted to and approved in writing by the Minister for Planning and Environment, to be implemented in full prior to first occupation, and maintained in perpetuity thereafter.

*To deliver a high quality development in accordance with Policies SP, BE2 and GD7 of the Jersey Island Plan 2013.*

5. No development shall take place until a scheme of foul drainage and surface water **drainage** (to include flow rates, and to cover the surface drainage of the relocated surface car park) has been submitted to and approved by the Minister for Planning and Environment. The approved scheme shall be completed before the development is first brought into use.

*To ensure satisfactory drainage arrangements in accordance with Policy GD2 and BE2 of the Jersey Island Plan 2011.*

6. Notwithstanding the information on the approved plans, prior to the commencement of development, full details including manufacturers specification and the proposed location of **petrol interceptors** for the temporary car park shall be submitted to and approved in writing by the

Minister for Planning and Environment to be thereafter implemented in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

*To ensure satisfactory drainage arrangements in accordance with Policy GD2 of the Jersey Island Plan 2011 and in the interests of preventing contamination, in accordance with Policy GD6, BE2 and NR1 of the Jersey Island Plan 2011.*

7. Notwithstanding the information on the approved plans, prior to the commencement of development, full details of **permeable paving / SUDS** to be applied to all hard surfaced areas shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

*To ensure satisfactory drainage arrangements in accordance with Policy GD2, GD2 and LWM2 of the Jersey Island Plan 2011*

8. Prior to the development commencing a full BREEAM pre-assessment demonstrating that '**BREEAM Excellent**' can be met by the development must be submitted to and approved in writing by the Minister for Planning and Environment. The pre-assessment must be drawn up by an appropriately qualified assessor. The development must then be carried out in accordance with the details specified in the approved assessment. Within six months of the first occupation of the building a post construction review shall be submitted - again drawn up by an appropriately qualified assessor - demonstrating that 'BREEAM Excellent' has been achieved.

*In the interests of sustainable development and energy efficiency, in accordance with Policy SP2 and BE2 of the Jersey Island Plan 2011.*

9. Prior to the occupation of the development hereby permitted, details shall be submitted to and approved by the Minister for Planning and Environment, implemented and thereafter maintained, of a Green **Travel Plan** covering the management of travel movements to and from the site. The Methodology for the Green Travel Plan shall cover a period of at least 10-years and shall first have been agreed with the Minister for Planning and Environment, and shall include provision for charging points for electric cars and electric cycles, and the provision of electric vehicles for the operational use of tenants. No office accommodation shall be occupied until a Travel Plan coordinator has been appointed and their details forwarded to the Minister for Planning and Environment.

*In the interests of promoting sustainable patterns of development, and to accord with Policies TT9, BE2 and SP6 of the Jersey Island Plan 2011.*

10. Notwithstanding the information on the approved plans, prior to the commencement of development, full details including manufacturers specification of the proposed **air source heat pumps** shall be submitted to and approved in writing by the Minister for Planning and

Environment to be thereafter implemented in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

*To ensure satisfactory drainage arrangements in accordance with Policy GD2 of the Jersey Island Plan 2011 and in the interests of delivering renewable energy in accordance with Policy NR7 and BE2 of the Jersey Island Plan 2011.*

11. Prior to the commencement of the development hereby permitted, details shall be submitted to and approved by the Minister for Planning and Environment, implemented and thereafter maintained, of a **Skills and Training Plan**, to support the development and training needs of Island residents. The Methodology for the Skills and Training Plan shall first have been agreed with the Minister for Planning and Environment.

*In the interests of promoting sustainable patterns of development and supporting economic growth and diversification, and to accord with Policy GD1, BE2 and SP5 of the Jersey Island Plan 2011.*

12. A **Percentage for Art** contribution must be delivered in accordance with the Percentage for Art Statement submitted to, and approved by, the Minister for Planning and Environment. The approved work of art must be installed prior to the first use/occupation of any part of the development hereby approved.

*To accord with the provisions of Policy GD8 and BE2 of the Jersey Island Plan 2011.*

13. Prior to the commencement of the development hereby permitted, full details of the provisions and arrangements to be made for the storage, sorting, recycling, collection and disposal of operational office **refuse** must be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented prior to first occupation and maintained in perpetuity.

*To ensure that waste and refuse is stored and disposed of without harming the amenities of the occupiers of neighbouring properties or the surrounding area, in accordance with Policy GD1 and BE2 of the Island Plan, 2011.*

14. Notwithstanding the information on the approved plans, prior to the commencement of development, full details of the relocated **public recycling** facilities currently at the Esplanade car park shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter made available in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

*For the avoidance of doubt and in the interests of providing adequate recycling facilities in accordance with Policy WM5 and BE2 of the Jersey Island Plan 2011.*

15. Notwithstanding the information on the approved plans, prior to the commencement of development, full details of the proposed **off-street servicing**, including designated parking bays, shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter made available in full prior to first occupation of any element of the application site, and maintained in perpetuity thereafter.

*In the interests of providing adequate service infrastructure, in accordance with Policy GD2 and BE2 of the Jersey Island Plan 2011.*

16. Notwithstanding the indications on the approved plans, prior to the commencement of the development hereby permitted, full details of all **external materials** to be used to construct the development shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented prior to first occupation and maintained in perpetuity.

*To ensure a high quality of design and in accordance with Policies SP7, BE2 and GD7 of the Jersey Island Plan 2011.*

17. Prior to commencement of the development hereby permitted, details shall be submitted to and approved by the Minister for Planning and Environment, implemented and thereafter maintained, setting out the arrangements for **Waste Management** in relation to the proposed excavation. Following completion of the excavation, and prior to commencement of construction, a Waste Management Completion Report shall be submitted to the Minister for Planning and Environment.

*In the interests of securing waste minimisation, and to accord with Policy WMI and BE2 of the Jersey Island Plan 2011.*

18. Prior to the commencement of development a **Construction Environmental Management Plan** shall be submitted to and agreed in writing by the Minister for Planning and Environment which shall thereafter be implemented in full until the completion of the development. The Plan shall include an implementation programme of mitigation measures to minimise any adverse effects of the proposal, and shall include:

- A. A demonstration of best practice in relation to noise and dust and emissions; vibration control; and control of
- B. Details of a publicised complaints procedure, including office hours and out-of-hours contact numbers;
- C. Specified hours of working (to include that work resulting in noise being heard outside the application boundary occurs only between 8am and 6pm Monday to Friday, and 8am to 1pm on Saturdays, with no noisy working outside these times, and no noisy work on Bank or Public Holidays);
- D. Details of any proposed crushing / sorting of waste material on site;

- E. Details of the proposed management of traffic and pedestrians (to include for vehicle wheel washing);
- F. Measures taken to detect and manage any asbestos;
- G. Proposed piling methods;
- H. Any arrangements for dewatering.

*In the interests of protecting the amenities of the area to accord with Policy GD1 and BE2 of the Jersey Island Plan 2011 and in the interests of preventing contamination, in accordance with Policy GD6, BE2 and NR1 of the Jersey Island Plan 2011.*

19. Unless otherwise agreed in writing by the Minister for Planning and Environment, prior to first occupation of the development hereby permitted the **visibility lines** must be provided for 50m at a point 2.4m back from the entrance to the basement car park. Everything within the visibility sight lines, including gates, walls, railings and plant growth is to be permanently restricted in height to 900mm above road level. Any **vehicle barrier** or control point must be a minimum of 8m from the roadside kerb edge and prior to the commencement of development details of any traffic light control system should be submitted to and agreed in writing by the Minister for Planning and Environment to be implemented prior to first occupation and maintained in perpetuity thereafter.

*In the interests of delivering suitable vehicle infrastructure, in accordance with Policy GD1 and BE2 of the Jersey Island Plan 2011.*

20. Prior to the commencement of development a scheme of **external lighting** shall be submitted to and approved in writing by the Minister for Planning and Environment, to be implemented in full prior to first occupation and retained in perpetuity thereafter. Unless otherwise agreed in writing by the Minister for Planning and Environment all external lighting must be erected and directed in accordance with the Institution of Lighting Engineers Guidance Notes for the Reduction of Light Pollution 1994 (revised).

*In the interests of the amenities of the area and in accordance with the requirements of Policy GD1 and BE2 of the Jersey Island Plan 2011.*

21. Prior to the commencement of development details of the **CCTV** installations shall be submitted to and approved in writing by the Minister for Planning and Environment, to be implemented in full prior to first occupation and retained in perpetuity thereafter.

*In the interests of the amenities of the area and in accordance with the requirements of Policy GD1 and BE2 of the Jersey Island Plan 2011.*

22. Prior to the occupation of the development, a **Flood Risk Assessment** as applicable to the application site shall be submitted to and approved by the Minister for Planning and Environment,

with any recommendations implemented prior to first occupation and thereafter maintained in perpetuity. The Methodology for the Flood Risk Assessment shall first have been agreed with the Minister for Planning and Environment.

*In the interests of ensuring adequate service infrastructure in accordance with the requirements of Policy GD1 and BE2 of the Jersey Island Plan 2011*

23. Prior to the occupation of the development, a scheme for **Air Quality Monitoring** during the construction phase shall be submitted to and approved by the Minister for Planning and Environment, to be thereafter maintained until first occupation. The Methodology for the Air Quality Monitoring shall first have been agreed with the Minister for Planning and Environment, and shall include provision for remedial actions in the event that air quality drops below reasonable levels to be agreed in advance with the Minister for Planning and Environment.

*In the interests of ensuring adequate air quality in accordance with Policy NR3 and BE2 of the Jersey Island Plan 2011.*

24. Prior to commencement of the development hereby permitted, a programme of recording and analysis of the elements of the **sea wall** to be removed, to the terms of a brief to be supplied by the Department, shall be submitted to and approved by the Minister for Planning and Environment, to be thereafter implemented.

*In the interests of the historic environment in accordance with Policy HE1 and BE2 of the Jersey Island Plan 2011.*

25. Prior to the commencement of any work on site which shall affect the **sea wall**, a Method Statement shall be submitted to and approved in writing by the Minister for Planning and Environment itemising the procedures to be followed for works to the sea wall, including the elements of the wall which are to be relocated. All the specified works are to be undertaken prior to further occupation of any element of the development and are to be maintained in perpetuity thereafter.

*In the interests of the historic environment in accordance with Policy HE1 and BE2 of the Jersey Island Plan 2011.*

26. Unless otherwise agreed in writing by the Minister for Planning and Environment, the **replacement car parking** on the south side of La Route de la Liberation shall be surfaced, demarcated, drained, accessible and in all other regards operational, prior to the loss of any car parking spaces within the existing Esplanade car park. The replacement car parking is approved on temporary basis only, to ensure a balance of 525 public spaces is maintained across the two sites. The temporary car parking shall cease to operate when 525 spaces have been re-introduced to the Esplanade site. At all times the number of operational spaces across the two sites shall comprise 525 public car spaces and 100 public motorcycle spaces (excluding the basement provision in the subject building). The replacement car parking shall be made available for general public users on

the same terms (in relation to charging mechanisms, length of stay and operating hours) as the existing Esplanade car park.

*In the interests of securing adequate car parking provision, in accordance with Policy TT10 and BE2 of the Jersey Island Plan 2011.*

27. Prior to the commencement of development drawings shall be submitted to and approved in writing by the Minister for Planning and Environment to show the location of public parking facilities for 20 additional **bicycles**, with that provision being implemented prior to first occupation and maintained in perpetuity thereafter.

*In the interests of securing adequate bicycle parking provision, in accordance with Policy TT4 and BE2 of the Jersey Island Plan 2011.*

28. Prior to the commencement of development a technical note shall be provided to and approved in writing by the Minister for Planning and Environment to model the **capacity of the junction** of Castle Street and the Esplanade. Until such a time as that information has been provided, the details of the junction (including the potential for a slip lane between Castle Street and the Esplanade and the consequential alterations to the landscape scheme), are reserved for future consideration by the Minister for Planning and Environment. The Methodology for the technical note shall first have been agreed with the Minister for Planning and Environment.

*In the interests of securing adequate access and service infrastructure in accordance with Policy GD1 and BE2 of the Jersey Island Plan 2011.*

29. Prior to the commencement of development a detailed drawing (at no less than 1:20 scale) to show the **entrance to the temporary car park** at the junction of La Rue de L'Étau, specifically the geometry necessary to facilitate exit in both an easterly and westerly direction, shall be submitted to and approved in writing by the Minister for Planning and Environment to be thereafter implemented prior to first use and maintained in perpetuity.

*In the interests of securing adequate access and service infrastructure in accordance with Policy GD1 and BE2 of the Jersey Island Plan 2011.*

30. Prior to the commencement of development the **levels of potential contaminants** in the ground shall be investigated and any risks to human health or the wider environment assessed and mitigated, to the satisfaction of and in accordance with the requirements of Supplementary Planning Guidance Planning Advice Note 2 – Development of Potentially Contaminated Land. This will include: Phase 2 work to provide up-to-date site investigations and shall include ground conditions, soil, gas and groundwater data; and Phase 3 Remediation and / or Risk Management, with Completion Report and Certificate to be issued prior to first occupation of any element. Where required by the Minister, the completion report shall also include a plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Minister. For the avoidance of doubt the scope of all work must be agreed in writing

in advance with the Minister for Planning and Environment and shall also include the site of the temporary car park.

*To ensure the development does not have an unreasonable impact on public health or the wider environment and to accord with Policy GD1, BE2, and GD6 of the Jersey Island Plan 2011.*

31. Notwithstanding the conclusions reached within site investigation work, should any **contamination** be found during the course of development hereby approved, work shall cease and the Minister for Planning and Environment contacted immediately.

*To ensure the development does not have an unreasonable impact on public health or the wider environment and to accord with Policy GD1, BE2, and GD6 of the Jersey Island Plan 2011.*

32. Prior to the commencement of development a **Hydro-Geological Model** shall be prepared for the site to fully understand the implications of the development on groundwater conditions. No development shall take place until details of this and any mitigation measures have been submitted to and approved by the Minister as part of a detailed application, with the mitigation measures to be implemented prior to first occupation and maintained in perpetuity thereafter. For the avoidance of doubt the scope of all work must be agreed in writing in advance with the Minister for Planning and Environment

*To ensure any long term impact of the scheme on groundwater conditions is clearly understood and any mitigation measures identified and to accord with Policy GD1, BE2, NR1 and GD6 of the Jersey Island Plan 2011.*

33. On the conclusion of all detailed site investigations, the groundwater quality data and a groundwater quality change model shall be submitted to the Minister for Planning and Environment, and prior to the commencement of any development a programme of **groundwater analysis** and sampling shall be submitted to and agreed in writing by the Minister for Planning and Environment for whole construction phase. For the avoidance of doubt the applicant shall fund and allow reasonable independent audit water sampling on site by the Minister for Planning and Environment whenever the Minister deems this to be appropriate.

*To ensure any long term impact of the scheme on groundwater conditions is clearly understood and any mitigation measures identified and to accord with Policy GD1, BE2, NR1 and GD6 of the Jersey Island Plan 2011.*

34. Prior to the commencement of development a **Phasing Plan** shall be submitted to and agreed in writing by the Minister for Planning and Environment. That Phasing Plan shall include details of the timetable for the delivery of the wider Esplanade Quarter works beyond Phase 1 (the Jersey International Finance Centre) to include the sinking of La Route de la Liberation and the balance of the works in the approved Masterplan for the Esplanade Quarter (as Amended).

*To ensure compliance with Policy BE2 of the Jersey Island Plan 2011.*

**3.13 DEPUTY J.H. YOUNG TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING AN URGENT REVIEW OF HOUSING POLICIES OF THE ISLAND PLAN:**

**Question**

Will the Minister outline in detail the arrangements, if any, he has made to carry out the urgent review of the Housing policies of the Island Plan, as recently announced by the Chief Minister, including proposed timescales together with details of the work programmes for progressing masterplans required in the policies of the Island Plan 2011?

**Answer**

Work to review the housing policies of the Island Plan began earlier this year. The matter has been the subject of consideration by the Council of Ministers on three occasions during the first quarter of 2013.

Detailed work, involving the departments of Environment, Housing, Chief Minister's and Law Officers', is ongoing with liaison at Ministerial and officer level, in order to expedite the review. It is anticipated that a proposed amendment of the 2011 Island Plan will be published before the summer recess.

In the meantime, work to deliver affordable housing continues under the existing Island Plan policies, evidenced by the recent award of planning permission for over 150 homes on the Summerland and Ambulance HQ sites at Rouge Bouillon.

There are no policies in the 2011 Island Plan requiring the progression of masterplans. Proposal 12 of the Plan identifies regeneration zones for which the Minister for Planning and Environment can develop more detailed planning guidance to guide regeneration activity and development activity.

The Minister has already developed and published the North of Town Masterplan, as well as development briefs for land at the Jersey Gas site and land at Bath Street in this area. Work to review some aspects of this masterplan is also underway to encourage development.

An Action Area plan for Mont de la Ville is currently in progress and will be released during 2013.

Full details of the supplementary planning guidance work programme are published, and regularly updated, on the States website (see:

<http://www.gov.je/PlanningBuilding/LawsRegs/IslandPlan/PlansFrameworks/Pages/ListOfSPG.aspx>)

**3.14 DEPUTY J.H. YOUNG TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PROPOSED DEVELOPMENT OF PART OF THE ESPLANADE CAR PARK:**

**Question**

Following the recent announcement of the Minister for Planning and Environment's decision to approve plans submitted by States of Jersey Development Company (SOJDC) for their proposed

development of part of the Esplanade car park in St Helier Waterfront for private sector offices, will the Minister provide details of –

- (a) the financial appraisal carried out into the financial viability of this development ;
- (b) the assessment of the future liabilities which SOJDC will be taking on behalf of the public of Jersey , in the event of entering into the proposed Planning Obligation required by the Minister for Planning and Environment in respect of this development and how such liabilities will be paid for;
- (c) the economic assessment which has been carried out with evidence of market demand for office space currently and for the period of the Island Plan 2011; and,
- (d) the economic impact of the proposed development given that it will be in direct competition with private developments in the Waterfront area for the same market?

### **Answer**

- a) The States of Jersey Development Company (“SoJDC”) is a States owned entity operating in a commercial environment. Financial appraisals are commercially sensitive and therefore like any business the Minister does not expect them to be disclosed in the public domain. The States of Jersey has appointed a high calibre board of non-executive directors, who have extensive businesses expertise and acumen and of whom the Minister has confidence in.
- b) The Minister is advised that the Planning Obligation Agreement for the recently approved No.4 JIFC is solely in respect of the payment to Transport and Technical Services for public transport improvements. The Minister is advised by SoJDC that they have the means to make this payment of £172,000 when it falls due.
- c) The Minister is informed by SOJDC, that in the local market there is potential demand from on-island businesses for approximately 500,000 sq. ft. of new accommodation over the next 7 to 10 years based on lease profiles that are in the public domain. Many of these offices were constructed in the 1980s and are no longer suited to modern office requirements both in size and layout. This provides an opportunity for businesses to re-organise their accommodation into one building that is fit-for-purpose and flexible in order to provide for the accommodation needs of the business in the short, medium and long-term.
- d) SOJDC has advised the Minister that the recent planning application for No.4 JIFC included a full Environmental Impact Assessment and as such the socio-economic impact of the proposed Jersey International Finance Centre development has been calculated and is positive. The JIFC Socio-Economic Impact Assessment also highlights that there may be inward investment (Catalytic Employment Effects) as a result of the JIFC development - there may be additional finance organisations that choose to relocate facilities to Jersey resulting from the proposed development, which could be a positive impact on the Island’s economy.

The Minister is advised that there is currently no surplus Grade A office accommodation available in St. Helier which can be a major disincentive to new business looking to set up in Jersey. The Island needs to provide for both on-island business and attract new high-net-worth business to Jersey. Having the right quality and specification of office accommodation is a pre-requisite and the Jersey International Finance Centre (JIFC) can help meet these requirements.

Providing Grade A office accommodation in Jersey also gives businesses a choice of office provision and encourages healthy competition in the marketplace. The Minister is advised that each office development has different designs/specifications/locations and it will be up to the tenants to decide which development best suits their needs.

The Esplanade Car Park site has been identified for office accommodation since at least the year 2000 and there have been various plans and masterplans created in order to deliver this office accommodation. The latest Masterplan for the Esplanade Quarter was approved by the States Assembly in 2008 and an outline planning permission was granted in 2010. SoJDC has confirmed that they are now delivering this Masterplan in phases in response to known demand. A number of other office developments have been brought forward during this period in the full knowledge of what was proposed and approved on the Esplanade car park site.

Finally, SOJDC advise that the JIFC will provide the Island with an identifiable district dedicated to the Island's premier industry. Experience around the world has shown that wherever a jurisdiction makes a successful investment in developing a dedicated financial services district, that region whether it be the Square Mile and Canary Wharf in London or the Dubai International Finance Centre, acts as a significant positive attractor for company location, business flows and jurisdictional substance and reputation.

### **3.15 DEPUTY G.P. SOUTHERN TO THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PROJECTED COSTS OF THE HOUSING TRANSFORMATION PROGRAMME:**

#### **Question**

Notwithstanding his response to written question 7640 of 14th May 2013 (which refers to figures which exclude the costs of annual uprates at inflation + 0.75%) will the Minister inform members what the projected total additional cost to States revenues of the Housing Transformation Plan (HTP) will be to include the impact of:

- (a) the change to inflation plus indexation from 2.5% to 4.25% and
- (b) the change to 90% of private sector rent levels on the level of the rental component of Income Support on the States social rental sector, along with the Trust and private sectors over the first 5 and 10 years of the HTP?

#### **Answer**

The point made in the response to written question 7640 i.e. that the "real terms" basis is the most appropriate and meaningful way of presenting these particular figures is reconfirmed.

The additional costs of the Housing Transformation Programme as presented in P.33/2013, R.44/2013, in real terms are:-

	Year 1	Year 5	Year 10
	£000	£000	£000
States Social rental sector	300	1,100	1,600
Housing Trusts**	51	310	549
Private Sector	<u>1,000</u>	<u>1,000</u>	<u>1,000</u>
	<u>1,351</u>	<u>2,410</u>	<u>3,149</u>

[\*\* Per P.33/2013, the intention is that these costs will be funded by the Housing Trusts themselves, as this is additional income over and above the expected levels].

If uprated at 2.5% the base figures above become:-

	Year 1	Year 5	Year 10
	£000	£000	£ 000
States Social rental sector	307	1,245	2,048
Housing Trusts**	52	351	703
Private Sector	<u>1,025</u>	<u>1,131</u>	<u>1,280</u>
	<u>1,384</u>	<u>2,727</u>	<u>4,031</u>

If uprated at 4.25% the base figures above become:-

	Year 1	Year 5	Year 10
	£000	£000	£000
States Social rental sector	313	1,354	2,426
Housing Trusts**	53	382	832
Private Sector		<u>1,042</u>	<u>1,231</u>
			<u>1,516</u>

1,408

2,967

4,774

It needs to be made clear that these are indicative figures produced for the purposes of providing the answer to this specific request.

There are a number of factors, not just the Housing Transformation Programme, that will affect what the States will need to provide in terms of Income Support, and these factors will impact differently from year to year. These include, for example, the actual rate of inflation and the impact of changes to household income, employment status and household composition of those in receipt of Income Support.

It is also important to recognise that the return to the States will in future years (after 2015) be increased annually by RPI.

#### **4. Oral Questions**

##### **4.1 Deputy M.R. Higgins of St. Helier of the Minister for Home Affairs regarding an external police force investigation into complaints made against the Chief Officer and Deputy Chief Officer of the States of Jersey Police by ex-police officers:**

Will the Minister explain to the Assembly whether he has yet called in an external police force to investigate the complaints of perverting the course of justice that have been made against the Chief Officer and Deputy Chief Officer of the States of Jersey Police by ex-policemen and others and, if not, why not?

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

The answer to the first question is no, and the reason is because it would be totally wrong for me to be speaking publicly about complaints that may or may not have been made against police officers, including the Chief Officer or Deputy Chief Officer.

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

Why is it then that the Minister for Home Affairs, when I have asked questions in the past, has not, for example, acted, because I know he has not brought in an external police force? The Minister has had complaints for almost a year from some sources and other complaints have been lodged to the Chief Executive again for perverting the course of justice, for an external police force being brought in. I think it is a matter of public interest and the Minister should state whether or not these complaints are being investigated.

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

I do not accept the timescale set out by the Deputy and I have nothing further to say.

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

Why is it that the Minister for Home Affairs is happy to confirm that he has not brought in an external police force to investigate these complaints, but then goes on to say it is not appropriate to talk about whether or not any complaints have been made? Should he not be saying that he can neither confirm nor deny that there are complaints that have been made and he can neither confirm nor deny that an external police force has been brought in to investigate those complaints, which may or may not have been made?

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

Thank you for that question. I did make it clear I was answering no to the first question. The first question was: would I explain to the Assembly? By doing so, I am effectively in a position where it is quite right that I neither confirm nor deny. I thank the Deputy for his question.

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

Just for today I think I should point out I am Deputy Mike Higgins, because last time obviously I had a nice abusive letter from the Police Chief, which he has never been man enough to apologise to the paper.

**The Deputy Bailiff:**

Sorry, Deputy Trevor Pitman, I almost heard you, but I have not heard you and I cannot see you either. It is proposed the default be raised on Deputy Trevor Pitman.

**Deputy T.M. Pitman:**

Can I be Deputy Higgins now, Sir?

**The Deputy Bailiff:**

I think you probably were a moment ago, but you probably are now Deputy Trevor Pitman.

[9:45]

**Deputy T.M. Pitman:**

What I would just like to ask the Minister is, given when we looked back at the history of the previous Chief Officer, Police Chief, Mr. Power, there was information pouring out of Home Affairs. Now, the question Deputy Higgins is asking is a matter, as he says, of significant public interest. Should the Minister not make some statement that these complaints have been made and that they are being investigated? Obviously we cannot expect to know the details as yet, but should he not be confirming that those complaints have been made, they are real, they are not malicious or fictitious, and there they are? Thank you.

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

If complaints are made to me in my capacity as Minister in relation to the Chief Officer of Police or the Deputy Chief Officer of Police, then, provided I am not conflicted personally from dealing with the matters, I will ensure that these are properly looked at and properly considered. In relation to the matter of the former Chief Officer of Police, of course that became a public matter before my time at the moment that the former Minister had to go to the States to explain that there had been a suspension. Indeed, although despite my very best efforts during the disciplinary process, in terms of the production of the police report to keep things confidential in accordance with the terms of the Disciplinary Code for that officer, vast amounts of material were being leaked, but they were not being leaked by me. Subsequently once the matter of the disciplinary had effectively terminated because I had run out of time to deal with it, it was in the public interest and absolutely essential that the public see the best information that was then available on it, which was of course the Wiltshire reports.

**4.1.4 Deputy T.M. Pitman:**

With due respect, why? This must be a thing of public interest too. Why is the Minister not at least making a statement saying: "Look, something is happening, something is going on, I cannot tell you all the deals, but this is a matter that is being investigated." Surely that is only good P.R. (public relations).

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

That is not good P.R.; it is a fundamental issue, it does not just affect the Police Chief and the Deputy Police Chief, it affects every single employee in the public sector. If we are going to have the situation where issues of complaints or possible complaints against anybody in the public sector are going to be aired publicly, that is very unfair and very unjust. We have duties as Members of this Assembly to our staff members; we also have duties to public office holders, such as the Chief of Police and the Deputy Chief of Police. It is as simple as that. These are the rules. My own personal view is that I think the time has now arrived where we ought to be thinking in terms of having some sort of amendment to Standing Orders on questions to prevent questions being asked at early stages in relation to disciplinary matters. It is simply totally unfair and totally unjust to individuals involved. **[Approbation]**

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

I would also say, I think that not only do we have a duty to employees; we also have a duty to the people of this Island that they have confidence in our police force and that they are acting correctly. Now, the allegations that have been brought to my attention, and I have seen the evidence, I have also seen the correspondence to the Minister and how long it has taken the Minister, who has not even responded to many of these complaints of perversion of the course of justice, and has taken no action. I therefore say to the Minister, does he not think that he has a responsibility to Islanders? Can I tell him also that, if he fails to address this matter, I will be bringing a vote of no confidence in him in the next session of this House. Thank you.

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

Again, Deputy Higgins is inaccurate in information that he has provided to the Assembly. I am not going to comment on the details of any particular matters, which may or may not be occurring. Some of the issues, which may arise, are not matters before me in any event at this stage.

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

Normally we would come to question 2. Deputy Young, Minister, I very much regret that this question has slipped through the net and ought not to have been approved. There is a case pending in court, which directly involves this question, and I am therefore going to disallow it. I do apologise both to the Deputy and to the Minister for the work that will have been done in advance for preparing for this question.

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

Could I just ask to clarify; I carefully avoided the question of the case that is before the courts, and I was seeking to find out from the Minister whether the systems and procedures that he is working in this scheme do make these matters clear. I think that, since this scheme is a significant one, there are a number of contractors around, people should know where the responsibilities lie in these systems that are currently live.

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

I am sorry, Deputy; that is my decision. It is a matter that is likely to arise, if it has not already arisen, directly in relation to a pending court case. So we come to question 3, which Deputy Trevor Pitman will ask of the Minister for Planning and Environment.

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

That has given me a good idea for a supplementary.

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

The supplementary may not get very far then, Deputy.

#### **4.2 Deputy T.M. Pitman of the Minister for Planning and Environment regarding replacements installed as part of the Energy Efficiency Scheme launched in 2009:**

What is the total number of heating boiler replacements that have been installed as part of the Energy Efficiency Scheme launched in 2009, and what is the cost for each household application and the full total cost for such provision?

#### **Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment):**

The Energy Efficiency Service began to offer heating system reviews for domestic properties in December 2010 to eligible low-income clients. Since that time, 193 new gas or oil-fired boilers and electric flow boilers have been installed. Since that time also a total of £910,095.42 has been spent on this part of the programme, delivering boiler replacements along with the necessary associated heating system measures, for example flues, room thermostats, time clocks, pipe lagging, and thermostatic radiator valves. The average cost per installation is £4,715.51.

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

I thank the Minister for his answer. Could I ask that the Minister give me that in writing, if it is possible? My supplementary is: have all these households been low income, can he confirm that, and they have not been given to some people who are very wealthy?

#### **Deputy R.C. Duhamel:**

The eligibility scheme is governed by my officers, and I am told that one has to pass an eligibility test of low income in order to be eligible for the work to be undertaken. I will check with the file and see if there are any of the applications that the Deputy is suggesting might have escaped the net.

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

Since his election as Minister and inheriting this Energy Efficiency Service from his predecessor, can he advise the Assembly whether he has had reason to have any concerns over the administration or the value for money or independent checking of these expenditures under this scheme?

#### **Deputy R.C. Duhamel:**

Not at present.

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

Will the Minister consider seeking to expand the Energy Efficiency Scheme to encompass more households and seek fiscal stimulus funding in order to do so?

#### **Deputy R.C. Duhamel:**

This Minister would certainly like to see the service expanded to those households who could afford the work in their own right. This Minister has mixed views as to whether or not the work should be financed by the Exchequer.

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

Would the Minister like to say what work has been done to assess the effect on bills for the householders? Have their bills gone down for the same amount of heating?

#### **Deputy R.C. Duhamel:**

Reports have been written and I am quite happy to send the Senator a copy to that effect.

#### **4.2.5 Deputy R.G. Le Hérissier of St. Saviour:**

Can the Minister describe the key features of the low-income test administered by Planning?

**Deputy R.C. Duhamel:**

Broadly speaking, an eligible person has to be above a certain age and to have less than a certain sum of money of disposable income, in line with the ordinary eligibility tests, which follow for States housing.

**4.2.6 Deputy R.G. Le Hérisier:**

I wonder if the word “certain” could be defined; certain age and certain income?

**Deputy R.C. Duhamel:**

I will send the Deputy chapter and verse, because I do not wish to use disparaging kind of comments or adjectives about how old you have to be or indeed how poor.

**4.2.7 Connétable P.J. Rondel of St. John:**

Of the number installations of new boilers, *et cetera*, could the Minister give us the efficiency ratings overall on the boilers that were removed and the ratings on them now that they have been installed and we have new units?

**Deputy R.C. Duhamel:**

I understand the Constable’s interest in this matter and, if he does wish to vet the work, then I am quite happy to pass him some of those confidential details.

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

In reply to one of the questions, the Minister said the eligibility for low incomes was on par with the Housing Department. We have one at Health; there is a great scheme at Social Security, which is the only one in law. Would the Minister not agree it is about time we became in step and there be one test? They might be varied at the corners, but everybody should be tested the same, does the Minister not agree?

**Deputy R.C. Duhamel:**

The Minister does agree and will do everything in his powers to encourage activity in that regard.

**4.2.9 Deputy J.H. Young:**

Would the Minister agree to publish a full report on the workings of this scheme and the benefits and costs of it, considering that the last report was published by his predecessor in January 2011?

**Deputy R.C. Duhamel:**

Yes.

**4.2.10 Deputy R.G. Le Hérisier:**

I wonder if the Minister could tell us the certain age at which the department deems a boiler it is removing to be non-efficient? Is there any limit? Are, for example, boilers that are relatively new being removed?

**Deputy R.C. Duhamel:**

I think it relates to the efficiency criteria that the Constable of St. John was determining. There is no specific age. You can be clapped-out or decrepit at an earlier age than some others. **[Laughter]**

**The Deputy Bailiff:**

I think for future purposes, Minister, perhaps you would find another expression than “clapped-out”.

**4.2.11 Deputy R.G. Le Hérissier:**

I want a supplementary. Does the Minister's department keep statistics of the age of boilers, because it is going to surprise people that, for want of a better phrase, very young boilers are being removed indiscriminately? [Laughter]

**Deputy R.C. Duhamel:**

I am sure those statistics or details do exist within the department and, as I said, if any Members are wanting to be apprised of those details then I am happy, under whatever conditions, to make them available.

**4.2.12 Deputy T.M. Pitman:**

I thought "clapped-out and dilapidated" summed up the Deputy completely, but that is just a personal view. What I would like from the Minister, and I have to say this is not a criticism, because I think he is doing a good job, but why is it that he is putting himself in a position to take flak for perhaps his predecessor, because can he confirm that there has been at least one incident where the department have had to fork out tens of thousands of pounds to repair damage apparently caused in this scheme, which was no damage at all, it just was not sorted out properly by the people administrating it?

**Deputy R.C. Duhamel:**

As the Deputy knows, the ministerial position carries on indefinitely and is independent perhaps in some people's eyes of the person who is undertaking the job. A personal comment, yes, perhaps there are certain things that perhaps one's predecessors might well have done that I do not particularly endorse or share as much enthusiasm for but, that said, what has been started generally has to be finished and has to be finished under the conditions under which those schemes were set up.

**4.3 Deputy R.G. Le Hérissier of the Minister for Health and Social Services regarding additional resources for diabetic services over the next 10 years:**

Would the Minister identify the additional resources, which will be placed into diabetic services over the next 10 years, distinguishing between preventative and treatment services, given the considerable anticipated increase in diabetes identified in her answer to a written question on 14th May 2013?

**Connétable J.M. Refault of St. Peter (Assistant Minister for Health and Social Services - rapporteur):**

The Deputy will be pleased to note that healthy lifestyles on the long-term conditions, including diabetes, have already been highlighted as key priorities for investment in the first phase of the White Paper. At a time when demands of all services, in all areas of lifestyle related issues, and an ageing population, are becoming increasingly stretched, our Health Department is continuing to focus on ways to enhance both preventative and treatment measures. By 2015, a further £1.6 million will have been invested in long-term conditions, of which diabetes is one, the other 2 areas being C.O.P.D. (chronic obstructive pulmonary disease) and chronic heart disease. The only positive way of preventing diabetes is to prevent obesity in the first place, and that is clearly a problem that cannot be managed or addressed by the Health Department alone.

[10:00]

That needs an overall strategy of the States of Jersey, and demands resources from across all departments working collaboratively to promote and support healthy lifestyles within the

framework of the States Strategic Plan. The Deputy will be aware of initiatives such as the Education Department's excellent Sports Strategy and the T.T.S. Sustainable Transport Policy, which highlight and complement the joined-up government approach we are taking to this challenging problem. It is only by changing the way people think about their lifestyle choices, educating them about their health and wellbeing, encouraging and supporting them to become more active in their everyday lives, that we will be able to reduce obesity and with it reverse the trends of diabetes in Jersey.

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

I thank the Assistant Minister for that most comprehensive answer. I wonder though if he could tell us how much money is being paid out per year, and what is the increase factored in by the H.S.S. (Health and Social Services) Department in order to deal with people who currently have the condition, how much money is being put in per year, additional money?

#### **The Connétable of St. Peter:**

I cannot give an exact breakdown of the £1.6 million up to 2015, but what I can tell him is that, after 2015, there will be £300,000 recurring going into the budget from 2015 onwards to deal with things like diabetes and C.O.P.D.

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

Could I ask the Assistant Minister whether or not there is currently a full complement of staff to support the diabetes services and, if not, why not?

#### **The Connétable of St. Peter:**

Yes, there has recently been an increase of a couple of additional people in the department, an additional clinical assistant and a diabetes manager, to help us with the increasing problem.

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

Does that mean that there is a full complement of staff that supports the diabetes service now?

#### **The Connétable of St. Peter:**

It is difficult to determine exactly what the Deputy is looking for as "full". The department is full and has just had 2 extra people allocated to it, so it is full by its current number requirement. Hopefully that satisfies him in that. I cannot imagine how we would get to a "full", what number that would be.

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

I am a bit perplexed by the question of: when is full, full? I wonder if the Assistant Minister could say whether the current staffing level is the level that has been fixed by the Medical Plan within the hospital and, if so, does this reflect the resources that were asked for by members working within that department and, slightly to the side, is he satisfied that in terms of treating foot issues, which sadly are a very, very nasty and unfortunate side-effect of advanced diabetes, is he satisfied that staffing is full in that area as well?

#### **The Connétable of St. Peter:**

I will have to confirm for the sake of the questioner we do have a full complement of the current requirement of staff with the addition of the 2 additional members. I think, if one were to be looking for a utopian answer, then we will never have enough budget or enough people to respond immediately to every single problem, but what we are doing is sharing out the funds and staffing required in a reasonable way. With regards to podiatry, the foot problems, we are certainly

focusing on that area to help people currently suffering type-1 diabetes, which are mostly affected by podiatry problems.

**4.3.5 Deputy R.G. Le Hérissier:**

Just on a supplementary to the supplementary, could the Assistant Minister say what is the precise staffing addition being proposed for podiatry, and, secondly, what happened to the recommendations from the department for an expansion of resources, have they been accepted or did somebody in some arbitrary office in the back rooms take a decision?

**The Connétable of St. Peter:**

Starting with the second part first, I think they have been accepted in so much as there have been 2 new clinical posts given to the department, and I have already forgotten the first part of the question, so if the questioner would like to ask it again?

**Deputy R.G. Le Hérissier:**

The resources for podiatry.

**The Connétable of St. Peter:**

I think it is fair to say that we are recognising the need for resources by appointing 2 additional people to the department now. Thank you.

**4.4 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding the practices and procedures for dismissing staff at private schools:**

Will the Minister advise whether the private schools have to follow the same practices and procedures for dismissing staff as State schools, and state what mechanisms, if any, the department has to ensure good practice in private schools in relation to human resources issues?

**Deputy P.J.D. Ryan of St. John (The Minister for Education, Sport and Culture):**

There is no requirement for private schools to follow the same practices and procedures for dismissing staff as in State schools and, as the States Employment Board is not the employer, the department has no authority to intervene in matters of this nature. The Education (Jersey) Law 1999 does place a requirement on the Minister to register non-provided schools and to ensure that they are fit for purpose however.

**4.4.1 Deputy M. Tadier:**

Is the Minister happy with this state of play where there is no requirement on the private schools to follow the same good practices of the state schools when it comes to human resources, hiring and firing?

**The Deputy of St. John:**

The Education Law, as I say, does not provide the Minister with authority to intervene in employment matters other than to be satisfied that any teacher proposed to be a teacher in a school is a proper person to be a teacher in any school. So my authority is limited to educational matters. Employment practice specifically in private schools is, like all other private organisations, subject to the Employment Law 2003 that sets out an employer's obligations and provides employees with rights not to be unfairly dismissed.

**4.4.2 Deputy M. Tadier:**

That is the last question for now. Can the Minister confirm that, although he has compared perhaps private schools to having to follow the guidelines as other private businesses that, unlike most

businesses in the Island, the private schools do receive funding from his department, so can he confirm that, if he has to be satisfied that a teacher in employment is qualified to be there, when a teacher is dismissed the Minister should also be satisfied that there were good grounds for the dismissal of that teacher?

**The Deputy of St. John:**

Service level agreements have been developed in consultation with the private schools and these are due to be finalised in the coming days, imminently. The question of employment itself, as I say, is covered by the Employment Law, and employees in those schools are covered and have rights in exactly the same way as any other employee would have. The only time that a service level agreement would come into play in a private school, is if that private school is found to have breached the Employment Law, in which case naturally the department would reconsider its position with that school.

**4.4.3 Deputy G.P. Southern:**

Does the Minister not consider that it is about time he took powers to ensure that teachers' terms and conditions were protected in private as well as in the State sector?

**The Deputy of St. John:**

Teachers' terms and conditions are between the school and the teachers themselves. As I say, they are covered by Employment Law in the same way as any other business. It would not be appropriate for the department to do what the Deputy is suggesting with regard to private schools who have autonomy in the way that they agree their terms and conditions with their teachers.

**4.4.4 Deputy M. Tadier:**

Would the Minister feel more comfortable, given the vast amounts of taxpayers' money that are given to the private schools, would he prefer to have more control over what the private schools can do in terms of their hiring and firing practices, to bring them into line with the good practices of the state schools?

**The Deputy of St. John:**

These are independent schools; they are not State schools, it would be inappropriate for me to be able to do as the Deputy suggests. They are either private schools or they are not, and the whole question of whether they should be private schools is another completely different question, and is not really the right kind of thing that we could discuss in this way.

**4.5 Deputy G.C.L. Baudains of St. Clement of the Minister for Health and Social Services regarding the proposed Public Health and Safety (Dwellings) (Jersey) Law:**

Would the Minister explain why the proposed Public Health and Safety (Dwellings) (Jersey) Law, which would permit access to homes, includes matters such as water and energy, and would she also explain the rationale behind including owner-occupied premises?

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

I wonder if I could have the liberty first to congratulate the League of Friends in the hospital for being honoured with the Queen's Voluntary Award this week, very well deserved. **[Approbation]** The proposed law, still in consultation phase, is intended to protect and improve the health and wellbeing of residents, in cases where people are at risk and to reduce health inequalities. This is clearly the mandate of my department. Water and energy have been included to ensure that, where essential improvement or repair work is needed, that work will be carried out to meet current standards as set out by the Planning and Environment Department and in compliance with States

strategies. 99 per cent of complaints and referrals come directly from tenanted properties. A small number of referrals however come into the department from concerned social workers, fire and rescue or ambulance officers who have seen dangerous conditions in people's own homes. In all these cases, the department would seek to negotiate an agreement to carry out an assessment of the property. Only where consent to enter a property cannot be negotiated directly would officers seek a warrant from the Royal Court. The draft legislation is about having the powers to deal with that small minority of cases, and it is the extreme cases, which dictate the extent of the law and there is compelling evidence to support this law, which should apply to all tenures of dwelling, including home owners.

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

Does the Minister not realise that this proposal is abhorrent to most people. In some cases, in my view, it is taking us back to the days of the German occupation where people would report you for owning a wireless, now presumably people will report you for using too much energy or you have a dripping tap or something. Is not a person's home their castle and does the Minister not accede that most of what she has just said belongs in the realm of the Planning Department, not her Health and Social Services?

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

We are dealing about very extreme cases and most people, the vast proportion of people, we have no intention of interfering into people's lives, but this is the extreme cases. I was told yesterday about an owner-occupier who was diverting the sewerage from his domestic toilets to fertilise vegetables he was growing in his own home. I will leave it there.

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

Does the Minister not realise there are already provisions in law to cover this, and it is a gross infringement of human rights? Furthermore, does she not realise that the inclusion of energy is in line with the European Union plans and the Defra plans to ration energy?

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

There were quite a few questions there. Regarding the human rights, I am led to understand that it is human rights compliant, but if it did get as far as court that will be the court to decide. Regarding the European Union energy, I would have thought that is the issue that comes under Planning and Environment. This is about the health and wellbeing of residents. I am led to believe there is no duplication of purposes and powers of the Planning and Building Law because building bylaws deal with conservation of fuel and power in new proposed developments.

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

Would the Minister accept that the explanation that she has given the Assembly for including regulation of water and energy within this draft law is flawed, since the works that would be carried out under her scheme would anyway fall within the building bylaws of the Minister for Planning and Environment anyway, so therefore there is no need to have those powers within this law; would she not accept that?

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

Not at the present moment, no. As I say, this does not duplicate any other powers; that is about proposed new buildings. Our aim, if we do go into the houses that we have had complaints from, and we can assist that way with water and energy, surely that can only be a good thing.

[10:15]

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

Does the Minister acknowledge that there is a key difference between going into owner-occupied homes, and going into tenanted homes, where there may be a complaint or complaints may arise about substandard accommodation? Will she be providing a mechanism for funding when a house is visited and it is owned by perhaps an elderly couple and the Minister's health staff will go in there and say: "Do you know that you have mould on your wall?" and they will say: "Yes, we know that, because we have been living with it for the last 10 years, but we cannot get it fixed because the insurance will not pay for it and we do not have any money" and then what will be the response of the Health Department? Will they cough up some funding to pay for the structural deficiencies in that building or will they simply issue a fine to that elderly couple?

**The Deputy of Trinity:**

The point is, these are extremely dangerous conditions in some cases, and if we can go in and advise and negotiate a way forward then that can be a good thing. The law there, as I said, is for extreme cases. As regarding funding, that is something that at the time officers will look at and perhaps it is the Planning and Environment Eco-Active scheme, it is there for those small cases. There is a very small proportion of owner-occupiers, and I have just described you 2, and I can give you another one too, is when an owner-occupier has a leak in rented accommodation, which is owned by this owner-occupier, and there was a leak in a tenanted property, and the owner-occupier cut off the water to this tenanted property leaving the couple there without any water.

**4.5.5 The Connétable of St. John:**

I am hearing some strange answers from the Minister this morning. She was talking about using sewerage on a vegetable garden. Given that person must be on a tight-tank and/or soak-away, what support has she given myself over the years in making sure that all households have proper connections to main drains, given we still have 9 per cent of the Island without main drains, and will she be supporting me the next time I come to the House asking for main drains extensions to all?

**The Deputy Bailiff:**

Connétable, this could not possibly come within this. **[Laughter]**

**The Connétable of St. John:**

Oh yes it does, because the Minister mentioned that people were putting sewerage on their vegetable patch, therefore the only way they could get that was they were not connected to main drains.

**The Deputy Bailiff:**

That is, I am sure, a very good question for another day.

**The Connétable of St. John:**

Can I come in on a different question then: excuse me, Minister; I am putting a question to the Minister for Health. Given that the Minister is concerned about the quality of water, will she also make sure that the other 30 per cent or thereabouts of the population, who do not have mains water, and cannot get it, for whatever reason, because the mains do not run in the area, and that water is contaminated through liquid waste that gets poured on the land, liquid waste that comes from soak-aways, will she do something about that also to make sure that we all have potable water around the Island?

**The Deputy of Trinity:**

I am very happy to talk to anyone about this issue, but I do not have control of the water resources.

**4.5.6 Deputy S.G. Luce of St. Martin:**

The Minister keeps referring to this and saying it is all about health, does she have any plans in the future to enter people's houses to see what they are eating or drinking?

**The Deputy of Trinity:**

No, I keep saying this is extreme cases, we get 2 or 3 complaints a week from various sources, be it from tenants or be it by other sources like fire and rescue, ambulance, social workers, even churches and C.A.B. (Citizens' Advice Bureau) do referrals. At the end of the day, it is ensuring with these extreme cases that we can firstly negotiate a way of improving their lives and in really very, very extreme cases it is where this law is needed, which is in some ways what did exist until back in 1996.

**4.5.7 Deputy J.H. Young:**

Would the Minister not accept that the regulation of water and energy sits fully within the Planning and Building Law, and we have a proportionate law and that is the proper place for it? Why does she feel that we need to have these blanket powers that extend way beyond the powers of the Planning and Building Law and put those in her department? How does she justify that?

**The Deputy of Trinity:**

The water and energy does fit within Planning and Environment; this is when we go in, this is the way of making sure that all the States strategies, there is joined-up government, and we can make sure that at the end of the day people who are vulnerable have better accommodation, and I would like to think every States Member would want that.

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

In a number of her responses, the Minister has said that this law will allow them to go in and negotiate a way forward. I do not have a copy of the law with me. I ask the Minister to advise us what part of the law provides for this, whereby people are able to go in and negotiate a way forward? If she does not have the law with her to confirm, perhaps she will circulate it to all Members.

**The Deputy of Trinity:**

There is a States Members presentation at lunch time about this law and it is still in consultation and it is on the website. When officers get a complaint or a referral, they will only go in if they are invited in. From that point on, if they are invited in they will sit down with whomever, whether they are tenants or owner-occupiers, to look at the problems and find a way forward. This law is needed in extreme cases where, for one reason or another, they do not wish for anybody to enter and there is a risk on the health and wellbeing.

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

Supplementary: does that mean that the Minister is not able to advise us at the moment what part of law allows for this negotiation, and, if she cannot do it, will she please circulate it to Members, particularly for those who are not able to attend the presentation at lunch time?

**The Deputy of Trinity:**

I can do, but the proposed law is already on the website because the consultation, at the request of 2 weeks ago, was reopened until the end of this week. So it is on the States of Jersey consultation front page, whatever, and it is there. I hope the Constable will make a submission.

**4.5.10 Deputy T.M. Pitman:**

Firstly, I would just like to congratulate the Minister on disproving the myth that it is left-wingers who favour totally unnecessary intervention of nanny state politics. However, what I would like

some explanation on is this: the Minister has just said it is only for extreme circumstances, but surely the health police in their lovely uniforms will only know they are extreme situations once they have invaded the privacy of an owner-occupier's home and then discover that it is just a dripping tap. How are we going to police this? Sorry about the pun.

**The Deputy of Trinity:**

As I have said, most of it has come from either a complaint or a referral. If a person, fire and rescue or ambulance or church, has made a referral, or a tenant has made a complaint, that is the point, the first point is negotiation and that is what my officers wish to do every single time.

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

I was concerned to hear that last comment from the Minister that it could be initiated by a complaint; it really does take us back to the days of the occupation. Like many Islanders, I do not want Health coming into my property telling me how to live my life, how perhaps I should not be smoking or perhaps I should not drink quite so much. It really is an interference we do not need, so I would ask the Minister whose idea was it to propose this law? Was it hers or was it her department where maybe people from the United Kingdom would prefer to live under United Kingdom legislation?

**The Deputy of Trinity:**

I really am shocked. I do not know how many times I can say, this is in extreme cases. Most people are law-abiding and people just would go on with their lives. This is vulnerable people in difficult home circumstances where we wish to raise their living standards, be it tenanted or be it owner-occupier. As I have said, 99 per cent of them come from tenanted accommodation. There is about 3 or 4 complaints per week and that is quite staggering, and I have seen some of it myself. The initial law went back to 1934 and in 1996 the A.G. (Attorney General) at the time said that law was not appropriate and it needed updating and this is what we are doing.

**4.6 The Connétable of St. John of the Minister for Treasury and Resources regarding JT's fault reporting service:**

On 13th May a senior citizen reported a fault to Jersey Telecom (at the time of submitting this question the fault continued) and a number of requests from residents, the Parish Hall, from myself, and others have fallen on deaf ears. Will the Minister ask J.T. (Jersey Telecom) to implement an on-Island fault reporting service that is easy to use by vulnerable people, rather than have to call a U.K. (United Kingdom) call centre?

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

I would like to thank the Connétable of St. John for this question. While clearly an operation matter, because it clearly deals with a senior citizen, so I have taken the opportunity of thoroughly investigating this matter. I can inform the Assembly that J.T. do not use a U.K. call centre to handle faults but deal with all of them locally using local agents that are based at Minden Place premises.

**The Connétable of St. John:**

Can I correct the Minister if you would allow me?

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

Sorry, I think I am allowed to make the answer. In this particular case, the fault was not dealt with in accordance with the J.T.'s normal operating process, which resulted unfortunately, due to J.T.'s own internal scheduling, in a delay in it being resolved. However, the issue was resolved last week.

J.T. have apologised to the customer for the error that was made in the first instance. I can also inform the Assembly that a mobile phone was given to the customer in the short term while the land line was out of order.

#### **4.6.1 The Connétable of St. John:**

Can I correct the Minister, because one of the persons that made a call to J.T. Telecom was myself. I was put through to a place in Wales and I spoke to the lady and I asked her where she was and she said she was in Wales. She asked me who it was I was trying to contact and I said: "Jersey Telecom", which I was taken aback that it was not a call centre solely for Jersey Telecom, but they were dealing with a number of other calls. So therefore, will the Minister confirm that they do use U.K. call centres at times because I spoke to the person in the U.K. personally. That being the case, will the Minister ensure that in future, given we have approximately 2,000 people unemployed, that any call centre is manned in Jersey if it is transferred from their own local people to another local call centre and not off-Island.

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

I will urgently check with J.T. on the fact, because I have been told by J.T. that they do not use a U.K. call centre. The Connétable may be referring, I am aware from just personal experience interacting with J.T., that on occasion a U.K. call centre may be used for the installation of, for example, broadband, but I have been advised, and I have sent an urgent message to J.T., and they have told me that they do not use a U.K. call centre and I will clarify later in the morning if that information that was given to me is incorrect.

#### **4.6.2 The Connétable of St. John:**

Will the Minister ask the regulator to review the workings of Jersey Telecom?

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

No, I do not think this is a matter for the regulator; I think this is a matter for the board. I took the question that the Connétable asked with a degree of seriousness because obviously it dealt with an 86 year-old and I spent a number of hours yesterday with my Assistant Minister discussing this with the department and indeed spoke even late last night with J.T. so that I had a full understanding of the issue. I have to say that I have been impressed with the answers that J.T. have given me in relation to what they do with faults. Faults will of course occur from time to time and the majority; I am advised there are some 8,000 faults that are reported every year.

[10:30]

This will of course improve with the new infrastructure investment when fibre no longer causes difficulty, for example, with seawater or water getting into systems or indeed causing issues such as lightning. But I am satisfied from what I have understood from J.T. that they have robust procedures in place and they also do, for example, where a household does not have access to a phone, they do, as I have explained, put a mobile phone system in place if there is a continuing delay with the supply.

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

I wonder if the Minister could advise whether the initial fault was on a copper line or a fibre one?

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

I am advised that it was in fact a failure of fibre to the cabinet, which of course fibre to the cabinet has been one of those issues that has improved the reliability of phone lines; on this occasion there was an issue with the light, I am advised, going down the fibre. But that should not be taken ... fibre is going to solve the issue of faults, not make them worse, in the longer term.

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

As a former employee of Jersey Telecom, I can also confirm that all the mobile and faults and broadband inquiries do get handled locally on the phone, so will the Minister perhaps ask the Connétable whether he is referring to perhaps a directory call service, which does get put through to the U.K., to clarify what we are talking about here?

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

I did not know the Deputy had such talents. I knew that he had worked for Jersey Tourism, but I did not know that he had worked for Telecom, so I am grateful for his clarification. Clearly the 118534 directory inquiries is handled by the U.K. and perhaps I will investigate what the Connétable has asked. I have sent a message to J.T. to urgently clarify that because that is not what they informed me yesterday.

#### **4.6.5 The Connétable of St. John:**

Subsequently to this, to me putting the question in, I had delivered at one of my premises yesterday a new 2013 telephone directory and I had a look at Fault Reporting, which is very, very unclear to say the least, Minister. Will you please, in particular for vulnerable people, ask for nice bold lettering to be placed in any telephone directory so that fault reporting can be picked up within the front of the telephone book on the first page, and not have to go through the service level agreement and all the rest of it to find the information you need. Would the Minister please ensure that from here on we have it easily inscribed in the front of the book?

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

I am happy always to deal with these issues, but I have to say that I do not think we should make a mountain out of a molehill here. Clearly, there is a number in the front of the phone book about reporting faults. It is quite simple: you pick up the phone or find a mobile phone that works and you report a fault. Jersey Telecom has procedures in place, they have explained them to me, and they are certainly satisfactory arrangements. I should also point out to the Connétable that we have one of the highest penetrations of mobile phone networks of any jurisdiction. Therefore, while it is regrettable that obviously a fault occurs in a residential home, the vast majority of consumers are also equipped with a mobile phone which certainly helps. But if he has any difficulties then perhaps he could see me separately and I am happy to meet with J.T. in order to resolve any outstanding issues that he has.

#### **4.7 Deputy G.P. Southern of the Chief Minister regarding meetings between the States Employment Board and employee representatives:**

Will the Chief Minister advise Members whether he, or any of the members of the States Employment Board with the authority to amend policy, intends to meet public sector employee representatives to engage in meaningful negotiations to avert potential industrial action, and, if not why not?

#### **The Bailiff:**

The question is shown on the Order Paper as addressed to the Chief Minister, but it is in his capacity, as I understand it, as Chairman of the States Employment Board. I was going to ask the Deputy Chairman therefore to reply.

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

I was just advising to ensure that that happened. I defer to the greater knowledge of Deputy Green.

**Deputy A.K.F. Green of St. Helier (Deputy Chairman, States Employment Board - rapporteur):**

The States Employment Board has met regularly throughout the duration of the 2012/2014 pay negotiations after establishing the original mandate for its officials to follow. In doing so, it considered detailed reports on the progress of negotiations. I checked my diary recently, in fact this morning, some 18 meetings took place with our officials and the S.E.B. (States Employment Board) and we agreed amendments to the mandate as necessary and appropriate. It has approved settlements with some pay groups, and these have been arrived at through collective bargaining. The S.E.B. approved the implementation of the pay award for groups where, after protracted negotiations, it was clear that the gap between what the public service could afford and the sustainability of a fair award for its employees and the claims made by pay groups was unbridgeable. The board has moved some considerable way from its original opening position. Just to remind Members, our opening position was zero in 2012, zero for 2013 and 2.5 for 2014. The final award is 1 per cent non-consolidated in 2012, 1 per cent non-consolidated and 1 per cent consolidated for 2013 and 4 per cent award for 2014 in return for workforce modernisation. The board continues to have full confidence that its wishes and expectations are fully met by its officials who can conduct the negotiations, and it does not consider it necessary to change this approach. It is regrettable that industrial action is being mooted by some pay groups but the board considers that its award is equitable and prudent when considering the wider economic climate and the demands on the public purse at this time.

**4.7.1 Deputy G.P. Southern:**

The Deputy Chairman has not answered the question, in fact. Why does he consider it unnecessary for the politicians in charge of policy to meet face-to-face with employee representatives? Why does he hide behind the skirts of his civil servants?

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

I am not hiding behind the skirts of my civil servants. My role, and the role of the S.E.B., is to set the policy and then allow our professional negotiators to go in and carry out that work. It is as simple as that.

**4.7.2 Deputy G.P. Southern:**

The Chairman described the award that the States Employment Board is offering as a fair one. Does he really consider that it is fair when public sector workers are something like 9 per cent worse off than they were in 2008?

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

I do consider it fair. I do consider it fair, particularly when you put alongside the guarantee of no compulsory redundancy. Many other Islanders are seeing significant reductions in their pay and being made redundant. We are trying to be fair to our workforce, be good employers, and I do consider it to be very fair.

**4.7.3 Deputy M. Tadier:**

Of course, just for balance, many other Islanders are seeing huge increases in their pay, getting bonuses and have got lots of job security and that is always at the top end, is it not, Deputy Chairman? Would the Chairman take this one message back to the S.E.B. which we have been repeating again and again, which I think is unilateral from the unions that I have been speaking to, that if only the S.E.B. will start to separate terms and conditions, from the pay conditions, which are ongoing and which are of utmost importance to our employees who are facing difficult times with inflation far above increases in wages, if only the S.E.B. will listen to that message, settle on

the pay negotiations, then the unions I have spoken to are more than happy to engage in modernisation discussions but they will not do it if a gun is being held to their heads. Will the Minister take that message back to the S.E.B?

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

I will take the message back to the S.E.B. but some groups have already settled on the basis of the 4 per cent. I have to say to the Deputy that other groups, our officials can talk to them about what reform looks like, but I do not think you can separate one from the other.

**4.7.4 Deputy G.P. Southern:**

Given that it is politicians who are in charge of policy, and this is policy we are talking about here, does he not feel it appropriate that Ministers should talk face-to-face with employee representatives?

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

I think it is appropriate that we allow professional negotiators to do their job set within the parameters of the S.E.B.

**4.8 The Connétable of St. John of the Minister for Treasury and Resources regarding main drains extensions into the countryside over the next 2 years:**

Following his answer to an oral question on 16th April 2013 in which he expressed support for increased infrastructure spending and in particular main drains extensions into the countryside, would the Minister give an indication of the total amount that will be invested in these works over the next 2 years?

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

In relation to the answer that I gave a few moments ago, I have had confirmation from J.T. that the individual was Welsh in Jersey; it was not a Welshman in Wales. If the Connétable wants to argue with me, I have had that from the highest levels within J.T. who have checked their facts, so I cannot be clearer than that.

**Deputy R.G. Le Hérisier:**

There has been a leak. [Laughter]

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

I am not the plumber; I answer the plumber's questions probably but I cannot say more than that.

**4.8.1 The Connétable of St. John:**

Since the Minister is contradicting what I have said, I made the phone call; I asked a lady, not a chap, on the other end where she was and she told me she was in Wales. She told me she was at a call centre and therefore the Minister, whoever he is speaking to, is not aware who I spoke to at the other end of the phone. Simple as that and therefore his facts are wrong.

**The Bailiff:**

Minister and Connétable, I am sure this can be better sorted out outside the Chamber.

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

Yes, I am sure that is right; I will get on to drains. In my answer to the oral question on 16th April 2013, I stressed that the extension of the mains drains network was going to be challenging and had to be undertaken within the Liquid Waste Strategy which was being developed. It is against this

scenario that T.T.S. (Transport and Technical Services) prioritised their planned investment. For the next 2 years T.T.S. have identified £5 million funding per annum relating to drainage projects and maintenance. In addition, a £6 million flood alleviation scheme in St. Helier is underway at Phillips Street, which will also provide for future surface water separation schemes in the north of town. The Minister for Transport and Technical Services is continuing to develop the Liquid Waste Strategy with the intention of completing that by the end of Q4 of this year. The aim of the strategy is to address drainage issues in the Island for the next 20 years. In doing so, the strategy not only has to take account of those properties not connected to the foul sewer network, but also consider and address current problems and its use with the existing sewerage network as a whole.

#### **4.8.2 The Connétable of St. John:**

It is all well and good for the Minister to give us the same reply as he has over many years and his predecessors before him; Phillips Street is a water separation scheme which has been in the frame since my days on public services. Will the Minister, if he can, find £19 million to add to the fibre optic network for Jersey Telecom, put a similar type of funding in place to help finish the £70 million that is required to finish the last 9 per cent of this Island on main drains? I was given promises in the late 1990s, at the turn of the century, by former presidents of committees that we would have our main drains finished by 2013. That is 19 years into my term of office and we still have another 9 per cent to finish. Will the Minister give a date when things will be completed?

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

I know that this Assembly finds the Connétable's questions on drainage sometimes amusing and indeed it is a refrain that the Connétable continues to make. But I must remind him, we were both on previous public services committees and he will recall that the extension to the more hard-to-reach properties that have not been connected to the Island are very expensive. The last schemes that were approved in 2003 and 2004 came at a cost per property in the region of then £40,000 to £42,000 per property. I think that we need to manage expectations. It is not also true to say that there has not been any new connections to the foul sewer network. All new properties have to be connected to the foul sewer network. Communities, and there will be some in St. John and other rural Parishes, groups of Islanders will get together to find their own solutions for either dealing with their liquid waste or connecting to the public sewer in other ways, for example, pumping stations through private land, *et cetera*. So it is simply not realistic for me or anybody past, present or future to say that the whole Island will be connected to the public sewer. I repeat to the Connétable there is a strategy underway, work is going on in relation to that, and the extension issue has to be set aside to the also important issue of ensuring that the Victorian sewers which we have are properly maintained and advanced like Phillips Street is doing.

[10:45]

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

I fully appreciate that the more outlying a property is the more expensive it is going to be to connect to the drains and those are the ones that are waiting to be done. Does the Minister, however, have any views on the possible problems of using approved contractors, because in some cases they have been acting almost as a cartel? Some of the prices quoted for drainage, in my view, are 3 or 4-fold what they should be.

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

The Deputy, if he has concerns about that, and that is certainly the first time I have heard of that issue, then those issues are perhaps best addressed by the J.C.R.A. (Jersey Competition Regulatory Authority). I have no evidence of a cartel in relation to drainage contracts, but where there is a set of companies working together and colluding on price, that would now be illegal unlike it was a

number of years ago. I am happy, as I am sure the Minister for Economic Development would be, to take up any complaints and help him in dealing with that issue. Clearly, drainage connections through private land are important to connect properties that are on top of foul sewer to do so and the market should be working well.

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

Could the Minister confirm what involvement, if any, does he have in the development of the Liquid Waste Strategy and, if so, in what capacity?

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

The Council of Ministers is shortly to set up a formal ministerial oversight group in order to progress these matters. That is going to be a matter for the Minister for Transport and Technical Services, and the Treasury is going to give the Minister for Transport and Technical Services all the support that we can in dealing with the financial side. Clearly, T.T.S. are responsible for the operational side of this issue, but there is a big financial issue in relation to securing the necessary funding for the investment in the infrastructure and indeed the replacement of the infrastructure and the issue that the Connétable of St. John raises, which is the extension strategy and so therefore Treasury will provide the financial assistance. Where there is a potential issue of putting the liquid network on a standalone, almost trading agency basis, that would be something that the Treasury would also assist, as we have done with other departments: Housing, Ports, *et cetera*.

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

Does the Minister see his direct involvement with regards Jersey Water as a conflict or a benefit to any involvement he may have in the development of a Liquid Waste Strategy?

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

I think that is a very good question. I think it is complimentary clearly, and a number of investigations over a period of years have been made and considerations to a number of possible joint ventures with Jersey Water. The Deputy will be aware that in many countries a freshwater system is run alongside, not in the same pipe obviously, the actual sewerage treatment company's. That is a standard model in a number of countries. Indeed, engagement with the expertise that Jersey Water clearly have in running an infrastructure is something, while not ruling anything in or out, that is being considered as part of, I understand, the officers within T.T.S. and the Minister's own consideration of the strategy. But clearly a lot of progress is going to be made over the next few months in this issue.

#### **4.8.6 The Connétable of St. John:**

The Minister has made a lot of play about private sewerage systems, *et cetera*, crossing people's land. Is the Minister aware that in some cases people are paying between £15,000 and £20,000 to cross land to get to the mains sewer? That being the case, and we have one in St. John where 16 households are prevented from crossing the land, as each household are expected to pay £15,000 to get to the main sewer, would the Minister put in place a law that gives a right of way or a way leave for people to cross land at a greater reduced rate, thereby people would be able to benefit?

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

I think the Connétable raises an important issue, and if I may congratulate him on trying to seek to move this debate on. We need to move away from the debate simply that public funding can find the solution for putting extensions in roads for the whole of the hard-to-reach Islanders. It is the positive engagement of innovative solutions which is going to solve the issues and I welcome his suggestion. Clearly, he raises an important point. A number of utility companies do have the ability to enter private land and to use private land for infrastructure investment. Of course, the

public does not have that in relation to the foul sewer network and I am certainly willing to discuss with colleagues, and of course on legal advice, as to whether or not that is a possible option. I wish not to put it any more strongly than that because where there is clearly an option of putting a small pipe deep under say, for example, agricultural land, that is a way of connecting properties in the longer term. That is exactly the kind of innovative solution which we are going to have to consider and, yes, I am happy to engage with the Connétable with the Minister on that issue.

#### **4.9 Deputy G.C.L. Baudains of the Chairman of the Comité des Connétables regarding procedures used to ensure consistent foliage clearance prior to the branchage:**

As a matter of interest, in relation to the last question I thought the law already existed but anyway. Would the Chairman identify what procedures the Comité uses to ensure consistent foliage clearance prior to the branchage?

##### **The Connétable of Trinity (Chairman, Comité des Connétables):**

Each Connétable ensures consistent foliage clearance on the date of the Visite du Branchage in their Parish and this is usually 12 feet over main roads and 8 feet over pavements, but there is no requirement to ensure consistent foliage clearance prior to Visite du Branchage. However, the *Loi (1914) sur la Voirie* places a duty on the Connétable that at all times to have all impediment branchage cut and/or nuisance, whatever, removed from the public roads. So where the Connétable becomes aware or has been informed of a specific encroachment, the land owner or occupier will be notified and requested to remove it within a specified time. By law, notice of the date of the Visite du Branchage is given in the Jersey Gazette, at least the last week of June and the last week of August, but in addition the dates are publicised through Parish newsletters, magazines, garden centres and contractors.

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

Obviously I was referring to pre-branchage clearance and the Chairman referred to the *Loi sur la Voirie*, can he, with his fellow Constables, aim for some sort of consistency because some roads have had the weeds cleared by machine a couple of months ago, and yet the others today where, to drive a car down, you are touching both sides which is not safe for motorists and it is not very nice for cyclists or pedestrians.

##### **The Connétable of Trinity:**

I totally agree with the Deputy but the problem is you also have those of the environmental views say that we are cutting it too early in some cases. It is very tricky for a Connétable. I will say only a couple of weeks ago, certainly in my Parish, we had a fortnight of walking to school. Now a lot of the hedges on the pavements were overgrown, and parents phoned the Parish all saying: "Could you arrange with the landowners to cut them back so it is safer for the children to walk?" So it is one of those things which is very, very hard to police. I think, where possible, we try to hold it back. Obviously, one has to also remember, I think the Deputy ought to remember, these works are done by farmers and they are paid for by the farmers, not by the Island. They have to be very thankful for that because if this was put on to the Island to do the branchage on the set date, it would cost an absolute fortune. I know the season is late and like everything else with the rain we have just recently had, everything is really moving quite fast at the moment, and it is a problem. But usually at this time of the year when farmers do have time, they do start cutting ahead because some of these farmers now grow on massive amounts of area and it is also quite hard to do it within a set time. But there is nothing that we can do about it. It is really down to each individual complaint that we would look at it.

#### **4.10 Deputy R.G. Le Hérissier of the Minister for Treasury and Resources regarding allocated to implement the recommendations of the McKinsey Report:**

What sum, if any, has been allocated by the Council of Ministers for implementation of the recommendations of the McKinsey Report?

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

The Medium-Term Financial Plan provided a number of growth items for Financial Services. Many of the issues that were detailed and documented in the McKinsey Report were fortunately anticipated as becoming issues. Therefore, bids were brought forward by Jersey Finance and E.D. (Economic Development) as part of the M.T.F.P. (Medium-Term Financial Plan) process. Those included increasing funding to J.F.L. (Jersey Finance Limited) for further market development of £800,000 by 2015, additional funding to J.F.L. to fully fund the growth proposals related to the previously mentioned market development of a further £730,000, Saudi and G.C.C. (Gulf Cooperation Council) Financial Services activities for £350,000 and also a further provision of £200,000 for legislative fast-tracking and development. These are set out in pages 70 and 71 of the M.T.F.P. So the outcome of the McKinsey Report is now informing the exact nature and scale of the expenditure required. As a result, a proposed implementation plan has been considered by the Council of Ministers who was supportive of the proposals made. Consideration is currently being given to the level and timing of further overall funding and the source of that. Any Treasury and Resources ministerial decisions, together with Chief Minister's and Economic Development for finding additional funding over and above that I have already mentioned will of course be published.

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

Those are very considerable sums but, as the Minister said, some have already been indented. However, I want to say, could he inform the House whether an approach has been made to McKinsey to oversee implementation of their plan and, if so, what sum of money have they requested for overseeing this?

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

I can confirm that the Minister for Economic Development and Chief Minister have made no attempt to bid for money for implementation for McKinsey. The McKinsey Report, as the Deputy will be aware - I think he attended the presentation by a senior partner - McKinsey were there to do the research and to investigate effectively the current state of the financial services industry and indeed the global trends. Implementation is absolutely down to the respective departments within the States, and indeed there is joint work which is going on between J.F.L. and there are changes with the Financial Services Commission, and that is now being overseen by the Director of Financial Services. Certainly, McKinsey is of course a management consultancy and I am sure that he would be the first to criticise spending more money on, in fact, overseeing the implementation.

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

For the avoidance of doubt, the Minister can therefore assure us that those sums he mentioned are essentially the sums and that there is no intention whatsoever of employing McKinsey or an equivalent company to oversee implementation and this is the rightful work of his senior staff in the various departments he has cited?

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

That is correct in relation to McKinsey but let us be clear that there is going to be some strengthening and some fortifying of the actual government side which was one of the key conclusions of McKinsey: that indeed if we were to assist in taking through the transition for what is effectively some new opportunities and some threats in relation to Financial Services, then

government was going to have to up its game. Indeed, I can tell the Deputy that the Council of Ministers, when considering the funding requests, did, for example, consider the strengthening of the Director of Financial Service's office to include project managers, but they would be of short-term contracts employed by the States, not by any management consultancy directly doing the work. Obviously, strengthening that arrangement could run into £200,000, £300,000 or £400,000 but that is short-term and designed to achieve specific targets for a growth within the sector.

**4.11 Deputy M.R. Higgins of the Minister for Economic Development regarding Flybe's decision to sell its landing rights at Gatwick airport to easyJet:**

Will the Minister state when his department became aware of Flybe's decision to sell its landing rights at Gatwick Airport to easyJet and explain what contingency plans he has to secure Jersey's vital air links to London?

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

The first official written confirmation by Flybe of its reluctant decision to sell its landing slots at Gatwick Airport to easyJet was received at 9.39 p.m. on 22nd May. This was in advance of the announcement to the London Stock Exchange the following morning at 7.00 a.m. Although this announcement is disappointing, we have been aware of the airline's increasing frustration with the rising costs of operating from Gatwick Airport. To put this into perspective, Flybe tell us that they have seen their landing charges at Gatwick Airport increase by 102 per cent over the last 5 years. To support Flybe and other airlines, I previously wrote as long ago as 2011 to the Minister of State for the Crown Dependencies, as well as to Sir David Rowlands as Chairman of Gatwick Airport, to raise our concerns about the disproportionate impact of increasing landing charges and other charges such as airport passenger duty on small regional aircraft and the communities like Jersey that they serve.

[11:00]

Jersey has an impressive network of air routes by virtually any standard. Preserving and growing that network of flights remains a top priority. In particular, we recognise the absolute importance of good quality air services to London for Islanders and our vitally important tourism and broader business communities. I would therefore like to reassure Members that every effort is being made to ensure that vital London services are maintained at current levels or indeed improved in the future if at all possible. In this regard, I would like to reassure Members that Jersey Airport's Route Development Team are in active discussions with a number of airlines that are showing interest in replacing Flybe services on the Gatwick route. I would also like to take the opportunity to make it clear that Flybe have confirmed they will continue to operate all their Gatwick services until March 2014 and that no other routes they operate are affected. Flybe will continue to offer extensive, high-quality and valuable air services to and from Jersey. I will of course keep Members advised of any updates as and when they arrive. Thank you.

**4.11.1 Deputy M.R. Higgins:**

Did the Minister or his officers at any time consider purchasing the landing rights at Gatwick Airport to secure slots at London Airport? Because no matter which airlines you talk to, those landing slots are extremely valuable and in the case of easyJet, for example, would be far more profitable on them using the 20 or so take-off and landing slots that they have on other destinations further afield. So, first of all, did the department consider acquiring landing rights to secure our presence at Gatwick and, if not, what other contingencies do you have to try and secure that route?

**The Bailiff:**

Minister, if you could hold those questions in your mind, please. Unfortunately, we are now inquorate. Could I ask Members in the coffee room to return to the Chamber, so we may become quorate again. Minister?

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

Yes, in fact, we did consider the options some years ago with regard to Heathrow. The Deputy raises a very interesting point. It is a nice idea to think that the Government could purchase slots at airports that are key to the economic and social future of the Island. Unfortunately, it is not that simple. Only airlines and operational airlines can purchase landing slots. So, I am afraid that is not an option available to us. But, what I can say to the Deputy and to Members is the clear value of Gatwick and Jersey as a route. There are over 600,000 passengers moving backwards and forwards. Certainly from the initial discussions with airlines there is a great deal of interest. We are confident that there will be replacement services in the not too distant future.

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

I think most Members would be certainly reassured by the Minister's responses to date. Unfortunately, I think the Minister would also acknowledge the fact that a lot of what is happening is outside his control, with the commercial pressures on airlines and indeed ferry companies. My question is this: the Isle of Man has also lost its Gatwick links as a result of a similar move by the same airline. Would the Minister not agree with me that it is vitally important that his department step in now and try and secure a deal with other airlines? Otherwise the prospect for Channel Islanders or Jersey folk to have to use Southampton or London City or Southend or wherever is going to be restrictive.

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

Yes, I would absolutely agree with the Deputy. That is exactly what is happening. The Route Development Team at Jersey Airport are doing exactly that. There are discussions underway at the moment with airlines about the possibility of increasing services to Gatwick, of replacing the loss of Flybe from next March. I am confident that we will find replacement services. I think we need to put into context though, the reason that Flybe have taken this decision. The increasing charges are impacting specifically on smaller regional aircraft. It is the size of aircraft and it is the noise distribution of the aircraft that have to pay more money. So the larger aircraft are at an advantage, there is more profitability. It does not mean that services are going to go altogether, it just means we are going to see a change in the profile of who serves the Island from airports like Gatwick.

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

The Minister has referred a number of times to the Route Development Team. I would like him to expand on that and explain who sits on it, who manages it and whether they are looking at additional destinations other than the ones he has just referred to.

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

Absolutely. The Route Development Team was created a number of years ago. In fact, prior to that there was no active communication with airlines. In fact, decisions by airlines to stop routes... often the airport heard at the last minute, had no prior knowledge of it and it was a most unsatisfactory situation. In recent years a team has been put together of senior officers. It is overseen clearly by the Chief Executive. That is absolutely as it should be. There is continuous and ongoing dialogue with airlines, looking at ways in which we can assist them if they are finding particular routes are challenging and looking at ways we can create new routes. Indeed there has been some success. I have to say that easyJet are a good example. We have seen Glasgow, Liverpool, London Southend, all expanding. That is due to the good work that the team have done

at Jersey Airport. It is about ongoing management of our key partners, the airlines, that is going to sustain our future.

**4.11.4 Deputy R.G. Le Hérissier:**

The Minister skirted the issue of buying slots. Firstly, has he looked at the Aurigny solution? This, of course... the States of Guernsey and some people laughed at the time, but it appears to be vindicated to a point. Secondly, could he tell us - it all seemed very obscure - is he saying airlines with small aircraft can no longer viably, in an economic sense, fly into Gatwick? Is he saying it is only airlines with big planes, which they will have to fill, who are now able to deal with the economics of Gatwick?

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

I did not think I skirted the answer at all. I thought I was fairly clear about it. Government cannot purchase slots at airports like Gatwick and Heathrow. Operational airlines can. It is as simple as that. Clearly the decision that Guernsey took in terms of acquiring Aurigny was for that very reason, to ensure that they secured the slots at Gatwick airport. The difficulty, I think, that they will find now is that Aurigny is even smaller than Flybe was in terms of the size of aircraft and the profile. They tend to be older aircraft. They are noisier. As such, they are going to be paying much higher charges. So, it is going to be less viable for them to operate that route and will have to be, no doubt, subsidised by the Guernsey taxpayer in the years ahead. I am sure that is a strategic decision that Guernsey have taken. It is certainly not a route that I would favour. We have a very good service already, 5 flights a day from British Airways. I am very hopeful that we will get another airline stepping in to pick up the majority of Flybe flights. That was 4 a day. That is a really good service. We should also remember it is not just the number of flights, it is the capacity, the size of aircraft that we have are large. The number of seats are also way ahead of competitors.

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

The Minister has told us that we, as a Government, cannot buy landing slots. But I seem to remember a few years ago, we used to subsidise the Heathrow route. Has the Minister looked at perhaps subsidising an airline? If he has not, will he? Or are we now?

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

The Connétable is quite correct. Yes, we did indeed provide an incentive to an airline to operate the Heathrow route for the very reason that we were not able to purchase slots. As far as incentives are concerned, yes, Jersey Airport offers incentives for new routes. They offer incentives for growing market share and so on. In the future... and part of the negotiations that are ensuing now with regard to Gatwick and other routes, the airport will look at the commercial opportunities of incentives to airlines that are going to be in the economic interests of the Island. That is exactly as it should be.

**4.11.6 Deputy S. Power:**

Could the Minister confirm whether easyJet has expressed any interest in what is called the early morning slot or the 'red-eye' to Gatwick? Those 2 flights, those early morning departures, are key links into London. As he has indicated, Flybe are pulling out, can he indicate the importance of maintaining the 2 early morning links into Gatwick?

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

What I can say is that I thoroughly agree with the importance of the early morning 'red-eye' flights. That is clearly understood. What I cannot do at this stage - and I am sure the Deputy will understand - is talk about confidential negotiations that are being undertaken with different airlines

and so on. But we are very aware of the importance of the early flight and that particular profile is something that is key as far as we are concerned in negotiations.

**4.11.7 Deputy J.H. Young:**

I am puzzled by the Minister's answers. In particular the question that Deputy Higgins raised. How can we be confident that the landing slots, which are so valuable and are lost to us, are going to be taken by another airline on the Jersey route and not to another location? I cannot hear in the Minister's answer, so I would like the Minister to tell us, what are the elements that are going to make sure that happens and make us feel confident about it?

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

I am in a difficult position, because I cannot give details as Members, I hope, would understand, about negotiations that are underway at the moment. I hoped my opening answer was able to give enough confidence to Members that there is interest from airlines to take on those routes. There are a lot of passengers that fly between Gatwick and Jersey, over 600,000. We have had interest expressed in the past from airlines, such as easyJet, about Gatwick. Of course, at that stage there were already 2 airlines that were flying there. I am confident that we will have replacement services. We already have 5 flights a day from British Airways. At this stage that is all I can confirm. But I will come back to Members as soon as I can on the conclusion of negotiations. I am very confident that we will get a satisfactory outcome. We do understand the importance of this vital link to London and in particular Gatwick. We are working hard in order to resolve the change resulting from Flybe's removal from the service.

**4.11.8 Deputy R.G. Le Hérissier:**

Even though the Minister talks of not interfering directly, there is no doubt that the ferry service is a monopoly because of Jersey Government intervention. A monopoly was granted. Firstly, would he admit that in terms of competition, the ferry service should be a much more competitive item in relation to air travel? Secondly, is he totally convinced that the replacement fleet policy, the capitalisation of the service, is really something that the monopoly has given it or there are problems ahead on the sea as well as in the air? Thank you.

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

I am not quite sure how we have got to the sea services. There are challenges to answer his questions in both air and sea, as is always the case. We are an Island. We rely on essential lifeline links. There are a number of complex issues that need to be considered in terms of securing those routes. I believe they are being worked very effectively and very efficiently by close negotiations with all our key partners, whether they be airlines or indeed ferry operators. Make no mistake, there are challenges ahead. I am confident that we will have the services that the Island requires, both socially and economically, into the future. We have a great advantage, as an Island, by the need and demand that is shown by our key industries, both finance and tourism, and I am sure that in the future they will have the services that they deserve.

**4.11.9 Deputy M.R. Higgins:**

I am somewhat confused by the Minister's earlier answer when he mentioned about the Route Development Team's function is basically to keep the pulse of the airlines and keep in touch with them so we do not get caught suddenly losing our routes. Yet, they were told the night before the announcement on the stock exchange. Can the Minister tell us whether there were any discussions between Flybe and the Route Development Team or anybody else within his department about the difficulties they were in and asking if there was any way the States could assist them to continue the Gatwick route?

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

I thought I had made that absolutely clear in my opening answer. Back in 2011 we were aware of the concerns that Flybe had about the rising costs of operating at Gatwick Airport. That was the reason that I wrote to the Minister in the U.K. to express concerns about those rising costs, the importance of regional airlines and aircraft to communities such as Jersey and asked for assistance.

[11:15]

We also raised the issue about other costs, like airport passenger duty, which I also mentioned earlier. So, yes, we have been active in trying to address some of the concerns that airlines like Flybe have been raising for some time, and in a public forum.

**4.11.10 Deputy M.R. Higgins:**

Supplementary? Did you consider subsidies on the route?

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

There are competitive requirements on the route that do not necessarily require direct subsidies, we believe, at this stage. As I have said before, negotiations are underway for replacement services on the Gatwick service. All options are available for discussion as part of those commercial negotiations.

**4.12 Deputy G.P. Southern of the Chief Minister regarding the resource implications of the population projections produced by the Statistics Unit:**

Will the Chief Minister advise Members what interdepartmental meetings, if any, have been held this year on the resource implications of the population projections produced by the Statistics Unit, and in particular on housing demand over the period of the Housing Transformation Plan, and if none, when will these be held and when will he come to the States with the results of such resource discussions to inform future debates?

**The Bailiff:**

You managed to get 4 questions in there Deputy. Deputy Chief Minister?

**Senator B.I. Le Marquand (Deputy Chief Minister):**

In this case, I am seeking to defer to Senator Routier's greater knowledge.

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

Yes, we have noted it was 4 questions in one here. The population model developed by the Statistics Unit is an invaluable tool in developing long term policies. It is being used as part of a detailed piece of work bringing together all departments in assessing the impact of different population scenarios on our resources, including housing and our economy over the longer term. Naturally, officers have met on a sizable number of occasions to progress this work, which was commissioned by the Council of Ministers earlier this year and will be considered again by them in the autumn. Following this it will be presented to the Assembly later this year. The Scrutiny Panel have already expressed a clear interest in reviewing this work.

**4.12.1 Deputy G.P. Southern:**

The question was: when will he be coming to the States with a report outlining the options for population for future debate? When will he produce such a report?

**Senator P.F. Routier:**

That will be coming later towards the end of this year.

**Deputy G.P. Southern:**

Will that be a report or a proposition?

**Senator P.F. Routier:**

Developing the Population Policy going forward we think that it is a 2-stage process. There needs to be a lot of consultation carried out with our community and we need to ensure that we are going to reflect what the community wants. It is envisaged that we need to have a very short-term policy for which probably, with unemployment being so high at the present time, we need to keep going the way we are going at the present time with restricting permissions with regard to employment of non-local people. But then there is a bigger piece of work which we need to consult with the whole of the Island with regard to the Population Policy. We hope to be coming with a policy statement ready for discussion with the Assembly towards the end of this year.

**4.12.2 Deputy G.P. Southern:**

For the sake of clarity, can he just clarify whether the previous policy is still in place and whether that has been amended in the light of current high unemployment numbers to reduce the actual target for migration?

**Senator P.F. Routier:**

The policy which the Migration Advisory Group are working to currently is hopefully reflecting the need to ensure that we reduce the local unemployment. That is our main task at the present time. We also do need to reflect that there is a need, on occasion, to allow new migrants into the Island if they are providing high value employment. There is a balance to be struck between getting local people already in the Island into work, but also encouraging new businesses to establish themselves to create new employment for local people as well.

**4.12.3 Deputy M.R. Higgins:**

Can the Minister tell us what the current target is for the population growth of this Island? There must be one at the present time. I think, if I remember correctly, when we were discussing the hospital, 115,000 was the projection they were basing the hospital on. What exactly is the figure currently and what are you considering about going beyond that, because I think you are?

**Senator P.F. Routier:**

As Members I think are generally aware, there is no current target. The last time we developed a policy 250 households per year were going to be allowed. That has been tightened-up considerably under the current circumstances of high unemployment.

**4.12.4 Deputy M.R. Higgins:**

Supplementary? Could you just tell us then on the basis of the figures you are using at the moment, what are your projections for 5 years' time or even 10 years' time or whatever dates you have in mind?

**The Bailiff:**

Through the chair, please, Deputy.

**Senator P.F. Routier:**

The population statistics are being worked on by the Statistics Unit and their modelling is happening at this present time. I think Members, if they could be patient to allow the work to continue, we will be coming back to the Assembly after the summer break.

**4.12.5 Deputy M.R. Higgins:**

The Minister is not answering the question. The Statistics Unit must have been given some guidance by the Ministers as to the population they are looking at for the modelling to take place. They are not doing it on their own. If they are then the Minister is being negligent.

**Senator P.F. Routier:**

The whole of the department, including the Statistics Unit and the Economic Department are all working to 3 scenarios. They have been asked to look at 3 scenarios. They are net nil immigration, plus 300 and also plus 700, which has been the actual experience. They are the scenarios which they are being asked to look at. That is just to help us form policy for the future. It is not saying that those are the targets by any means. What we are currently doing, as I hope Members appreciate, is under the current situation with high unemployment, we are being as restrictive as we possibly can, but also allowing new businesses to establish and create new employment.

**4.12.6 Deputy T.M. Pitman:**

Deputy Southern's question probably takes us to the matter that is probably the most fundamental issue to establishing or ensuring quality of life over the coming years. So, could the Assistant Minister just repeat his answer? Did I correctly hear him when he said there are no targets? We just seem to be making this up, 300 or 700. What are we doing now? That just seems to me a deeply worrying scenario.

**Senator P.F. Routier:**

I hope I am not giving the impression - to some Members it may be the case - that there is no policy currently in place. There is a policy in place that is a lot tighter than what it has been in the past. Going forward, there is a piece of work which is being carried out by the various departments, including the Economic Department and the Central Policy Unit, to those various scenarios, just to see what would happen to our population and the resources that would be required for this Island to cover that. I have nothing else to add to that.

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

Could the Assistant Minister confirm that the current policy sets a maximum level at 100,000 as a target and that indeed the Chief Minister has publicly committed to maintaining the population levels within that particular policy?

**Senator P.F. Routier:**

My recollection, with regard to the Chief Minister's comment, was during the last election time when he hoped that the figure of 100,000 would not be achieved. I think that was when the comment was made. The policy that we currently have is to tighten-up on permissions and that is what we are working to. I hope that gives sufficient comfort to people to ensure that the record we have had over the last couple of years of controlling immigration has been successful.

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

Is it still the Chief Minister's aim to maintain population levels at below the 100,000 figure?

**Senator P.F. Routier:**

That is very difficult to commit to. Because until we have a full understanding of what the population currently is and what the effects of recent immigration has been it is very difficult to commit to that.

**4.12.9 Deputy G.P. Southern:**

Again, just for clarification among all those words, is the Assistant Minister saying that the 250 heads of households' previous target has now been abandoned and has not come to the House with

a change in policy ... which has not come to this House? Because I believe 250 heads of household did come to this House and was accepted by this House. Has the policy changed? What is the policy? What is the target for inward migration?

**Senator P.F. Routier:**

The Deputy is quite right. We need to bring a new policy to this House. We have been working on the current policy that has been in place. Informally, I know that among the Ministerial Oversight Group, who are dealing with the population matters, we are tightening-up on that figure. There is no doubt about it. We are trying to constrain things even tighter than that.

**4.12.10 Deputy G.P. Southern:**

Will the Assistant Minister assure Members that he will come to the House with a figure that is our policy currently now? What is it? Will he come to the House?

**Senator P.F. Routier:**

We are developing a policy. As I said in my opening answer, there will be a policy brought to this House after the summer, once it has been discussed by the Council of Ministers.

**4.13 Deputy T.M. Pitman of the Solicitor General regarding the court proceedings of 3rd November 2010 against former Senator Stuart Syvret:**

**Deputy T.M. Pitman:**

Before asking my question and intending no disrespect, I was somewhat surprised that the Deputy Bailiff or the Bailiff was involved in the vetting of this question. I believe both Crown Officers would have had some involvement in some of these matters in the past. Could I ask: does the Chair think it appropriate that he presides over this question as well?

**The Bailiff:**

Yes, I have absolutely no reason not to preside over this question, Deputy.

**Deputy T.M. Pitman:**

Okay. I just thought I would raise it. Thank you, Sir.

**The Bailiff:**

So, to the question.

**Deputy T.M. Pitman:**

In the course of court proceedings of 3rd November 2010 against former Senator Stuart Syvret, the Crown Advocate for the prosecution stated that no intercession had been made by the prosecution with the N.M.C. (Nursing and Midwifery Council) in London, could the Attorney General - or rather the Solicitor General today - therefore state whether the letter from the same Crown Advocate to the NMC dated 28th May 2010 was an intercession and, if not, what the purpose of the letter was?

**Mr. H. Sharp Q.C., H.M. Solicitor General:**

The former Senator ran a defence in his criminal trial that related in part to disciplinary proceedings that were taking place in the U.K. The Crown Advocate who prosecuted the case arranged for there to be disclosure to the defence in respect of those same disciplinary proceedings. However, it was anticipated that the disciplinary process would not conclude until after the criminal trial. Therefore, the Crown Advocate decided to present the prosecution case on the basis that while the disciplinary matter was one for the U.K. authorities alone, the Jersey Criminal Court would be invited to

consider the criminal charges on the assumption of a particular outcome to the disciplinary matter, that outcome being one that assisted the defence case. Against that background, the Crown Advocate wrote a letter to the N.M.C. dated 28th May 2010. The purpose of the letter was to give the disciplinary body notice that their material was to be disclosed in the criminal case. This is a standard letter that is often written by the prosecutor to third parties in the course of criminal proceedings relating to disclosure. The letter also mentioned the stance to be taken at trial by the Crown, as I have already described. A letter that gives notice about the proposed disclosure in criminal proceedings to a third party does not constitute an intercession. That is to say, it did not constitute an intervention in the disciplinary proceedings on behalf of another. For those reasons it follows that the Crown Advocate was correct to say on 3rd November 2010 that there had not been an intercession by the prosecution in respect of the U.K. disciplinary proceedings. Indeed, the Crown Advocate's conduct was scrupulously fair and was key to ensuring that the former Senator received a fair trial.

[11:30]

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

I thank the Solicitor General for his detailed answer. It was quite a long answer. I believe he said that the Crown Advocate assumed that matters would be progressed somewhat quicker than they were. So, could I not then ask: everybody is entitled to justice, so whatever one calls this intercession/intervention, surely it is still a fact that the Crown Advocate should have ensured the situation arose when this intercession/intervention letter was declared before the court, yet he did not? Does the Solicitor General agree?

#### **The Solicitor General:**

The issue arose during the cross-examination of a witness by Mr. Syvret. During the cross-examination of that witness, who was a police officer, Mr. Syvret put to the witness that the police force had somehow interfered with the U.K. disciplinary body and that had caused the disciplinary body to join into some wide conspiracy and thereby, to use Mr. Syvret's exact words: "Park this case." That is to say, to park the disciplinary proceedings for the benefit of the Crown. The cross-examination continued. The witness denied, of course, that any such conspiracy had occurred and said he could not answer for the U.K. authorities. At the end of the cross-examination, Mr. Syvret, former Senator Syvret, said: "Well, if this intercession, i.e. if this conspiracy is not the fault of the States of Jersey Police then [and again I quote] it has to come from the prosecution." That is the circumstances in which the Crown Advocate stood up and said, and I am quoting again from the transcript which I have just been reading: "There has been no intercession by the prosecution with the N.M.C." The Crown Advocate went on to say rightly that Mr. Syvret had received disclosure from the Crown and as far as the Crown were concerned, the Crown Advocate made it plain that they assumed an outcome in that process which was favourable to the defendant in the presentation of his case at trial. What the Crown Advocate was dealing with is an allegation that in some way there had been some wide conspiracy involving the N.M.C. His answer was entirely accurate and it is very difficult to understand what basis the question has just been put to me.

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

As with every answer we get from the Solicitor General, we need to take it away and digest it, look at the written word and try and figure out what he is saying, because he is very, very good with words. Perhaps he could tell us ... I have got 2 questions in a sense. Do Crown Advocates and Crown Advocate prosecutors have a duty to act honestly and transparently with the court and with the defence? Can he tell me, for example, whether the Advocate concerned gave a copy of his letter to the N.M.C. to, in this case, former Senator Syvret and was he totally open about its contents?

### **The Solicitor General:**

The Crown Advocate in any case has duties to ensure that there is a fair trial by way of making sure that there is appropriate disclosure in the case. In this case, the Crown Advocate ensured that there was disclosure. When faced with the practical difficulty in terms of timing, that is to say one would not know the outcome of the disciplinary proceedings until after the criminal trial, the Crown made a concession that was favourable to the defence, which improved the defence's case. So that is why I said in my opening answer that the Crown Advocate had acted scrupulously fairly in ensuring that the defendant had had a fair trial. The second part of the question, I believe, relates to whether or not the Crown Advocate provided the letter to the defendant. As I understand the chronology, Mr. Syvret had his appeals, he lost his appeals, he then raised this point in private correspondence with the Crown Advocate, the Crown Advocate provided the letter that he had written to the N.M.C. to Mr. Syvret himself. Frankly, it was not disclosable, he did not need to give it to Mr. Syvret, but he did nonetheless.

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

Supplementary? Does the Solicitor General not feel it would have been better had the Crown Advocate given him a copy of the letter at the trial, rather than waiting for the end of a case and then for this thing to have to be raised again and again?

### **The Solicitor General:**

As I have just explained, the issue at trial was whether or not there was a conspiracy between prosecution authorities in Jersey and the N.M.C. to halt the disciplinary proceedings so as to improve the Crown's position at trial. That was the issue. The letter does not bear on that issue. There is nothing in that letter that has anything to do with the conspiracy theory that was being advanced by the former Senator during the trial.

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

I do think it is a shame that the Solicitor General has to keep using this conspiracy theory. It does seem a way just to undermine somebody's case. However, what I would like to ask - again, I do thank him for his answers - given that I am also aware of transcripts, which clearly show the very same Crown Advocate informed the court within another hearing against Mr. Syvret that he had read a particular document, but it was completely irrelevant, yet on another later hearing stated that he had not read the document at all. Surely that is deeply worrying. When you take that in hand with this matter, I could ask: would the Solicitor General agree to request an independent and comprehensive external investigation into all those proceedings hearings and transcripts involving Mr. Syvret? If not, why?

### **The Solicitor General:**

When I received this question on Friday afternoon I took the trouble to read the transcripts, the letters, the email correspondence that related to the issue which is raised in the actual question. There is nothing in the transcripts or the correspondence that gives any rise for concern and nothing that changes my opinion that the Crown Advocate was scrupulously fair in what he did in dealing with the outcome of a future disciplinary process. If the Deputy has got some other information which he has not chosen to show me this morning prior to asking me that question I will look at it. But, at the moment, there is absolutely no basis to be at all concerned about the conduct of this Crown Advocate.

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

Just a supplementary? If I can help the Solicitor General ... I can obviously only ask one question at a time, we have a limit, but I will come back to him at the very next sitting. Thank you.

## **5. Questions to Ministers without notice - The Minister for Treasury and Resources**

### **The Bailiff:**

We come now to Questions to Ministers without notice. The first question period is for the Minister for Treasury and Resources. I call on Deputy Trevor Pitman.

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

You threw me, you were so quick there, Sir. Last week I gave an interview to a correspondent with Japan's largest newspaper, the Asahi Shimbun. Obviously I did not do it in Japanese, as one can probably understand why. Nevertheless, it has 8 million readers. The correspondent was very keen to also interview the Minister for Treasury and Resources. I did try to assist him. Could I ask: did the Minister take up that offer from the correspondent and did he give that interview to give a broader perspective on the finance industry and justice, *et cetera*, in Jersey?

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

Yes.

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

Was it very helpful?

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

Interviews... I am always happy to give interviews with journalists from accredited newspapers, as I am giving a number of interviews together with the Chief Minister and other Ministers on the important developments internationally.

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

It has been reported recently the need for a new electricity substation to serve the residents of St. Helier No. 3 and 4 Districts. What discussions has the Minister had with the Parish to identify suitable sites, since support for the proposed one has been withdrawn? Also, what, if any, are the possible repercussions for residents and the proposed new or extended hospital if a suitable site for the substation is not found?

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

I can confirm to the Deputy that I have been engaged, together with my Assistant Minister and indeed the Chief Minister, in relation to discussions with the Parish authorities to identify the site for this important and absolutely necessary infrastructure investment for both St. Helier No. 3 and 4 residents, but also developments in town, including the hospital. I express disappointment that the Parish, having previously indicated its support for a site, is now at best neutral. I am looking forward to confirming with the Parish authorities, a Parish Assembly with the J.E.C. (Jersey Electric Company) in order that this matter can be brought before a properly constituted Parish Assembly for determination. The Deputy may be aware that in order to assist the Parish in the decision we also brought an undertaking to bring forward a fiscal stimulus project in order to further compensate the Parish, which was already being compensated for the land, in order to assist any speedy decision, which is absolutely required. I am concerned that it is delayed.

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

The Minister did not speak on the potential repercussions for residents in No. 3 and 4 Districts if this does not go ahead.

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

I apologise. I am advised, effectively such is the demand for electricity in particular the First Tower, Rouge Bouillon area, that if this substation is not built there are going to be problems in the future in relation to the J.E.C.'s ability to deliver supply to homes. In addition, a number of important developments in St. Helier, including the hospital, will simply not be able to happen, according to the company's information that they are doing. I am happy to provide Members with a briefing note on that if that is helpful.

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

In 2012 the Fiscal Policy Panel assessed that the economic outlook for Jersey had been downgraded for 2012 and 2013. There were indications of significant spare capacity remaining in the economy over that period. They then went on to advise that the States should act to give further fiscal support to the economy over and above that as set out in the Medium-Term Financial Plan. Could the Minister for Treasury and Resources explain what format this extra fiscal support is taking, please?

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

Since the Fiscal Policy Panel reports I have provided a report to the Assembly on the current state of the economy, indeed our actions in relation to fiscal stimulus. At the moment, we are spending much more than we are taking out of the economy. I think the figure is some £90 million worth, providing we get things like the police station passed. When we take the year as a whole, there will be more spending in the economy than we are taking out. This is something that we keep under review. My first job at the moment, working with Property Holdings, is to ensure that the capital projects that are designed to happen - we have the money in the bank - are going to be delivered. That has been my first priority, because those are the shovel-ready projects which are going to need to go. But, in addition, we have also been developing a pipeline of further projects with Housing and T.T.S.

### **5.3 Deputy K.L. Moore of St. Peter:**

My question follows neatly on, because I would like to ask the Minister if he could update the Assembly on any progress regarding the supply of both social and affordable housing.

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

The Council of Ministers has met on 3 occasions to deal with this matter. I am advised that the Minister for Planning and Environment is now well advanced in relation to his amendment to the Island Plan, which is expected before the summer break. That is, itself, hopefully going to be identifying a very significant further supply of social rented projects. We will work with the Housing Department and other providers in order to provide the funding of that. In addition, the Minister for Planning and Environment has approved a number of residential sites, including Westmount Quarry. I also understand that permission has been given now for Lesquende, Le Coin and Osborne Court. Those are all projects which are going to deliver. The Deputy and the Chairman's concern, I think, is more affordable ownership over and above that. We are working on that. I understand that we are on track to deliver that timetable.

### **5.4 The Connétable of St. John:**

Given the Minister's response to the telephone directory and its ease of use some time ago, I took it upon myself to ask the Minister for Social Security, the Dean and the Assistant Minister for Health and Social Services to look at it. They all had difficulty in locating any fault. In fact, the Minister himself looked at it and could not find the fault reporting service in it. Would the Minister take it upon himself to take it back to Telecom and make sure that a fault reporting service is in place, contrary to having to go on to the internet to find a service level agreement that says: "You will telephone 882 882", but you have to have a ... a lot of 86 year-olds do not have I.T. (information

technology) skills. They are like myself; dinosaurs. Will the Minister, please, accept that there is a problem with the directory?

[11:45]

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

Basically, to report a fault consumers need to dial 882 882, 4 options and it is the third of the 3 options. If that is not clear I will ask J.T. to clarify it in the next telephone book.

**5.5 Senator S.C. Ferguson:**

Given the considerable doubts as to future income tax receipts over the next couple of years, as suggested by leading indicators, what is the Minister's 'Plan B'?

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

I am pleased to inform the Assembly that the Treasury is now making good progress in the Long-Term Revenue Plan. Indeed, early indications are that we are already £6 million ahead of where we thought we would be compared to the figure in the M.T.F.P for this year. I think the Treasury has a track record of being prudent in relation to its estimates. We will be publishing further updates later on this year. In relation to a 'Plan B', we do not have a 'Plan B', because we are confident that 'Plan A' is going to be working. However, it is important to remember that there are big changes, economically, which are transmitting throughout the developed world. That is exactly why we have deployed McKinsey with the Economic Development; we have done Digital Jersey and all these other issues. It is not just a case of cutting, it is about growing the economy and investing in the economy, which I think is exactly what we are doing. That is the 'Plan A' with bells on.

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

I would like to ask the Minister: when will the public and indeed this Assembly be given the opportunity to consider whether the Island should have a new or rebuild hospital? Will he commit to providing all the financial implications at the same time as identifying his preferred option?

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

I agree that there is going to need to be ... it is a matter which is commanding the rightful attention of Ministers at the moment in relation to the site selection and that there is going to be a meeting, I think, within the next couple of weeks in order to confirm that. Members will be informed of that. I can confirm that, of course, all the financial appraisal and estimates for the rebuilding on the existing site or should there be another site identified (I think that is going to be challenging) all that information will be published at that time. So, yes, is the answer to the Deputy's question.

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

I would like to just press the Minister. I believe the Minister said that the Council of Ministers will be considering matters. But he has not indicated when the public will be able to consider the matter. Could he give us a little bit more information or a likelihood of when that would be happening?

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

There is likely, I am told, that there is going to be a proposition brought before the Assembly in order to confirm the decision together with all of the financial arrangements. I will confirm that after consulting with the Chief Minister and Minister for Health and Social Services later on today. There is a Ministerial Oversight Group, which is guiding this, but ultimately it will be with the Council of Ministers before it comes to the Assembly. But it is the intention to inform Members of that process as soon as the work has been completed.

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

Sir, sorry, just one final supplementary? I was led to believe, and I think the public were too, that the public were going to be given the opportunity to consider the new-build and rebuild option and preferred site. The Minister seems to be suggesting now that he is going to circumvent that process and just bring a proposition to the House. Could he confirm exactly what process he is going to follow?

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

This is not strictly only a matter for the Minister for Treasury and Resources. Clearly, if there is going to be a proposition brought before the Assembly then there is going to be the ability to consult publicly on indeed that decision. So, as with all matters, a matter is going to be placed before the Assembly, the public is going to be able to be consulted and then ultimately this Assembly will decide.

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

What further consideration and what progress, if any, has the Minister made on the issue of the taxation of non-finance companies?

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

I have nothing further to add than the detailed report that I published a number of months ago.

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

The Minister has recently returned from an important visit to the Cayman Islands. Would he be willing to share any experiences or findings that he was able to gather while there?

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

I know the Deputy also has returned from Singapore on C.P.A. (Commonwealth Parliamentary Association) business. **[Laughter]** Indeed, I was pleased to be able to speak to him during his visit. I know that he not only did C.P.A., but he also apprised himself of the important competitive issue with Singapore. That is exactly what I did with the Cayman Islands too. It was a great privilege to be picked to go to the Cayman Islands. I hope the election mission, which was regarded by all observers a great success, free and democratic elections followed the visit and the mission. There is a detailed report that is going to be published, which is being worked on. I also took the opportunity of apprising myself of the Cayman Islands' financial services industry, meeting with a wide range of firms that were in Jersey and indeed the Cayman Islands. I think that is very beneficial to our work in relation to developing financial services and whole G8 agenda. I will be providing a report. The Greffier has asked me to do so for a forthcoming publication.

### **5.9 Connétable A.S. Crowcroft of St. Helier:**

Relating to the question by Deputy Hilton, as a former Deputy of St. Helier and with many present constituents, does it concern the Minister for Treasury and Resources that St. Helier has been shown to be short of open space in the Island Plan and therefore, the Parish should resist any incursion into Parish woodlands unless absolutely necessary? Would he further confirm that initial discussions with the Parish made no reference of a threat to the hospital? Indeed the main beneficiary of the new station was going to be the proposed Esplanade Quarter development.

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

Indeed, I do not want to start a war of words with the Connétable, but we had a meeting where he agreed to support the putting in place of the substation at a location which is the disused quarry on the inner road. Clearly always there is a trade-off in relation to open space and infrastructure investment. That is a trade-off which we, as politicians, as elected leaders, have to determine. This

infrastructure investment is absolutely required, needs to be put somewhere and the J.E.C. together with the discussions we had, had I thought found an ideal solution in identifying the disused quarry and indeed the Parish were going to be fairly substantially compensated with, I recall, a total figure of some third of a million in relation to that. So, I think the Parish was more than compensated for what is effectively a disused quarry. I regret the fact that the Constable, having previously agreed his support, now appears to be neutral or, if I pick on his underlying tones, now negative. That is not what we agreed and I regret that.

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

Sir, supplementary? Could the Senator answer my question? Does the Island Plan show St. Helier to be short of open space?

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

I support open space and the fact that the new town park is extended and the fact that St. Helier has a fantastic Waterfront and sea front means that there is open space. Clearly, hard choices need to be made to secure vital infrastructure and to secure power to people's homes and, yes, indeed new developments in St. Helier, which will provide the Parish with more rates for its own internal resources. I would have thought that he was supportive of infrastructure investment and further development of St. Helier.

#### **The Bailiff:**

Very well, that brings the 15 minutes time for questions without notice to the Minister for Treasury and Resources to an end. I regret there are 8 Members wishing to ask further questions, but the time is up.

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

Sir, can I just say for reference, it is frustrating for Members who have genuine questions to do with financial matters when questions are being asked about planning and telephones, even though I know the latter falls under the shareholder's remit.

### **PUBLIC BUSINESS**

#### **6. Parish Rates: the States' liability (P.40/2013)**

#### **The Bailiff:**

We have nothing under J, for Personal Statements, and nothing under K. We now come to Public Business. The first item on the agenda is Parish Rates: the States' liability - P.40 - lodged by the Connétable of St. Helier. I ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion (a) to endorse proposals 1 and 2 contained in the report by the working party set up by the Minister for Treasury and Resources, included as an appendix to the proposition "Parish Rates: the States' Liability (P.68/2008), namely, (1) that the States, like other ratepayers, should be liable for both Parish rates and Island-wide rates on all their properties, and (2) that the additional cost to the States in meeting their rates liability should be contained within existing States budgets, except where such costs form part of a service whose costs are recovered in the form of charges to end uses, and (b) to request the Minister for Treasury and Resources to take the necessary steps to make available adequate funding for 2014 and 2015 from central reserves to enable rates to be paid from 2014 on public land and buildings (which are currently exempt from both foncier and occupier rates in accordance with Articles 17 and 18 respectively of the Rates (Jersey) Law 2005) without seeking to recover such payment from

the Parishes, and to request the Council of Ministers to ensure that adequate provision is made in the next Medium-Term Financial Plan to meet the cost from 2016.

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

Moving neatly on from the last question to the Minister, which I suppose could be seen as an opening skirmish in the battle to follow. I am not sure who won it, but we will see. I would first of all like to point out to Members that the proposition is in 2 parts. I have been advised that it is possible for me to ask for the vote to be taken separately on (a) and (b). I would just like to explain why that is so. Given the lack of obvious support from the Connétables and the Council of Ministers and the Minister for Treasury and Resources, there is not really much prospect of my winning this debate if I ask for parts (a) and (b) to be taken together. In other words, if I ask for money to be put on the table I am going to go away empty-handed. But, I would like to ask Members to focus very closely on the first part of the proposition, that is (a), which is to endorse the proposals contained in the working party's report, set up not by me but by a past Minister for Treasury and Resources and included in the proposition P.40. The nub of that is the States, like other ratepayers, should be liable for their Parish rates and Island-wide rates. Secondly, that the additional costs to the States in meeting this burden should be contained within existing States budgets unless there is clearly a user pays charge which might be appropriate to levy it on. In other words, what I am seeking today is an in principle debate on whether the States have a liability to paying Parish rates and whether that should be honoured. I do not think, as I say, there is much prospect of getting any money. I do think, however, that the principle needs to be debated, because it never has been. Members who have read my report will see that it has been kicked around now for a decade and the States have never really grappled - despite lots of promises that have been made during the last decade - with that essential principle. So, while it is true that possibly I should have pursued it in the Business Plan... and Members will see that in 2011 I had an amendment to the Business Plan which I withdrew. The Business Plan then was under tremendous pressure. There was no prospect of getting this matter through. I had had another set of disappointing, to say the least, comments from the same parties and there was no prospect of getting that through. There is no prospect, in other words, of getting the money through. I could not have the debate in principle as part of a Business Plan. The same applies for the Medium-Term Financial Plan. The Minister for Treasury and Resources comments says: "Well, you should have raised it as an amendment in that." But the M.T.F.P. was not the place to have an in principle debate on the payment of rates by the States. If Members will remember it was a very difficult debate with lots of amendments coming in to take money in to different places. I mention in passing that when I discussed this proposition with the Council of Ministers recently I asked the Minister for Treasury and Resources: "If I had brought an amendment to the M.T.F.P. would you have supported it?" He said: "No." So, what I am trying to do today is to ask the States to focus, really very simply, on the proposals of a working party set up some years ago by a States which recognised - and you can see remarks by the first Chief Minister, then the Senator Frank Walker - that there was a fundamental unfairness in the way that we were tackling this and that it had to be dealt with. The working party came forward with its proposals. They are on page 4 of the report. I will just go through them very briefly. The working party proposed that the States, like other ratepayers, should be liable for Parish rates and Island-wide rates. They gave 5 main reasons. First of all, on an equity basis the States operates as a competitor with the private sector in the provision of certain services, for example, office facilities and so on. By not including an equivalent to the rates charge the States operations are artificially subsidised. That still happens today. States departments are providing services that are also provided by the private sector and it is not fair on the private sector who have to, of course, pay rates. The second point, the States should recognise the full cost of occupying property for comparative purposes. The lack of a rates charge skews comparisons with private sector providers and public sector bodies in the U.K. It makes it very difficult for the public sector

in Jersey to be properly benchmarked against other authorities. The third argument, and one which I think really does chime, not just in St. Helier but with any Parish where a building has been taken into public ownership, the States should pay Parish rates to meet the costs to services. The example that I often give is Morier House. Morier House was a bank which paid rates in St. Helier. It became a public building: that rates income was lost.

[12:00]

Strategic decision making would be improved, the working party went on if the full costs of occupying property was realised. By not recording the full cost of occupying property the States are hampered when making decisions about property usage. It is perhaps a good example, the former J.C.G. (Jersey College for Girls) which is still empty after how many years. It was being vacated when I was elected a Deputy. So, we are talking about more than a decade that building has stood empty. There is no doubt in my mind that if rates were being paid every year on that empty property then the decision making would have been much sharper. Finally, the States should pay their share of Island-wide rates. Members will remember that Island-wide rates started in 2008 to relieve the urban Parishes of the unfair burden of welfare. The States do not contribute to the Island-wide rate and that means a higher level of contribution from the parishioners of all Parishes is required. So, those are 5 very good reasons set out by the working party. I would be obviously hopeful that Members will focus on that rather than on some of the other arguments that have been used in the past to deflect attention away from what the working party was saying. In proposal 2- and I am not going to go through all of the subsidiary paragraphs - the working party made one thing very clear, they did not believe the States could simply move these extra costs of paying rates either on to other ratepayers (and I suspect that is what the Minister for Treasury and Resources has up his sleeve, it is to make certain rate payers, particularly commercial rate payers pay more to offset the cost of the States having to pay rates), or indeed should they put those costs on to the public. The working party said States departments much find more efficient ways of doing business so that they can meet their liability to rates without putting up costs, without needing more income, working within the envelope of their expenditure. These recommendations on page 4 and 5 are what we are here, I would submit, to discuss. Do we believe that like the U.K., like Guernsey, Jersey's public sector should be paying rates on the properties they use? I believe that the case is well made and interestingly, and if Members look through the history which is set out on the ensuing pages of my report, no arguments have really ever been adduced against those findings of the working party. That is why I find it slightly curious that turning to the comments - and I am just going to look at those briefly - there is not that kind of acceptance perhaps except from the Minister for Treasury and Resources who does accept in broad brush the principles. If we turn first of all to my fellow Connétables... and I note in passing that supporters of option B in the referendum pointed to this proposition as evidence that the Constables had to have an automatic seat in the Assembly and yet when it came to providing their comments very few option B supporters gave it any support at all. The Constables' comments in 3 paragraphs... clearly I was part of this discussion which is why the Constables were not unanimous in their opinion of the proposition. It begins by saying it will affect the Parishioners of some Parishes differently to those of others. Surely that is the basis of correcting unfairness. When you correct unfairness you will be dealing with, one would hope, a minority of people who are in some way being treated unfairly and when that has been dealt with then hopefully there will be a sense of fairness and equality. I do not see that there is anything wrong that a minority of Parishes will benefit if the States eventually start to pay rates on their properties. The second paragraph does accept the proposition seeks to restrict the method in which the costs can be funded but it goes on to say: "However, a majority of the Constables are of the opinion that ultimately the public will pay." That, of course, as I have just shown, was not a recommendation of the working party. The recommendation of the working party was quite specific that this cost must not simply be offloaded on to the public. If, at the end of the

day, taxes have to rise in order for the States to pay rates, it is much better that it goes through taxation than through rates, and Members will have had this argument before when we talked about welfare that ratepayers pay rates not on their ability to pay but on other factors, the size of their properties, for example. Taxation is based on people's ability to pay, which is why most of the services, unfortunately not all, provided by the public are raised through taxation rather than through rates. The last paragraph has a couple of sentences, which for the life of me I still do not understand. First of all, it says that the proposition does not identify the financial impact on the rates of each Parish. Clearly it cannot because at this stage we do not know if the States is going to pay rates, how much exactly will come, but it surely will only be beneficial. No Parish is going to be worse off as a result of this and that is why I found that rather curious, and indeed it goes on to say that the ratio of the domestic rate and the non-domestic rate might be influenced. Again I can only see this being done in a beneficial way. If the States were to pay a contribution to the Island-wide rate then the Parishes' contribution will be that much less but, as Members will know, the split between domestic and non-domestic is approved by the Constables and it is done in discussion with businesses but these are matters for another day. They certainly should not prevent my colleagues from giving this their wholehearted support. Some Members will understand that I was disappointed by that. The Council of Ministers' comment is one line: "The Council supports the comments presented to the States by the Minister for Treasury and Resources." A disappointing comment because I think given the history which I have tried to set out in my proposition, it has been a long and winding road to this debate and I would have thought given the work I put into my proposition, given the fact that 2 previous Chief Ministers pledged to address this matter, the Council of Ministers might have gone a little bit further than simply echoing the Minister for Treasury and Resources' comments which I come to finally. I will have to say a little bit more about these comments. First of all I welcome the first paragraph. The Minister supports the proposal, broadly supports the proposal as set out in the working party's report that the States should pay rates on its properties from an equity standpoint, as well he should say that because of course, as I pointed out in my report, he has been saying this for some time. The problem is that nothing has happened. There has not been any attempt by the Council of Ministers to factor this in to their calculations. It should not be a matter for a Back-Bencher to bring an amendment to the M.T.F.P to do this when for many years now the Council of Ministers presumably has supported this inequity link being dealt with. The second paragraph says: "The Minister intends to reach a solution in his term of office." That again is consolation of sorts but it rather depends what the solution is that is being talked about here. Let us go back to the previous Government where the working party's report was brought forward by Senator Le Sueur and the way of paying for the rates being paid by public buildings was to offload all of those costs on to whom, on to the ratepayers. I wrote what I thought was a devastating critique of that proposition and it was promptly pulled by the Minister and never seen again. If the Minister for Treasury and Resources' solution that he is hoping to find in his term of office is similar to the one which Senator Le Sueur brought forward, then it will go down the same plughole because I do not believe the ratepayers in any Parish will accept a loading of the commercial rate so that the States can pay rates on their properties. It simply is not going to happen and it will be fought as hotly in Trinity where commercial premises do not want to see an increase in their rates as it will be in St. Helier where most of the commercial ratepayers are anyway. It may be the case, and I know the Minister for Treasury and Resources has views about this that commercial rates in Jersey are very low compared to other parts of the world and that is a debate for another day, but if his solution is to, as I say, put that rate burden on to business then he is not going to find a solution in his term of office. It is not going to happen, and I will be here, if I am re-elected, making the same arguments in a couple of years' time. I have already addressed the Medium-Term Financial Plan which he alludes to as being the way I should have done it, and I have pointed out that that would not have had much success either against health care and other matters that were being debated at the time. Further

down the comments we start to see the siren voices which have increasingly been heard whenever the issue of States' rates has been mentioned and I am quoting from the middle paragraph: "In resolving this issue it is important to have an overall understanding of the costs and benefits of St. Helier being the Island's capital. It is unlikely that the issue is as clear cut as is argued due to the more complex relationship between the Parish of St. Helier and the States." This is a very interesting paragraph. It is a seductive paragraph. It is fundamentally wrong. Back in 2004 we commissioned a large piece of work on the machinery of government and one of the major findings of that was that the position of St. Helier was unfair and it needed to be addressed. It is no good coming along now and saying: "Well, look at the town park", that is one that has been mentioned quite a lot: "Look at the other investment that has been made in infrastructure in town", because that does not deal with the unfairness that ratepayers in one Parish or in a group of Parishes are being treated unfairly by the way we collect rates. Nor, of course, does it deal with the fact that strategically St. Helier has for at least 10 years, and probably now longer, been earmarked for the brunt of development on this Island, commercial and residential, and with all the traffic implications, it is all coming into town. I have been quite happy to support that because I can see that there is a very good planning reason for concentrating development in the urban area. It keeps the rest of the Island nice and that is good for us in town and it is good for our tourists and it is good for people who live in the countryside. You cannot then turn round to town and say: "Well, we are giving you all this investment. We are giving you all these roads and all these wonderful facilities", because you are putting those in there because you have decided to focus development in the town area. I find the arguments in that paragraph a little mystifying, also of course we have a working party; we have proposals from them. Is the Minister saying we need to reopen that working party, restart the working party? I am not sure. The other common siren voice is that the Parish receives lots of rates from developments. Of course they do but that is not an argument. But not addressing the equity issue... and indeed I do not believe that the Minister thinks it is but he has brought it in here to try and perhaps give him a bit more time. I do not know. He talks about the marginal costs of providing additional services. There is no doubt that if the urban Parishes that are most affected by inequity had the States paying rates, they would be far better able to provide more services and so you would have presumably a cleaner town. You would have more of the kind of things people want to find in their urban area and you will probably have lower rates. But is it such a bad thing that St. Helier which has traditionally had the highest rates in Jersey for centuries and still has among the highest rates - and it is probably going to have higher rates again next year because of the cost of providing facilities like public toilets - that people living in the town should have the lowest rates? Why should the townies have the highest rates anyway? You would think that it would be the other way round. He goes on to say that St. Helier is a principal beneficiary of funding urban renewal, fiscal stimulus and so on and that is where the town park is mentioned, so I hope I have managed to point out to Members that they have adopted a strategic plan which focuses development in town and it is entirely appropriate that what goes along with that is a certain amount of infrastructure. That is why there are people in town trying to protect the town's open spaces from further development, and the substation has already been mentioned today in question time. The next paragraph talks about the taxpayer and ratepayer being the same. I have already said of course they are not. Rates and taxes affect people differently. That argument was very well made during the welfare reforms and I think people accepted it was unfair for ratepayers in one Parish to bear unequally the cost of welfare just because they happened to be living in the town. That argument was accepted and welfare was duly spread across the Island. The last paragraph on the first page of the comments talks about the increase in taxation. This is not as envisaged by the Working Party. The second paragraph does speak about the Minister coming forward with a proposal by March next year for consultation and a way forward by September. This, as I have already said, does not fill me with hope. The Minister may correct me if I am wrong because I understand that the Minister's proposal is to load the cost of this on to ratepayers anyway, I think

we will end up just moving money around. Ratepayers will still be bearing this burden for the public. The ongoing review of properties is talked about and I think many Members are frankly disappointed with how property is going. I have already mentioned the former J.C.G. is still empty after a dozen years and other properties which really should have been dealt with better.

[12:15]

There is some good in this proposition but certainly not nearly enough for me to abandon my efforts to ask the States to debate the principle of the States' liability to rates, and if Members have not gone through the document, I would urge them to do so because what they will find to some extent a little depressing, I think, is that right through the last several times we have debated this the States have ended up saying: "Yes, there is a problem here of unfairness but we are not prepared to tackle it now." Back in 2005 there is a very interesting comment by, I think, the former Senator Frank Walker that times are really tough. This was 2005. We cannot afford to address this problem of the States not paying rates. Now, 8 years later, times are certainly tougher and the Constable of St. Helier has admitted at the start of his speech he is not even going to ask the States to pay rates, he is simply going to ask the States to accept the principle that they have a liability and then hopefully if we can believe what we are being told, that work really will start in earnest and that work engagement will start between the Council of Ministers and not just St. Helier but the Parishes as whole, which have ratepayers which are currently being treated unfairly. I make the proposition.

#### **The Bailiff**

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

#### **6.1.1 Senator A. Breckon:**

The Constable is right of course. This issue has been around for a long time and I think he is in danger of doing the same as we did with Fort Regent, and that is agreeing in principle that we should do something and then not putting the money in place. Having said that I do have some qualified support but I have a number of questions. The Constable in proposing this never touched on this and I hope that the Minister for Treasury and Resources will listen and also, although he is not here, the Minister for Transport and Technical Services because I wonder if there is going to be a *quid pro quo* on this if the States have to pay rates. The question is can we get it back from somewhere and the answer to that is, yes, we can because if the States start levying what we might call municipal charges on, say, rubbish disposal - and I think before there was a covenant on Bellozanne that prevented charging but there is not anymore - and I wonder if that could happen, if rates have to be paid then some way of getting the money back. Those are mentioned a few times about the money-go-round but we might well go there again. There are other things like main road maintenance and street lighting, which at the moment I understand is centrally funded but it might not be if rates have to be paid. There might be charges that go back and even perhaps with unforeseen events like flooding or storm damage or things like that, at the moment I understand it is not paid for. There may be disputes over insurance if there is a landslip or landslide somewhere about who pays and who claims it back but it could well be that the States look to Transport and Technical Services who are recovering some of these charges. But having said that, before the Minister does get too excited, I think his budget will reduce if there were income from elsewhere. Having said that, if it was a user pays charge then it would, on my understanding, have to come back to this House for that to be done. I wonder if the Minister for Treasury and Resources or those summing-up would say whether they envisage or there have been any discussions on such things. I am just thinking I remember in St. Saviour there was a feeling that because of the number of schools, not just local schools but things that serve the Island like Highlands College and Victoria College, Girls College which we know are on the border there, but there is some inconvenience to

parishioners with a number of establishments and there is a thought if there are things to be done then somebody should pay for it and it should be the users of that which could be the States. Again if that happens, then I know from experience that schools do not have any money in their budgets to pay rates so where does it come from? Where in fact will it come from? If there is a payday for somebody then I feel that somebody else will have to pay for it and it will not necessarily be the taxpayer. It might well be the users of a service in the Parish or elsewhere and that is why I wanted to speak early in this debate, so perhaps that could be given due consideration and somebody could tell me whether it has been discussed and is an option. I know there were discussions years ago about the possibility of charging for the refuse disposal, the lorries go in there on weight or whatever it may be and that may still be an option so perhaps somebody during the course of this debate could enlighten us.

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

I am sure there is much support for the concept of raising additional funding in order to assist the burden of the rates on the St. Helier ratepayer and indeed the benefit if this proposition was adopted. If the resulting additional income from the States was used to reduce the rate rather than to fund additional resources, I am sure the Constable of St. Helier wishes to see his annual income increase so that he can progress other projects but also as the interest of the ratepayers of St. Helier as his main objective. What one does not want to see happen, and I am sure the St. Helier ratepayers feel the same way, is that the additional income to be gradually lost or incorporated in other ventures that does not or is unlikely to affect the majority the ratepayers in that Parish. What Connétable would not like to receive an additional £1.4 million funding for their parishioners and of course there are a couple of others who would see an increase too. I am not sure what the actual income my Parish would receive, if any, but of course anything is better than nothing. Like others I have concerns at the timing of this proposition. Financial plans have been made by this Assembly with the work we have all undertaken and debates that have taken place relating to the comprehensive spending review, the Medium-Term Financial Plan and the current budget, and now the Treasurer of the States and the Minister for Treasury and Resources find themselves having to find an additional £1.84 million and that is annually. The Constable may believe that those who do not support the proposition today are quite happy for the St. Helier ratepayers to take the burden of paying more than their fair share so that other parishioners can benefit from the facilities that he provides through this collection of rates. This is not necessarily the case. There is some support for the proposition. However there is a catch; I believe there is a catch if we vote for the proposition today. Money will have to be found from the Treasury to pay St. Helier and St. Saviour and maybe some others, and that money has to come from somewhere. I think there are 2 issues, 2 concepts that we should be considering. The first is that all the relevant calculations have been made with the knowledge of what this Island, not the individual Parishes, is going to need and going to receive from the various sources, fees and taxes that we all contribute toward. If the proposition succeeds then the Minister for Treasury and Resources will have to find additional funding from somewhere, maybe from cuts, maybe additional taxing on something else to cover the shortfall. Something might have to go to pay for it and of course it is not a one-off payment but money will have to be found annually from now on. However the second point of concern is that we have a relatively new law, although it is a change in law from 2005, the Rates (Jersey) Law 2005, a law that has a number of exemptions written into it in both Article 17 that relates to the foncier's rate and Article 18 which relates to the owner's rate. The Constable has spoken about this being kicked around for 10 years. I think we are now asking to remove a part - only a part - of Article 17 and a part of Article 18 specific to the Parish rates for States-owned and occupied properties. The Constable of St. Helier does not appear to be seeking the removal of the entire exemptions shown in Article 17(2)(f) and Article 18(2)(c). It seems a little bit like cherry-picking. If the proposition is adopted today then I suppose it would be possible for the Minister for Treasury

and Resources to come back to this Assembly next month, maybe next year, to bring his own proposition to remove the other parts from those Articles and set the Parishes to rate their own Parish-owned properties and land and pay at least the Island-wide rate portion to the Treasury for his own properties. I suppose it is possible that any Member, in particular a Connétable, and hopefully and maybe not next year, of all years, could bring a proposition to change other parts of the rates law and seek that maybe churches and chapels or even land used by the Minister for Education, Sport and Culture to be removed from exemptions under Articles 17 and 18 and seek that they start paying the foncier and occupiers' rates on their buildings or land. The Connétable speaks about development in his Parish but not that long ago he was seeking to make St. Helier a city. You expect buildings in a city. You cannot have it both ways. I have concerns at removing the current exemption from this relatively new law, this new piece of legislation and therefore cannot support the proposition as it stands today.

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

Firstly I would like to thank the previous 2 speakers and to pick up on Senator Breckon's point about the refuse charges at Bellozanne. In answer to his query, it is the Constable of St. Helier that holds the key to that particular conundrum due to the covenant at Bellozanne. I will return to my speech. The Constable of St. Helier is seeking to obtain a benefit for his parishioners, which is not an unreasonable position to take. However his proposition, if approved, will benefit St. Helier ratepayers and have some limited benefit to a few other Parishes at a cost to all taxpayers who will need to make up the shortfall at some point. The Constable suggests that the additional costs could be contained within existing States budgets but we have already taken out in excess of £55 million of base budget in the C.S.R. (Comprehensive Spending Review) proposals over the last couple years and we have more yet to deliver on the C.S.R. proposals. We have only recently approved the Medium-Term Financial Plan and in doing so we took some very difficult funding decisions. We have been able through good management and prudent financial planning to provide a central contingency sum for unforeseen expenditure that cannot be contained within existing budgets. It is additional that this reserve is used in a disciplined manner and can only be called upon when absolutely necessary. I do not think that providing a windfall sum in excess of £1 million for the Constable of St. Helier is an appropriate use of that reserve and let us not forget this is an annual sum, a year-on-year sum, that will impact on the Medium-Term Financial Plan-based budgets going forward. If we do not or cannot raise the sums required elsewhere what we cannot do is make the cuts to meet the Constable's needs. Services provided by Government are under continual review. We have delivered and continue to deliver sustainable savings through the C.S.R. process to enable frontline services to be protected and to grow to meet the ever increasing demands. I do not see that the Parish of St. Helier needs an additional £1 million each year to service the costs of the properties occupied by States workers delivering public services. However they may have other funding requirements coming home to roost but that is not the concern of this proposition today. These services have not appeared overnight. They are rightly based in the population centre of the Island to meet the needs of the public. The marginal cost to the Parish for these buildings cannot be anything like the £1 million the Constable is arguing for. I would like to see all of the actual costs to the Parish of those buildings and what he proposes to spend the difference on. In other jurisdictions local government actively promotes the influx of business through the provision of reduced rates. I think that the impact of having the majority of the public sector workforce based in town is massively positive for a vibrant and sustainable Parish. However I do accept that the current situation is flawed. The provision of governmental services does not reflect the cost of rates when compared to the private sector especially when they are providing similar services. What I cannot accept is the need to address this position through the transfer of funds from the States to the Parishes and principally to the Parish of St. Helier without a compensating measure and a joined-up approach with our property taxation review. I could agree to the Constable's argument if a

compensating funding measure were included to create a nil effect overall. The Constable has already indicated that he will take parts (a) and (b) separately but my problem lies with part (a)(2), which I do not believe can be taken separately, and so because of that in its current form I cannot support the Constable's proposals in the format that he is recommending and it should be rejected.

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

I thought I was going to have to wait a little bit later but I was obviously chairman of the working party that the Constable of St. Helier has referred to and has included in his report.

[12:30]

It would probably be no great surprise that therefore I will be supporting the proposition. This has been going on such a long time. I can remember going back to my father when he was in here raising it in the early 1990s. I do not know if it has been going on before then but what really gets me is that time and time again we, as an Assembly, impose costs on people on the Island. We always do. It is never a case of they cannot afford it, it is more bureaucratic or whatever it is, it is about bringing people up to the present standard days. They have got to meet at the game. They have to raise the barrier, all that type of stuff. Two weeks ago we had a debate that lasted, what, 2 days at least about removing the hidden subsidy within the Housing Department, and yet here we are saying it is absolutely completely the reverse: "This is absolutely fine that we the States do not pay rates yet Mrs. Smith up the road or Mrs. Whoever it is, Jones down in Grouville, does." That is the fairness bit ultimately for me as far as I can see. I can see no reason, and I have no problem by the way so ... sorry jumping around, therefore I have absolutely no problem in supporting (a) as the principle. If Treasury want to come back and say: "Actually we cannot fund it now", I do not have a problem with that. I fully understand because take £1 million out next year, yes, there could be a difficulty but we will introduce measures to phase it in over 5 years or something along those lines, I do not care. At least that principle has been achieved but to me it is the fundamental bit about fairness and I think Constable Crowcroft is absolutely right to turn round and say: "Yes, okay, we will get the States to pay rates but we will whack it back on ratepayers in a different way", is just ... well there is not a polite way through it. It is double standards effectively or it is the smoke and mirrors bit. Why should we be any different to any other party particularly where there are services which are in competition with the private sector? We had that whole argument. That is the other principle and I was trying to remember, and I should do but I cannot, for example, wonder whether fee paying schools pay Parish rates. You are shaking your head there. My recollection was that they did but maybe I am wrong but there will be entities where there are services provided. I am trying to remember when I used to do the accounts and I thought I had seen fees payable to the Parishes, but I might be wrong. That is fee-paying schools and not, obviously, State schools but I could be completely wrong but there are certainly services out there where the States are in competition with the private sector. It does not matter if I am wrong on the fee paying school side but there are certainly services out there where the States are in competition with the private sector and yet this is one of those situations where you have a hidden subsidy. I think the other thing is, interestingly enough, it will start to at least introduce a recognition within the States of the true cost of the properties that are owner-occupied and that, to me, is also pretty fundamental. So, again, to sum up, for me, it is the fairness principle. I have no problems with somebody saying: "We cannot do it next year" but I do want to see it happening and I also want to see it coming out whether we take it out and reduce contingency or whatever it is - I accept that might be tricky - or whether we can do it out of savings. We say we phase it in over a period of time. No issue there whatsoever but I think as a principle, we should at the very least be endorsing this and I will be supporting the proposition. Thank you, Sir.

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

That is all right, Minister for Treasury and Resources. We all play the game and I lost. **[Laughter]** I did want to speak straight after your Assistant Minister because he said to the Constable he wants to know the true cost of the services of these buildings. Well, unless I have misread or heard people talking around me... well, I think we have got it in our pocket, Constable, through the Chair. We start billing them for the services we supply. If we are going to empty your bins and clean this and that, we can do it. Why not? Then that is the true cost but that is probably too simplistic for here. But I, supporting the Constable, think if you cannot pass this, maybe that is what we need to do. We have lots and lots of buildings in St. Saviour, St. Helier and I think in one of the other urban Parishes - and it might be St. Clement - but it all goes back to what Deputy Le Fondré was saying: "Fairness." I remember a very young Deputy Ozouf in the Town Hall nearly causing a riot. I think we ended up with a zero rate because St. Helier were way, way above anyone else and it took, over the years, for the older Constables - and some of them are not in the House now - to realise that they needed to address a rate system because they were going to be worse off because they were having less younger people providing and their residential care was going to go through the roof, and they saw it coming and it suited the country Parishes. Like the Constable, I do not always agree that we should have everything built in St. Helier. Like Westmount, we have been told different stories why we need the Westmount substation. I am told it is for the Waterfront and I am told that even that square footage of Waterfront land is too expensive to have a substation put on it. So I would like to hear some real answers. That is how much St. Helier is valued. We cannot put it on the Waterfront but to supply the Waterfront with electricity. Now we have got scaremongering that is going to affect a hospital. I do not know if it is the current one because, as the Assistant Minister for Health, I have not heard this and, 3 and 4 District Deputies, houses are going to be in darkness apparently. Now I cannot go with any of that. The Constable mentions we are not comparing apples and pears. Council tax or rates and tax in the U.K., you do pay your council tax on your ability as well. If you are elderly and you are on a very low pension, your council tax is waived and so we are not even comparing the same. So I really, really, think that this is sensible. I have re-read part 2 of (a) and I cannot see why the Assistant Minister cannot support it; (a) is basically in principle and he does not want to support it because of part 2 but we also have the Minister for Treasury and Resources who is going to speak after me saying he is going to find the solution. Well, why would he not because he can find a solution to everything else? I just wonder why sometimes the other 51 of us are in this House because the Minister for Treasury and Resources can do it all on his own. Well, no, I do not think he can and the Constable has been good enough to put this in 2 parts or let the vote go on 2 parts and I think if everybody really still keeps believing that St. Helier is just going to rollover for everything that ... the comments from the Constables are absolutely unique. They are not unanimous. They are not even agreeing but they will not support because some might win and some might lose. What does that say? It is quite simple. It is St. Helier again being told jam tomorrow. I just asked the Minister for Planning and Environment: "Does the S.o.J.D.C. (States of Jersey Development Company) pay rates on those beautiful offices they have got?" Oh, we have a "Yes" and they know, yes, here the private schools do not pay rates but they get massive grants from this House. It is not fair. It is absolutely not fair and the Minister for Treasury and Resources who was that very young Deputy in the Town Hall many years ago because of St. Helier rates - and did have a lot of the answers and I think he does have a lot of the answers and it might not be the commercial rate - does need to do something now. He is going to stand up probably now or just after lunch and say that we have got to wait and he will bring forward a proposition. But I do ask the people in the House today who really believe in fairness and equitability that you can support part (a) and then that will just give it that extra shove. I will support all of it because I do think it can be done and, as I say, at the end of the day, I shall push the Constable to say: "Well, if they do not pay rates, you are going to have to start billing them" because we cannot be the free service for everybody any more. So I urge the people to support this. The Island come into St. Helier, the majority come here to work and everything else

has a knock-on effect. We want open spaces. We have got a little bit of open space and we want to put a substation on it. We have got this and they want to do something else there. Flats. More flats. Where do people sit out who are living in those flats all crammed-in? Not in any of the other Parishes. In fact, they are encouraged not even to have a car in St. Helier because they can walk everywhere. Well, I was sort of filibustering so the Minister for Treasury and Resources did not have to go next but I will now sit down because he is getting very angry with his leg wagging. **[Laughter]** Thank you.

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

I have made inquiries because we are one of those that are in this large taxing and rates effort, and the private schools do pay rates.

**6.1.7 Senator S.C. Ferguson:**

In the report, the Connétable states that local and national government buildings in the U.K. are subject to mandatory or discretionary relief. I wonder if the Connétable could enlarge on this in his summing-up. As far as I am concerned, States departments use buildings incredibly inefficiently because they regard property as a free good and they do not cost the cost of the property into the cost of running the States. If it is costing £700 million to run the States, heaven knows how much the rates would add to that and having to cost rates into the running costs would focus minds significantly and I think it is time, as part of the reform programme, this was done with a little more enthusiasm than the half-hearted: “We are going to charge States departments for their property” which has been going on for the last 5 years. Thank you.

**The Bailiff:**

The Minister for Treasury and Resources, do you wish to finish your speech in 3 minutes or would somebody like to propose the adjournment?

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

Sir, if I may, I will propose the adjournment. I cannot do justice to this issue in 3 minutes.

**LUNCHEON ADJOURNMENT PROPOSED**

**The Bailiff:**

The adjournment is proposed. The States will stand adjourned until 2.15 p.m.

[12:42]

**LUNCHEON ADJOURNMENT**

[14:15]

**The Deputy Bailiff:**

Now we resume the debate on P.40/2013 - Parish Rates: States’ liability. The Minister for Treasury, I have you down to speak next.

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

Sir, you have caught me so I was going to try and hang back basically to be able to respond to a number of other Members who I am sure are going to speak. I know, over the luncheon adjournment, Members have been no doubt been well-informed about the plans of the Health Department. Indeed, I was not able to attend that briefing but I had the pleasure of having a working lunch with the Chief Economist of one of our leading banks Mr. Andrew McLaughlin and who is relevant to this debate because it gave me an opportunity to reflect and indeed to explain to Mr. McLaughlin the very strong position that the Island finds itself in terms of its public finances. The reason why that is relevant is because there have been, obviously over a number of years,

numerous debates such as this which are absolutely well-presented. They are well-articulated, they are passionate, they use the words “fairness” and “equality” but at the end of the day, every proposition for this Assembly - and we should be proud of our record in this regard - should have an identified source of funding and should be costed and so that is the real dilemma that I have with this debate. Deputy Martin is correct to say that - and I am by no means the only one - but I think she called me not quite a terrorist but I was accused of causing a riot.

**The Deputy Bailiff:**

I might have picked up on “terrorist”.

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

Yes, I caused a riot, Sir. That is what it was and I am proud of having nearly caused a riot and I want to say that because before any Member speaks and the Constable wraps-up and says that I have not and other Members have not worked very strongly in the past to deal with the historic unfairness that St. Helier had, they would be effectively airbrushing over the truth. Fourteen, 15, even 10 years ago, there was an unfairness. There was a huge unfairness in the Parish of St. Helier having to fund the welfare burden of what would be regarded rightly as a massively unfair proportion of the total welfare and I would remind the Connétable of St. Helier that many of us - and he was one of them - worked extremely hard to deal with a number of these really large unfairness's that St. Helier and indeed - and the Connétable of St. Clement is not here - that St. Saviour and St. Clement were blighted with. We have made a huge amount of progress on dealing with and putting fairness into... in terms of the funding availability of individual Parishes and I agree that this almost last of, perhaps, one or 2 issues of unfairness does need to be examined and worked on. I want to commit again to working to find a solution to that. I cannot, however, agree to the terms of part (a) of the proposition which go far farther than I am prepared or I think it is at least advisable to go in taking the whole of this issue of the rates burden or the potential rates burden of St. Helier and effectively finding it within existing funds. That is a step which I think is a step far too far so it is true... and I noted Deputy Le Fondré was involved in that working party. I would say that in 2004, the world looked rather different. We were still in an exuberant phase of cheap credit and easy finance and we thought that there was going to be never-ending growth. It is worth reflecting on the fact that back in 2004, the world did look rather different and the former Senator Walker who would have said that States finances were then constrained at the time ... of course public finances are always constrained. There are always higher priorities of funding that need to be found but certainly 10 years on from that, the acute priorities that we have ... and Members were familiar with this because they will just have heard the acute funding requirements that are required. We do have to prioritise and while there is an issue that needs to be examined and needs to be dealt with in St. Helier, are Members going to say this afternoon that that theoretical unfairness which we still do not know the real details of - we need to do the work - is of a higher priority. I am going to argue that the States has got a fantastically good track record in recent years of not promising things that cannot be delivered and I am prepared to look at this issue but I am not prepared to sign-up for something which is effectively a blank cheque or an unknown set of metrics. I understand completely the arguments that St. Helier does provide parks, gardens, toilets, street cleaning, litter collection and that indeed the Constable in his recent *Town Crier* says that the logic is inescapable that a lot of these issues must be dealt with. It is true that the majority of public buildings are based in the Parish of St. Helier and indeed it also should be noted that the second Parish that is the home of a significant amount of public buildings is St. Saviour. I know that the Connétable of St. Saviour has spoken but she has explained to me that she accepts the fact that her Parish is the home to a significant number of schools and I think it is the case that both J.C.G. and Victoria College do not pay rates but St. Michael's does. She accepts the fact that that is a responsibility which her Parish has and, indeed, she gets other benefits overall and she has come

to the conclusion with her Parish administration that she wants to keep the *status quo* and that she does not want to simply go automatically to this almost more extreme position that the Connétable of St. Helier is saying is that this is all a one-way street. I was disappointed with the Constable's opening remarks and I do not quite know sometimes which side of the fence the Constable is sitting. He says that, on the one side, in the Parish of St. Helier, all the development is coming to town. Well, he wants it but he does not want it. I certainly know that - and I agree with him from a planning consideration - it is the right thing to focus development on the urban Parish. Indeed St. Helier can be made an even better place to live and to work and to recreate in terms of all the public open spaces and it is a great place to also take timeout from busy lives but we should invest in that. But I do not think it is right to say that simply the Parish has not benefited from very significant improvements in terms of the public realm and I would argue over and above that additional development burden. If we reflect on the very significant investments, and I am not going to mention in detail the town park, but if we think about, for example, the huge significant urban renewal projects that we have carried out. Controversial. But Broad Street and the widening of street pavements all the way down. I enjoy the walk from Broad Street down to Liberation Square. I enjoy walking on the wider pavements that are around York Street and David Place. I am proud of the very, very significant amount of infrastructure of urban renewal that has happened in St. Helier and is the Constable of St. Helier really saying that all woe is the Parish of St. Helier in making St. Helier a far better place to live and to walk and to take time out than it was 10 or 15 years ago? Because we can both play the tit for tat trade-off. Indeed, I was sorry, in question time this morning that the Constable is now going back on what I thought was a good deal for St. Helier in relation to the purchase of the infrastructure site for the Westmount substation where the Treasury, yet again, agreed to treat St. Helier differently than all the other Parishes. The Constable of St. Clement - and I hope he does not mind me saying so - looked over to me and he said: "Well, I will have one of them please. I will have a substation in St. Clement and I will take £300,000 and £83,000 for an urban renewal project." I think the Constable must say that it is not just an issue of a one-way street. We and this Assembly have rightly - and I am proud of my record in this regard - put very significant investment in St. Helier. It is not just a one-way street. By the way, it is also not a one-way street in terms of credits, if I may say, on the rates account. The Parish benefits from a very significant amount of rates receivable from the Waterfront, hundreds of new homes and businesses, and yet the Parish still has not come to a conclusion in relation to ownership of the roads. Now I am sorry, I say to the Constable of St. Helier: "Please do your debits and your credits in relation to the income and to the long-term sustainability of St. Helier" and I also would say that it is also not right to simply cast the States of Jersey almost as a sort of fictitious private enterprise which should be treated like a private citizen. Over lunch, I was just explaining to some of the guests around the table and they were saying: "Oh, this is about moving money from one jam jar to another, is it not?" I am afraid it is just not right to cast the public in the same way as a private individual or a company. There is a consequence. If the burden of additional rates is going to be put on the public, then we are going to have to pay for it in some way. It is either going to have to be paid for by a cut or it is going to have to be paid for by an increase in tax. We have taken all the easy savings. We have taken all of that. I am as committed as any other Member of this Assembly in dealing with and delivering further economies and savings but they are not going to be easy and I am not going to be able to find and my Assistant Minister and the Council of Ministers - because somebody has got to make these decisions - are not going to be able to find north of £1.3 million if the full rates is paid on Parish property and I will come back to that in a minute. That is going to hurt and it is going to have a consequence. I am afraid the world of politicians pretending that there is some sort of magic wand and there is some of genie behind the curtain that can be found for £1.4 million, I am afraid those genies do not exist and the wreckage of the world financial industry and the wreckage of most governments' public finances should stand as an example of the error of politicians promising that there is some sort of magic wand that can find something. It does not

exist. Also, I am committed to finding a solution but I want to engage with the Parish of St. Helier. If we are going to have this debit and credit reconciliation, I think it is a legitimate question to ask the Parish of St. Helier what are the additional costs of having these public buildings in the Parish? What are the additional costs? Are they the full rateable value that is effectively collected? Deputy Le Fondré is looking at me quizzically. He was not here when I responded to his own chairmanship of this report. The world has changed and if we are going to find money for the Parish of St. Helier and this is going to be such a high priority that it is going to be higher than the investments required in further improvements to income support, if it is going to be mains drains, if it is going to be other Parish improvements, if it is going to be healthcare issues, we do need to know what we are paying for in terms of the Parish of St. Helier. I am afraid the public of Jersey and the Exchequer, as Deputy Duhamel calls it, is not like any other citizen. It is going to have a consequence in terms of finding the money. I have committed and, indeed, I have been criticised - and it seems you cannot win - for saying: "Yes, we will look at this issue and if there is going to be an additional liability we will look at finding a solution to that in our property tax review." Corporate Services were absolutely right in reminding the Treasury of the importance of looking at property taxes and, indeed, we are looking at precisely that.

[14:30]

It is right to say - and this is the danger of part (a) of the proposition - part (a) of the proposition rules out any alternative mechanism of recovering that money that might go to St. Helier or St. Saviour. It completely rules it out. Now I think there is a legitimate debate to be had about taking that burden - to the extent that there is an unfair burden which we do not really know as we are just dealing with concepts at the moment - if, for example, there is a legitimate reason to pay St. Helier for the unfair burden of those additional properties of, say, £200,000 or £300,000, then, frankly, my first call is going to be ... and I will be absolutely clear and this is the consistent line of the previous Minister for Treasury and Resources and myself, that we would look to recover that by effectively looking at commercial rates. Now, I am not saying definitely to do it but commercial rates in Jersey are extremely low. Property tax is a good form of taxation, as the Corporate Services Panel has said, and I think we need to have the option of redistributing that money and it is one jam jar to the other. It is not a fictitious jam jar; it is a real jam jar. If we are going to move one bit of Parish public spending into another bit of public spending, we are going to have to have a proper debate about how we fund that. Now accepting part (a) completely rules that out and I want to be clear that if we are to find some additional resources for St. Helier, which have got to be, as the Assistant Minister has said, it is not just the one-off. This is an ongoing, year-on-year, recurring expenditure. I think that it is my job to also give Members an option of how that is going to be funded. Are Members going to accept a cut and, yes, I will be the emotional States Member and I will say: "Will they take a cut in the health service to pay for this?" There is no illusionary spending. I think I just heard Senator Ferguson say: "Yes." Well, if she thinks that she can cut health spending, then she can think that. I personally do not. I think we are going to have to spend more money on health. Hard choices are there. Are Members going to accept a cut or an increase in tax on ... I will not use the inflammatory G.S.T. (Goods and Services Tax) or income tax exemptions, or are we going to realistically look at commercial rates? The last time I examined the figures, 83 per cent of commercial rates are in St. Helier of which a further 80 per cent are offices. Now, looking at that burden, would it be correct to say that those hundreds of thousands of pounds which we need to find for St. Helier, after having done the figures, would not be best imposed on effectively office owners, which is the vast majority of commercial rates? You can put small business exemptions; you can deal with all sorts of things for small businesses, *et cetera*. Are Members really going to say today that they are willing to rule out that option as a way of dealing with this residual unfairness? I do not think that that would be a wise thing to do. I have committed and I mean what I say. This is an important issue. I am afraid that the Constable is not

completely, I think, fully reflecting the reality of the situation. If he really wanted to find an earlier solution to this, he could have brought an amendment to the M.T.F.P., to have that debate where we would have responded about how to do it. He did not do that. I think it is not correct to say that this is an inappropriate debate. Why does he want this in principle debate now to rule out all of the options when he knows the money is not going to be there? We have had many debates. I can remember the setting-up of the Childcare Trust. Aspiration was there but no money was found. This is the worst kind of political decision making. If the Constable was really serious in dealing with this, he should have brought it as an amendment to the M.T.F.P., which we debated. It is clear. I think he has conceded that there is not going to be an opportunity of finding new money within this period of the M.T.F.P. As the Assistant Minister said, this would not be a use of contingency because it is a recurring expenditure and contingency should not be used for things that you know about. It certainly should not be used on the basis for an in principle debate which you want to bring forward. That would be absolutely wrong. That would be throwing away the whole of the rulebook that we have set out in the M.T.F.P. I have committed to come forward to working with the Parish and that is quite difficult sometimes when the Parish seems to change their minds on issues. I would like to work with the Parish constructively on an open-book basis to establish the extent of the problem and when we understand the extent of the problem, then to find an appropriate funding solution. I have given that commitment. That is a commitment made publicly. It is set out in the comment from the Treasury, and I would ask Members respectively to not be almost taken along by an emotional argument without the facts. We want to establish the facts. I am committed to finding a solution, identifying what the problem is, and then finding a solution and presenting that to Members so that that is well in advance of the next M.T.F.P. There is nothing to be gained in the short term apart from a feel-good short-term political goal, which is never a good way of making decisions in approving this proposition today. I have set out my arguments and I hope Members are consistent in the debate that we have had with the M.T.F.P. and all the other debates and that we do not start making the sort of dangerous decision which so many countries have made, and so many parliaments have made, which is promising things with no actual real solution. There is not a magic wand. There is no genie. This needs work and it needs time and I ask Members to reject the proposition.

**Senator S.C. Ferguson:**

May I just make a slight correction? The Minister for Treasury and Resources talked about the Corporate Services Panel recommending property taxes. Unfortunately he did not quote it in context and it is property taxes looked at in the context of a simplified tax system and reduced direct income and corporate taxes.

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

Bravo, absolutely. Property taxes in the round looking at all issues, including commercial rates and if we can raise more money from property taxes, then we might find a solution for St. Helier. I could not have said it better myself. **[Laughter]**

**6.1.9 The Connétable of St. John:**

I have to agree with the previous speaker. He made a lot of sense. I do not suppose we will get any extra money for drains. That said, I cannot support an in principle debate because this Government is in the mess it is in, we happen to have reformed again, because of an in principle debate and we never put the meat on the bones. If we are doing something, we put the meat on the bones at the start. We do the whole job properly. We have a town park, which is paid for by the entire Island, not just the Parish of St. Helier. It cost, I am not sure of the full figure, between £10 million and £20 million. All us taxpayers paid for it. We have a park on the Waterfront. Likewise. The previous Minister mentioned all the road improvements that St. Helier has had to the detriment of

the rest of the Island and I am looking at the Minister for Transport and Technical Services who is after getting money from the Parish of St. John just to pull some plans together, and we have not said no but my colleagues have not said yes. We see street parking. Who gets the revenue for the street parking on States roads? I am hoping the Minister is going to ... he has given me the nod. I anticipated that the Parish of St. Helier gets the revenue, yet we have to asphalt those roads and we are providing these car parks along the side of the roads when you and I, and all the other taxpayers, are allowing the Connétable of St. Helier and his team to get the revenue. Now that cannot be just either. The Constable needs to get a just argument if he wants to go down the road of saying that the States should be rated on their properties in town, given that those properties - the majority of them - are in the finance industry, would not be using his dustbin service, refuse collection, because they, in fact, would use a security firm to remove and shred all their paperwork. I have seen private dust collectors collecting cardboard from many shops in town because they were firing-up their furnaces in the greenhouse industry. Another burden that was not falling on the Parish to have to remove. There is a whole host we could go on and on about, that the St. Helier residents are not having to pick the bill up in various areas for the business community. Another one is street lighting. If the States were to turn off the street lighting on main roads, which we pay for, and the bulk of the street lightings are in St. Helier, and if I remember correctly, the last time I put a question to the J.E.C., in fact, there was not even a meter. They could not even tell me how much it cost to light up, shall we say, Victoria Avenue. I am not saying it has not happened now but several years ago they could not give us a figure on what that was. That came straight off the main and there was just a lump sum per annum that was paid across. Now the Parish of St. Helier is very fortunate. They do have street lighting. I think we have got about 5 bulbs around the church coming off the main which we get a small bill for within the Parish but we do not have street lighting, Connétable of St. Helier, and we are quite happy in St. John. It keeps our rates down but we do not ask the States of Jersey to pick up our street lighting bill as happens on the bulk of their rates, and I could go on with many more but I think I have said sufficient to get Members' minds working at the benefits that St. Helier gets being the capital of this Island to the detriment of the other 11 Parishes.

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

Very briefly, I just wish to comment a bit on the Connétable of St. Helier's views on the Connétables' comments. Obviously, the biggest worry for most of the Connétables is that at the end of the day, someone is going to pay. I think where the main concern was on this proposition was where is the money going to come from and obviously the main concern was - and I think I am pleased - the Minister for Treasury and Resources mentioned it many years ago when we went to the Island-wide rate, the Parishes and the Constables did realise that there was an imbalance on the welfare. To give you some idea on the difference on the balance of the welfare, Parish life in Trinity when I became Constable in just 2002 was allocating something like £64,000 for welfare and St. Helier would have been in the millions. So we did, we came to an agreement between all the Connétables that we would have a fairer system if we had an Island-wide rate. My parishioners now pay £340,000 per year to help those sorts of things. Now I think there is where unfortunately the Connétable of St. Helier has forgotten. He is very, very, fortunate that these things have taken that way because we agreed it was wrong. St. Helier, St. Saviour, St. Clement took the burden and the rural Parishes were fortunate not to have social housing. They did it and it was done but this one is a little bit different. To me, what we really need to know is houses can be financed. This is not a one-off. If we do get into a system of the Island paying rates to all the properties which are owned we could benefit in Trinity. We have the States Farm which does not bring in rates because it belongs to the States but, on the other hand, that is part of the sort of gain or loss we would have. The problem is you really have to start wondering where does it end. Do we start paying rates on Parish Halls, Rectories? Do we start paying on all the other little things which at the moment do

not ... one of the worst things you can do in Government is put money going around in circles. There is far too much of that going on now. At the end of the day, if it is only going to go around in a circle, you may as well leave it where it is at the moment and unfortunately I agree with the Minister for Treasury and Resources. We cannot accept part (a) because all it says is it has got to come out of the same pot that we have got now and that means to me it is the rates systems that have got to pay in the end, and I know the Connétable of St. Helier does not want that. So I will not be supporting this but it was just to say that I think it has to be looked into but, at the end of the day, we have to find a proper way this can be financed that will benefit everyone in the long term that we can go forward for years and years to come because it will be a continual bill.

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

I was one of those that found myself being taken along, and as the Minister for Treasury and Resources pointed out, without the facts by the Constable of St. Helier first thing in this debate. I found it easy to become sympathetic to his convincing arguments. When he started using the word “fairness” I found myself in my mind thinking about States departments competing against the private sector and how it probably is unfair that these States departments do not pay rates when the private sector do. It is important in some of our States departments that we start to realise the true costs of work and that sort of thing would be a way of reflecting that. However, I then found myself thinking more along the lines of the genuine public services that Government are expected to provide for the citizens of the Island, things like schools, things like health centres, and very important things like hospitals. This is not a simple calculation to come forward with but the right place for the debate surely must be at the start of the next Medium-Term Financial Plan. I would ask the Constable to go away, work with the Minister for Treasury and Resources, come back with the detail in 2 years’ time and let us look and see if we can afford to do this at that moment.

[14:45]

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

There is almost nothing to say, having listened to the previous speaker, because I agree entirely with what he had to say. I did though want to ask the Connétable a question because it did strike me that if, at some point in the future, he were successful with regard to gaining rates on commercial property, it would be quite a windfall that he would have, about £1.2 million, we are told. What I would like to ask him is how he would propose to spend that money. Would he be looking to reinvest it in reducing the business rates across St. Helier and assisting businesses that are struggling at the moment? I hope that that would indeed be something that he would consider. Stimulating the economy in that way by having more competitive rates in St. Helier is something I think that the business community would welcome and I certainly would be one of those. It is unfair in many respects, and I think this point has been made, that we have got States departments competing with private businesses where States departments, of course, do not have to pay rates and I think that is difficult. There are problems here. I am not going to rehearse all the points and I think the Minister for Treasury and Resources is well aware of some of the issues. I support the principle behind what the Connétable is saying. It is right from a transparency point of view that we know exactly what the cost is of running our individual departments. One can argue that a department has a responsibility to budget properly knowing that it is occupying premises, knowing that there is a cost and value to that premises and including that as part of its budgeting when it works out its income and expenditure for the year ahead and I think in the future at the appropriate moment - the next Medium-Term Financial Plan is that appropriate moment - we have to take this on-board and make sure that we have looked at all the details and have a considered plan for dealing with this problem. I would also just finally say, and I am sure the Connétable is aware of this, that as part of the work that is being undertaken on the Ports incorporation, there is a lot of work around the properties within the estate and, indeed, coming to an agreement with the Parishes

where both the airport and the harbour, and the outlying harbours for that matter, so it covers just about every Parish in the Island, that there is a belief that the Ports should indeed be paying rates and that assessment is being done as part of that piece of work. I think that just demonstrates perhaps to Members that that is the direction of travel that we need to start taking on-board and being aware of. I cannot unfortunately support this in principle debate but there is a time and a place and I am sure it will come before too long and I am pleased that the Minister for Treasury and Resources is going to be looking at it and coming forward with some proposals in due course.

#### **6.1.13 Deputy R.G. Bryans of St. Helier:**

I feel sorry for the Constable because I do not think he is going to win this debate and I think this is the reason it goes round and round. I feel sorry for the Constable of St. John and his dark and drainless environment up there in St. John. **[Laughter]** He made a very compelling case on our behalf, I think, for the Deputies of St. Helier. St. Helier is the capital and incurs capital costs and these costs should be shared. That has been said a lot already in here. What the Constable is simply doing is redressing the balance and sharing the burden. There are issues to resolve with education, schools, health, *et cetera*, but these are details and can be worked out as the Minister for Treasury and Resources has already said. The Constable simply wants the issue out in the open and to raise the temperature of the debate. As Deputy Le Fondré says, he wants to adopt the fairness principle. As much as we want to preserve the rural Parishes, we must also preserve the unique qualities this town, this Parish, has to offer. The Minister for Treasury and Resources accepts that there is a debt owed. In fact, he listed some of the benefits but there are more, many more, to be considered. This is the Island's showroom and deserves to be treated as such and not just a place to work in and walk away from at the end of the day. We need to accept that this is unfair and begin working on a palatable solution to fix what is broken. Let us vote in principle on part (a) and begin the process of solving the problem that has plagued previous Assemblies. I will be voting for part (a).

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

I would say that probably the Constable knows that he is on a hiding to nothing here although he is right and he can join the club. You can often be right but you will not get it through and that is a shame because it is fairness. We know what happens with fairness with some Members in the House. It is all very nice-to-have and we must have it but not today and I think, with due respect, the Constable finds what happens with the blocked road to the Constables who will join ranks, stand shoulder to shoulder and put him in his place on this. I find myself in the strange position of agreeing with Deputy Bryans. I mean, he is right. This is totally unfair on St. Helier and that unfairness comes up again and again. We only have to see how this moves to make St. Helier second- or third-class citizens in terms of voting and we have got all the nice noises about democracy and fairness but the same people who are more interested in themselves will vote against. So I would say this is a big issue and it is not going to go away and it is not as if the Constable has just brought this up out of the blue. He has been making these noises, the right noises, for years and, as I say, just remember, it is always not the right time. When is the right time going to be because if our Minister for Economic Development would give us that in writing, that the next Medium-Term Financial Plan would be the one, perhaps I would have more faith but I have not got any faith. I would say to Members please do support the Constable because this is about fairness and the States should not be seen to be any different than private businesses.

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

I would just like to address the comments of Deputy Martin and Deputy Trevor Pitman in criticising the bloc vote of the Connétables. Clearly, the comments that have been presented to the Assembly state that the Connétables are not unanimous about this. We are not talking about a bloc

decision, a bloc vote. We all make up our own minds and in this respect, we are not united and that happens quite often and long may it continue.

**Deputy M.R. Higgins:**

Can I ask a question of the last speaker? The actual vote, was it one against, the Constable of St. Helier, or was there more than one Constable against?

**The Connétable of St. Lawrence:**

I do not have the minutes in front of me, Deputy.

**6.1.16 Deputy J.H. Young:**

I will be very brief. I was very attracted by the Constable's proposal. I thought he laid out a very good in principle proposal. I think the principle is right that we cannot be right that we have the dice loaded against the private sector. If we were reinventing the new law, we would not have put in such exceptions. But having said all that, I am afraid I cannot go with his vote on part (a) in principle because I think it does not recognise that the correcting of this is going to be difficult, it is going to be complex, and that we need to take time to do it carefully. So I only say that I am not going to support him but I want to say I think it is really important that this is addressed and that when this does come back in the Medium-Term Financial Plan or whatever, the commitments that the Minister for Treasury and Resources and this Minister has given us in his paper are real and that we really do get this adjustment but it probably needs to be phased. But I am afraid I cannot go with the vote in principle.

**6.1.17 Deputy G.P. Southern:**

I think it is the first time - it may be the second time - that we have heard the comment that anything which has a cost should have been brought in the Medium-Term Financial Plan. I predicted this would happen. Anything for the next 18 months, 2 years, 3 years, will be met with that same response and basically it amounts to: "We will do something about it but in our own time, this week, next week, some time, never" is the reality. The Minister for Treasury and Resources has promised that he will examine the possibility of raising different property taxes in order to work out in fine detail where we are going. I think that promise to examine property taxes should be seen in the same light as his promise to examine the taxation of the non-finance sector and to come up with a way of raising tax revenue from it which was made 2½ years ago and still has not happened because it was so difficult to do, he has not been able to do it since. I think that promise to examine property taxes should be put in the same basket. I was asking the Minister for Treasury and Resources 3, 4, 5 years ago to examine land value taxation. It has never happened, not happened. So I will be voting with my Constable because this fairness issue and this issue must be resolved and I have found, in my time in here, that the only way to get the Minister to do that is to get the proposition passed and in place and then he has got to address it. That is the reality, so I will be voting for the Constable's proposition.

**The Deputy Bailiff:**

Does any other Member wish to speak? Then I call upon the Connétable of St. Helier to reply.

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

I am grateful to Members, whichever way they spoke, for keeping it brief. One particular Member, not known for his concise speeches, was the epitome of cogency and consistency. I am not going to embarrass him by saying who he was, but fantastic. So good to have a short speech. I think I am less impressed by the number of Members who addressed the working party's proposals. Very few Members, notably the Minister for Treasury and Resources, went through those proposals and either agreed with them or did not so we are still left slightly in the dark about whether those key

proposals of the working party are right or wrong but that, of course, can be done at a later date. Now, Senator Breckon started us off by asking about the covenant, and just to put this one firmly to bed, the fact that the incinerator has moved to La Collette does not affect the covenant one jot. The Parish of St. Helier is still entitled, under the terms of the covenant, to deposit its refuse up at Bellozanne and it would have to be removed, processed by the people operating the incinerator, so the covenant is in very good fettle. It is not something that I have any control over either. It is a matter for the Parish Assembly and it has not been raised with me recently but if the Council of Ministers is anxious to have the covenant removed so that it can start charging for waste disposal, then it needs to come along to the Parish Assembly as, indeed, some Ministers are going to come to the Parish Assembly to ask us to allow a substation to be built on Parish land. Senator Breckon was also concerned about charges. He felt that if this was approved, the States would seek to claw-back the money somehow and I suppose that is true but surely the emphasis of the States Assembly must be on public sector services being provided efficiently and that is something which has been happening over the last few years. So I accept that the States paying rates would lead to an increase in the cost of their doing business but is that such a bad thing? I am thinking of the private nurseries in the Island which provide day care competing with States-run nurseries, which provide day care and indeed Parish-run ones as well, but uniquely the private sector ones have to pay rates; the public sector ones do not. How can that be fair on an operator of a day nursery, for example, or, indeed, residential care and there are lots of other examples as some Members know. The Constable of St. Martin, possibly a victim of the prepared speech because quite a lot of the things he referred to in his speech I had already very recently dealt with in my opening remarks. Certainly I made it very clear that I was not looking to the States to find the money now and that is why the Medium-Term Financial Plan was not really a relevant consideration. He also talked, I think more interestingly, about the effect on the rates law if this were to be approved, and several other Members picked up on this: what about the other exemptions and was I just cherry-picking? This is something I raised with the Committee of Constables who asked me was I, for example, suggesting that Parish Halls, Parish schools, Rectories and so on, should pay rates and I said: "Well, let us get one thing in at a time. Let us get the States to pay rates; let us establish that principle." I am perfectly happy certainly running a Town Hall to pay rates because not only would that contribute to the Island-wide rate, as I think the Constable mentioned, but it would enable me to benchmark the Town Hall against a similar institution in Europe and what is wrong with having a number of costs, electricity, utilities, cleaning rates, and these are all things that in running any institution one should be able to compare and evaluate. Deputy Noel I thought was going to support me because I know he does privately **[Laughter]** but he gave a very spirited ... it could almost have been said by his Minister because he talked about a windfall of £1 million for the Constable of St. Helier and I thought: "If only that was the case."

[15:00]

He said I had failed to engage, which is very much a Minister for Treasury and Resources word, **[Laughter]** and he talked about other funding requirements coming home to roost, which is very concerning. I am not sure what he meant by that. Hopefully he will tell me afterwards. Then he said did I not want a vibrant and sustainable Parish. I am thinking about those vibrant villages of Deputy Fox. Yes, of course, I want a vibrant St. Helier and is that not what we are all working for? That is why the Parish Assembly recently, very reluctantly, approved the expenditure of £1 million on the refurbishment of the Conway Street toilets, which is one of the reasons why this proposition has come forward in the first place. A vibrant town needs cleaning. A vibrant town needs public gardens. A vibrant town needs public facilities like toilets and these all need to be paid for, and the essence of what we are saying in St. Helier is that it is not fair that St. Helier ratepayers are meeting these costs which elsewhere in the Island are being met by taxpayers. Deputy Le Fondré, I am very grateful to his concise, cogent and convincing speech and he said why should we be different from

any other party and I refer in my report to the prospect of failure on this proposition. I can see commercial ratepayers, and they have already been to see me, they say: "We cannot pay our rates because we may be asset rich but we are cash poor" and can see them coming to me a little bit like the Minister for Treasury and Resources shaking out their pockets and saying: "We cannot pay our rates this year" and I can say: "Well, I am sorry, the States are not paying their rates either so join the club." He talked about nursery provision. He mentioned private schools: again, private schools having to pay rates, States ones do not, and I think he was the first speaker to address the principles of the working party and I should probably at this stage, and somewhat belatedly, thank him for his work in chairing the working party and hope he is not demoralised as I am by how long it is taking to get these changes through. Deputy Martin spoke next and I thank her for her support. She went up a slight blind alley, though, because she talked about St. Helier stopping the services or charging for the services. That is wrong for 2 reasons. First of all, it is like the ratepayer who rings-up the Parish Hall, and this could be any one of the 12 Parishes, and says: "Constable, I do not want to pay my rates. Do not collect my bins. Do not clean my street." So we are happy and, of course, we are not happy because rates are not a direct charge for services. Rates are a property tax which has evolved over centuries as a way of funding Parish services and it is simply an idle game to try to square off the services the Parish provides with the rates that are payable and this is why I think it is very surprising later on to hear the Minister for Treasury and Resources making such a meal of this. He wants to know exactly what it costs to provide, for example, the Waterfront with the various services we provide and he wants to compare that with the rents they pay. That is, as I say, like a ratepayer anywhere across the Island saying: "Do not collect my bins and I will not pay my rates." Is that not fine? Of course it is not fine. I think the other reason that Deputy Martin was going up a blind alley is that I do not want to go to war with the States over this. I want the States to honour their commitments which have been made, as I have said before, since way back in 2005 and I want them to do it a little bit more quickly but I do not want to get to the stage where we start saying we are not going to empty the bins at Morier House because they do not pay rates because that is not helpful and the only way we are going to survive as an Island is by the Parishes and the States working together. Deputy Martin also rightly, I think, accused the Council of Ministers of scaremongering. She said, you know, this latest business about the substation, we are now being told the hospital cannot be done, the lights are going out across No. 3 District. That is nonsense. It is nonsense and I do not think it is helpful for people to scaremonger because it only alarms, I think, ratepayers more. Senator Ferguson, another wonderfully short speech. She asked me to clarify the position in the U.K. and I am afraid I am not competent to do that, partly because I think it may have changed slightly but I know that there are local experts and I would like to thank Mr. David Levitt who put in so much work around the time of the working party and gave up extremely despondently because nothing was done with the work, and also Edward Trevor who does so much work on rates and who is an expert on the U.K. system. There is no doubt in my mind that there are precedents for public buildings paying rates right across Europe for all the very good reasons that the working party has said. I am now going to come back to the Minister for Treasury and Resources. That sounds ominous. I am now going to go on to the Constable of Trinity. He suggested that the urban Parishes have forgotten about the unfair welfare burden. It is only 5 years ago. I did, in my opening speech, refer to it. It is absolutely true that that centuries-old unfairness was dealt with but I do not think that is an excuse for us not dealing with the centuries-old unfairness that we are now talking about, about the States properties. He says where does it end, Parish Halls, why not? I think it is very useful, as I said before, to have a transparent approach to buildings, wherever they are, and the ability to benchmark. Senator Maclean, I think, gave us the speech of the debate and I have written down almost word for word just in case Hansard does not get it right what he said. First of all, he asked how I would spend it and, of course, the easy answer: it is not up to me. It is not up to any Constable how they spend their rates income. It is up to the Parish Assembly and if the Parish Assembly in St. Helier decided they wanted to reduce the rates,

they would. If they decided they wanted to build more public toilets, they would. If they wanted more gardens, they would. It is entirely a matter for the Parish Assembly but it was refreshing to hear a Minister tackling the working party proposals. I think he was the only one who did. Then he said and this is the bit I wrote down: "At the appropriate moment, the next Medium-Term Financial Plan" and I put: "Is that a promise?" because if we are being promised by the Council of Ministers today that the States liability to rates will be in the next M.T.F.P., then it will have been a very worthwhile debate. I want to thank Deputy Bryans for again a very sensible and good speech and he rightly pointed out that the Minister for Treasury and Resources did not really talk about the dis-benefits of being a capital. He just spoke about the benefits. Deputy Young said the dice are loaded against the private sector which, of course, they are and he said that commitments need to be honoured and certainly my feeling is that the onus is now on the Council of Ministers to sort out this long-running problem. Now, turning to the comments of the Minister for Treasury and Resources... and I need to tackle a couple of these comments because I cannot let them stay on the record. First of all, I would say to him and the Council of Ministers that you cannot keep relying on the shift of the burden of welfare. That is 5 years ago. He called it a huge amount of progress and the last one or 2 things that need to be dealt with. Well, when you look at the bill for providing the sort of municipal services that St. Helier ratepayers uniquely provide, parks and gardens, street cleaning, litter bin collection, public toilets and so on, then that is a very sizeable chunk of money. It is probably around £1 million a year as it happens and I do not think that can go on and certainly Deputy Hilton raised this in Question Time recently that there was nearly a little riot at a Parish Assembly which we have not seen for about a decade, but when I asked the Parish Assembly to come up with £1 million for public toilets, they quite rightly said: "Why are the States not paying for this? Why are St. Helier ratepayers who probably will not use the toilets because they have got their own, why are they paying for toilets which will mainly be used by people who work in town, visitors from overseas and visitors from other Parishes?" That was a difficult one and we only got it through by a few votes but the Constable of St. Helier cannot win because if I do not provide public toilets, I will be criticised for that and if I do, I will be criticised for asking the ratepayers to pay for them. He asked me which side of the fence I am on. He said I want it but I do not want it. Well, I suppose that is true in a way. I want St. Helier to be a vibrant place to live, work and visit but I do not see why all the cost should fall upon the ratepayers because that is not fair and I think that the whole Island should have more of a financial commitment. He extolled the public realm and I fully agree with him. We have a wonderful public realm. It is getting better but quite honestly, if you compare the public realm, even the town park, with the public realm you have on St. Ouen's beach or in the leafy lanes of Trinity, I wonder where Members would choose to live. I have had a lot of calls in recent weeks about how difficult the town park is as a public realm. It is causing a lot of residents a lot of problems. He is a very clever speaker and I feel the things I wrote down I am not going to talk about because we are sitting in the summer at a fairly good level at the moment. He did talk about the substation at Westmount Woods and I would not have referred to it if he had not but let us get one thing very clear. St. Helier's open space and natural areas like woodland and grassland and so on, in the Island Plan - and this is fact because we have all approved the Island Plan - are worse than London. We are very short of open space in town. So while it is true that I welcome the strategic decision to base housing and development in town, I have to be allowed to defend the green space that those people desperately need. So that is why it is an important argument about Westmount. The Minister for Treasury and Resources might be interested to know that quite recently I was contacted by someone involved in the Island Games and he asked me whether Westmount would be suitable for mountain bikes. No one has ever thought of allowing mountain bikes into Westmount Woods. It is probably against the rules, I do not know, but I thought what a wonderful idea and then I remembered, of course, no, quite a large part of Westmount Woods is going to be given over to an electricity substation. So I think there are discussions to be had about this issue that the Minister has raised, and he is not happy I have raised

it in my concluding remarks but then he should not have raised it in his speech so there we go. The Minister for Treasury and Resources is proud of his record, he says, in his investment in St. Helier but he talks about the rates received and so on. He referred to Waterfront roads and again I would not have mentioned it but he did. It is a fact that the Parish Assembly was poised to adopt a number of roads on the Waterfront around the time, indeed, that the comments of the Minister for Treasury and Resources came in on my proposition. Then I fell to thinking and I discussed it with the Roads Committee and the Procureurs and I said: "Do you think we should be accepting responsibility for the promenades, the public promenades, around the Waterfront when the States make no contribution to the cost of maintaining public space?" and I got a resounding: "No." Until this matter is resolved, the Parish of St. Helier should not be taking on more responsibilities because it will be putting up our bills. Now, the Minister referred to the Property Tax Review as distinct from loading the cost on to the ratepayers and I welcome that. If there is a way of finding this extra money from some kind of levy on properties, on development and so on, then I welcome that but he has got a lot of work to do and I think it is very important. I say that because the Minister ... and if Members look at my report, they will see that he has been talking about getting on with this for some time now. It is all very well for him to tell me to engage but the Minister and his team and their staff, they have got a job of work to do to do this work. Our door is open in the Parish of St. Helier, as indeed I believe it is in every other Parish of the Island but they cannot keep shaking out their pockets. They did it in 2005; they are shaking out their pockets today and saying they cannot afford to pay any more money but I do not think that will wash forever. Then he finally said that working with the Parish is difficult when the Parish changes its mind. Well, I accept that most of my attention, certainly on the Westmount substation matter, was focused on trying to get a good deal for ratepayers, getting up an offer of £10,000 to a third of £1 million was, I suppose, quite good, but it was only when ratepayers and parishioners started bending my ear about it and saying: "Constable, you could not buy a garage for that and you are letting them do this to our woodland" that I thought: "Well, yes, maybe we should be thinking twice about whether that is the best position." So I will change my mind when my mind is changed by evidence and arguments. I do not have much more to say. I do believe that an in principle decision in support of part (a) would be useful. It would certainly make the Minister for Treasury and Resources sharpen his pencil as he sets about work, so I will ask for the appel on both parts.

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

Can I ask a point of clarification? I was confused by the Constable. He said he welcomed the issue of a levy but then that is exactly what part (a)(2) of the proposition does not allow us to do is that we need to find it. So I am confused as to whether or not he wants me to find a solution which potentially could be effectively a levy on commercial rates. Could he explain?

**The Connétable of St. Helier:**

I do not see in part 2 any problem, given that we are asking the States to approve the proposals of the working party report and in part 2 it says that the liability should be contained within existing States budgets. That is something the States departments have been doing for years, I mean, working within budgets set by the States and I do not have a problem with that.

[15:15]

**Senator L.J. Farnham:**

I am not a resident of St. Helier and I found myself in urgent need of a public convenience the other day. Could the Constable direct me to one, please, that has not yet been turned into a café?  
[Laughter]

**The Deputy Bailiff:**

I do not think that requires an answer, Connétable. The appel is called for. The first vote is on part (a) of the proposition. I ask Members to return to their seats and invite the Greffier to open the voting.

<b>POUR: 17</b>		<b>CONTRE: 29</b>		<b>ABSTAIN: 0</b>
Senator A. Breckon		Senator P.F. Routier		
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator A.J.H. Maclean		
Deputy R.G. Le Hérisssier (S)		Senator B.I. Le Marquand		
Deputy J.A. Martin (H)		Senator F. du H. Le Gresley		
Deputy G.P. Southern (H)		Senator L.J. Farnham		
Deputy J.A. Hilton (H)		Senator P.M. Bailhache		
Deputy J.A.N. Le Fondré (L)		Connétable of Trinity		
Deputy S. Pitman (H)		Connétable of St. Clement		
Deputy M. Tadier (B)		Connétable of St. Peter		
Deputy T.M. Pitman (H)		Connétable of St. Lawrence		
Deputy M.R. Higgins (H)		Connétable of St. Mary		
Deputy A.K.F. Green (H)		Connétable of St. John		
Deputy J.P.G. Baker (H)		Connétable of St. Ouen		
Deputy of St. Mary		Connétable of St. Brelade		
Deputy R.G. Bryans (H)		Connétable of St. Martin		
Deputy R.J. Rondel (H)		Deputy R.C. Duhamel (S)		
		Deputy of St. Ouen		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy G.C.L. Baudains (C)		
		Deputy of St. John		
		Deputy J.H. Young (B)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy of St. Peter		

**The Connétable of St. John:**

Sir, would that have been a bloc vote for the Deputy of St. Helier? **[Laughter]**

**The Deputy Bailiff:**

Connétable, I think (b) falls away in the light of that first vote.

**The Connétable of St. Helier:**

Indeed, Sir, thank you.

**The Deputy Bailiff:**

Very well. Before we come to the next item, I can announce the Draft Loi (201-) (Amendement) sur la Voirie - lodged by the Comité des Connétables - P.70; and also the Island Plan Review - lodged by Deputy Young - P.71. Can I draw those to the attention of Members?

**7. Ratification of the Agreement between the Government of Jersey and the Government of the Isle of Man for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (P.46/2013)**

**The Deputy Bailiff:**

We now come to the next item on the Order Paper, which is P.46: Ratification of the Agreement between the Government of Jersey and the Government of the Isle of Man for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, lodged by the Chief Minister, and I ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion to ratify the agreement between the Government of Jersey and the Government of the Isle of Man for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, as set out in appendix 1 to the report of the Chief Minister dated 15th March 2013.

**7.1 Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):**

The Double Taxation Agreement between Jersey and the Isle of Man is a standard D.T.A. (Double Taxation Agreement) in accordance with the O.E.C.D. (Organisation for Economic Co-operation and Development) model. It matches the D.T.A.s that the Assembly has previously ratified in relation to other jurisdictions, such as Singapore. The reason for having a D.T.A. with the Isle of Man for the first time is that when the agreement with the Bailiwick of Guernsey was updated it occurred to all those concerned that it was high time that there was a Double Tax Agreement with the third Crown Dependency, the Isle of Man, and that approach was welcomed by the Manx. Without double taxation relief, some individuals who are resident in one Island who are in receipt of employment income for pensions arising in the other Island would suffer double taxation, and financial institutions which have to pay tax on that 10 per cent in both Islands could well benefit from the relief afforded by the D.T.A. So the agreement is in fairly standard form. I commend it to the Assembly and I move the proposition.

**The Deputy Bailiff:**

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

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

Just if this matter could be clarified for me: in the proposition, I am pleased to notice that there is an agreement for the prevention of fiscal evasion. Why is it limited to taxes on income?

**7.1.2 Deputy G.P. Southern:**

It has been very interesting in the last few weeks examining these Double Taxation Agreements and learning in a very straightforward way, because they are set out really clearly, what we are doing here. Of particular interest for me are Articles 4 and 5, the definition of “resident” and “permanent establishment”, and what that does is illustrate how little a body one needs to be deemed as resident. For the purposes of this agreement the term “residence” of a party means: “Any person who, under the laws of the party, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature and in permanent establishment.” It then goes on to define a permanent establishment: “The maintenance of a fixed place of business, solely for the purpose of carrying on for the enterprise any other activity of a preparatory or auxiliary character.” So, you can have an office with one person there and that is sufficient. You can have your board meeting here, and that is sufficient to be resident here. Then, of course, we do not have double taxation, not just on income, but we are talking about - and this is lovely and clear - business

profits, dividends, interest, royalties. I especially like the royalties one in connection with Luxembourg, because we know what they do with royalties, they charge a rate between, I believe, 0.5 per cent and 2 per cent on royalties deemed to be earned or put in Luxembourg: “Capital gains”, of course, we do not have capital gains but we can offset that: “Income from employment, directors’ fees”, *et cetera*. What it amounts to is a very clear guide to how to avoid taxation. It goes through the list of various types of earnings income that you can avoid. “For the avoidance of double taxation” is the title of these agreements, but they should be more accurately referred to as: “The avoidance of double non-taxation” because that is the effect these double-tax rules amount to.

**The Deputy Bailiff:**

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

**7.1.3 Senator P.M. Bailhache:**

Deputy Baudains asked why the agreement was limited to taxes on income and the answer to that is because there are no other taxes: there is a goods and services tax, of course, there may be a value added tax in the Isle of Man, but those are not taxes which can be subject to being set off against the other. The only taxes which are payable in both jurisdictions, because there is no capital gains tax or death duties or anything of that kind, is income tax. Deputy Southern was concerned about the definition of “resident” and “permanent establishment” and suggested that you only needed a slender connection with a jurisdiction in order to benefit from the agreement. I think I can only say to that that the agreement is in a standard form that is used by most of the countries of the civilised world, it is an O.E.C.D. standard double tax agreement. I do not think that it is a way to avoid taxation, it is a way to avoid double taxation; if income arises which would otherwise be liable to tax in 2 jurisdictions, the existence of this agreement enables tax to be avoided in one jurisdiction but paid in the other. I maintain the proposition.

**The Deputy Bailiff:**

Would all Members in favour of adopting the proposition ... the appel is called for. I invite Members to return to their seats. The vote is on whether to adopt P.46, the ratification of the agreement between the Government of Jersey and the Government of the Isle of Man, and I ask the Greffier to open the voting.

<b>POUR: 36</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy M. Tadier (B)		
Senator A. Breckon		Deputy T.M. Pitman (H)		
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A.N. Le Fondré (L)				

Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
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)				

**8. Ratification of the Agreement between the Government of Jersey and the States of Guernsey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income (P.47/2013)**

**The Deputy Bailiff:**

We now come to P.47, also lodged by the Chief Minister, a similar agreement, but between Jersey and Guernsey. I ask the Greffier to read the proposition

**The Greffier of the States:**

The States are asked to decide whether they are of opinion to ratify the agreement between the Government of Jersey and the States of Guernsey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, as set out in appendix 1 to the report of the Chief Minister, dated 15th March 2013.

**8.1 Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):**

In contrast to the agreement with the Isle of Man, we have had a Double Taxation Agreement with Guernsey for some considerable time. It was first signed in 1956 and, indeed, it is because the agreement was so old that it attracted the attention of the group of assessors who were examining the Island's performance on behalf of the O.E.C.D. and it was suggested that it was time that the agreement should be updated. The agreement was accordingly negotiated between Guernsey and Jersey, and again has a number of advantages for those who carry on business in both jurisdictions. I move the proposition.

**The Deputy Bailiff:**

[Seconded] Does any Member wish to speak? Connétable of St. Lawrence.

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

I am curious as to why the Assistant Chief Minister signs on behalf of the Government of Jersey as opposed to the States of Guernsey. He has done so for the agreement between Guernsey and the Isle of Man and I cannot remember back to previous agreements who he has signed on behalf of, whether it is the Government or the States, and whether he can explain whether there is a difference in signing on behalf of the Government or the States for these international agreements.

**8.1.2 Deputy G.P. Southern:**

I just wondered if the rapporteur would state what substantive changes, if any, have been made between the old agreement and the new one that it required updating.

**8.1.3 Deputy R.G. Le Hérissier:**

I was reminded as the Constable of St. Lawrence spoke of General de Gaulle’s phrase: “*L’état c’est moi*” but we will not go there. I wonder if the Assistant Chief Minister could tell us with what other states are these agreements being sought? I know, as we have discussed over the House previously, there are countries like Canada where there are a lot of links, for example, and as yet we do not have an agreement.

**The Deputy Bailiff:**

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

**8.1.4 Senator P.M. Bailhache:**

In answer to the Constable of St. Lawrence, if she refers back to the agreement with the Isle of Man, she will see that the agreement was signed on behalf of the Government of Jersey and on behalf of the Government of Isle of Man. The distinction between Jersey and Guernsey in this respect is that for practical purposes, Guernsey does not have a Ministerial system of government, it has a Committee system of government, although each committee is headed by an individual who happens to be called a Minister, but it is essentially a non-Ministerial system of government. I believe I am correct in saying that all the Double Taxation Agreements and Tax Information Agreements have been signed by various Ministers or Assistant Ministers on behalf of the Government of Jersey because that is the system that we now have. Deputy Southern asked a very good question, to which I am afraid I do not know the answer and I shall have to ascertain it and let him know in due course. It may be that the old agreement with Guernsey was simply in a different format, which attracted the attention of the relevant authorities but, I am sorry, I cannot answer his question but I will find out. So far as Deputy Le Hérissier’s question is concerned, the policy says to seek to conclude as many Double Taxation Agreements as it is possible to negotiate.

[15:30]

Double Taxation Agreements have advantages for people trading in Jersey and clearly, to the extent that we can negotiate Double Taxation Agreements rather than Tax Information Exchange Agreements, it is a good thing for businesses in Jersey that we can do that. The policy is to try to negotiate agreements with all members of the European Union, all members of the O.E.C.D. and all members of the G20. Barring a very small number of counties, such agreements have either been concluded or are in an advanced stage of negotiation. I maintain the proposition.

**The Deputy Bailiff:**

Would all Members in favour of adopting the proposition kindly show? The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the proposition P.47. I ask the Greffier to open the voting.

<b>POUR: 37</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy M. Tadier (B)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				

Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
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 K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
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)				

## **9. Draft Unlawful Public Entertainments (Jersey) Regulations 201- (P.48/2013)**

### **The Deputy Bailiff:**

We now come to P.48 - Draft Unlawful Public Entertainments (Jersey) Regulations- lodged by the Minister for Home Affairs, and I ask the Greffier to read the citation of the draft.

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

Draft Unlawful Public Entertainments (Jersey) Regulations. The States, in pursuance of the Order in Council dated 14th April 1884, have made the following Regulations.

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

Historically, the Bailiff had the power to control public entertainment, and it was a criminal offence to run a public entertainment without his consent. In 1992, the States enacted triennial regulations in order to put matters on a clearer footing. Triennial regulations are passed by the States under an Order in Council of 1884, they only last for 3 years and are designed to achieve a legislative objective quickly without Royal Assent being required. However, they have continued to be enacted every 3 years since. In 2000, a major review of the situation by a sub-committee of the Legislation Committee of the day was initiated, chaired I believe, by one Deputy Le Hérisssier. This reached certain conclusions but there remained difficulties in relation to the definition of “public entertainment” and the cost of setting up an alternative system. In 2010, when the matter last came before the States, questions were raised which led to advice being taken on various issues, in particular a question was raised by the Deputy of St. Brelade, Deputy Tadier, whether or not people

wishing to demonstrate would need to obtain permission from the Bailiff and, indeed, the question arose again of the question of the definition of “public entertainment”. Advice was sought on these points and, indeed, the answer that came back was that, no, a public demonstration was not a form of entertainment, although there could be an issue if people were seeking to demonstrate publicly in the Royal Square, because there was a power of the Bailiff to control that in a different way. But no satisfactory conclusion was reached in relation to advancing the issue of a clearer definition of “public entertainment” which was thought would definitely be required if we were going to seek to make a permanent statute which would receive Royal Assent. The Education and Home Affairs Scrutiny Panel has now agreed to undertake a further review of the situation. I welcome that and wish them all the very best **[Laughter]** in coming up with an elegant solution to what has proved to be a deceptively difficult issue. I do sincerely wish them all the best and will work with them on that. However, in the meantime, this Assembly has 2 options: the first option is to do nothing, thus allowing the current triennial regulations to lapse on 21st July 2013, thus returning to the pre-1992 common law position, which was thought to be not completely satisfactory. The second option is to enact these latest triennial regulations, thus continuing the present situation until such time as a new law is brought into force in this area, hopefully as a result of the work of the Scrutiny Panel together with the Minister, in which case these Regulations would then cease. They could be terminated earlier than the 3 years by virtue of a new law. Essentially, these Regulations are the same as those which have been passed in the past, except that we have now omitted 2 bits which, frankly, were not required. One was a specific power of forfeiture of items, and that is not required because there is now a variety of statutory different powers, including one enjoyed by the Magistrates Court and, secondly, there was a specific power to prevent a continuing breach by seizing items and, again, that is not thought to be necessary because if there was a continuing breach then, frankly, the police would have necessary powers to prevent it from happening without needing a specific statutory power. Given these 2 options which I have outlined before, in my view, the second - this will not surprise Members - is the best and I therefore move the proposition in principle.

### **The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]** Does any other Member wish to speak? Connétable of St. Martin.

#### **9.1.1 The Connétable of St. Martin:**

I speak as a Member but also as the Vice-Chairman of the Education and Home Affairs Scrutiny Panel, in the absence of the Chairman who is off the Island today on States business. Although you are likely to be asking in a short time whether the panel are to be seeking to review the matter, I think you now know that we will be doing this and it might be useful if I speak at this time. We have heard that the Education and Home Affairs Panel will indeed undertake a review of the licensing of public entertainment. We do not believe it is a reason at the moment to delay the repeat renewal proposition that we have before us. As this Assembly is aware, the current Regulations are due to expire in July and the usual triennial renewal has happened many times before. The panel does not believe that we have recommendations from the current Scrutiny ready for Members in time for the Assembly to deliberate upon prior to the July renewal because of the scope of the review as well as the other work currently undertaken by the Scrutiny Panel. We do not put any fault with the Minister, he did advise us some time ago about the renewal coming forward, but we did not have the time to undertake the review at that time. We understand if the proposition was delayed today, and I think the Minister has just explained as well that the public entertainment situation could revert to the previous customary position with the Bailiff still having the role of guardian of the peace broadly, and lawful conduct. I suppose some individuals seeking permission of the Bailiff to hold their events, and as we used to see the notices in the newspaper:

“With kind permission of the Bailiff” at the Odeon, and the Forum for shows that were put there. Members will be aware from the previous involvement and the remainder of the information supplied to us in the proposition that it was proposed as far back as the year 2000 that the triennial regulations should be replaced by a permanent law, and I reiterate to Members, that is in 2000, and we have gone back for a triennial renewal yet again. Concerns were raised then and remain today as to what public entertainment is: where is the definition? There is still not a definition of “public entertainment.” I understand that issues were raised then regarding the need for consent from the Bailiff for public demonstrations and for public marches and for freedom of speech. Some of that falls already under existing legislation with the policing of roads, where people cannot obstruct free passage, and where consent is required from a Connétable to organise any parade or procession or to erect or use P.A. (public address) systems. Similar restrictions also apply under the policing of parks and the policing of beaches legislation, and there is still common law offences as well, such as unlawful assembly, should that be necessary. I do not believe the legislation before us today relates to these various issues because entertainment is clearly defined in the dictionaries as: “An act of entertainment; a reception or party; performance intended to interest or amuse” and so on. It does not mention demonstrations, and I am sure anyone wishing to organise a rally or march does not intend to amuse. Nevertheless, these issues with processions and demonstrations and marches as well as who should have the authority to permit them taking place in the Royal Square, for example, are likely to be addressed during our review. The triennial regulations have been renewed or re-enacted in 2001, 2004, 2007 and again in 2010 without a problem, as shown in the proposition and explained by the Minister. The panel anticipate that today’s proposition will be adopted because no apparent problems have arisen from the current process for public events, albeit we already believe the issue of public entertainment and licensing of such entertainment could be made much clearer, and with defined boundaries, a definition of “public entertainment” and maybe less red tape for certain small events, similar to the changes that are taking place currently in licensing authorities in the U.K. I have had some experience in this area of event licensing as both a States police officer policing large events, and later as a civilian while deployed to the Parish of St. Helier. The town food festival, the seaside festival, some of the raves around the Island and on Elizabeth Castle, the Air Display and the Battle of Flowers. However, I recall the illegal raves that were held, or tried to be held, at the derelict Milano Bars on the Five Mile Road and the concerns of the parishioners of St. Ouen and the police. I believe this assisted in seeing the need for the initial legislation that was brought in with having 500 or maybe 1,000 people turning up at the derelict bars in an uncontrolled environment at night with little or no tool to enforce or to control them. Like many in the Assembly today, I have also had experience through parochial or private involvement, including large and small events, as a committee member in the Parish. Charity events, like the St. Martin Bonfire or St. Martin Gorey Fete, and smaller events like St. Martin Festival, church fetes and more recently the Diamond Jubilee event. It will also affect every Connétable for the whole range of public entertainment that currently takes place in the Parish Halls, the Town Hall or our Public Hall. I would like, however, to add at this time that the Bailiff’s panel under the Chairman, together with support staff, are always more than helpful to assist anyone seeking advice with their main objective being that of public safety. I think we must all be aware that it is not there to censor or to prevent events from taking place. I have not been involved in issues relating to shows that might in the eyes of some involve public morality or public decency and, of course, this is a different area of public entertainment that we should be addressing at the same time during our review. Initial inquiries reveal that this area of licensing has been even less contentious in recent years, with the Bailiff reverting to a special panel to assist. A member of our Scrutiny Panel, Deputy Tadier, will take the lead on our review and we as a panel shall report back to this Assembly in due course. From inquiries that we have already made with the Minister to ascertain the process of replacing the triennial regulations during their 3-year period, it would appear that the new law if approved by this Assembly would replace the current Regulations,

irrespective of whether they were at the end of their 3-year life span or not. Again, it appears that we lose nothing from renewing the Regulations today and await the results of the Scrutiny Panel. Of course, if changes were deemed necessary then the Law Draftsmen's Department would have to find additional drafting time in their busy schedule, and inquiries we have made indicate that would not be available until 2015 or 2016 in any case. I hope this is of some assistance to the Assembly.

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

I have to say I am not comfortable with renewing these Regulations because, in my view, it is unreasonable to expose people to the possibility of 6 months' imprisonment or a fine without clarity as to whether or not what they are doing constitutes unlawful public entertainment. I understand the difficulty in defining that but, with the continuing lack of a definition, it seems to me it is time somebody got to grips with it. I am not happy, it is certainly not clear. What may be a public entertainment to one person could be a statutory nuisance to another, who knows. If you do not know what you are doing, anybody could be liable to a fine. It is unsatisfactory.

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

I am glad Deputy Baudains raised that point; this was one that exercised the Legislation Subcommittee many years ago. It could not come to a conclusion. It looked at practice certainly all over the United Kingdom, it was informed by the Bailiff's Office at the time and on behalf of previous Bailiffs that they wished to divest themselves of this particular role, they did not want to be involved in this role. So we came to what we thought was a logical conclusion that it should be removed, and then we faced the dilemma that resources were required of the kind to define what is or is not public entertainment, the need to set up a whole public entertainment department, so to speak, not to entertain but to monitor, was looked at.

[15:45]

There were, in any case, as the Constable of St. Martin said, the great debates about lap-dancing and so forth which had already occurred, and a degree of what you might call either self-censorship or self-management was occurring. Because of proactive work people were approaching, as we understood it, the Bailiff's Office before they were putting on these entertainments and the inevitable clash of opinion would then occur. Some people might say: "Well, why should it happen? Why should people not test the boundaries and then let the matter be decided?" but it was clear that, after there had been some ... I think *Coriolanus* was the great one where Sir Peter Crill was in the audience and woke up at a crucial time [**Laughter**] and expressed a view at that time. Then I think he told me, he said had he remained sleeping the thing could have been dealt with in a fairly benign way, but 'twas not to be. Plus the public, I think, have taken a more liberal view of public entertainment and people have accepted the view, other than that there are some boundaries, that if you wish to attend certain public artistic performances then be that your choice. That does not mean we totally remove the boundaries, because clearly we have not, but certainly the boundaries have shifted a lot. The emphasis then moved to what you might call the dreaded health and safety side, where there is a standing committee which looks at it. On that basis, the committee had reached a logical conclusion that it felt, in terms of the massive resources that would be required to reform the system, unless somebody challenged it and the system was really found wanting, at the moment, I am afraid, a pragmatic recommendation was made.

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

I think some people call it *Coriolanus*, I think it was *Coriolanus* and that is perhaps more fitting with the play which woke up the former Bailiff. Deputy Baudains hit the nail on the head, really, and this is why I will not be supporting this today, that we are imposing giving the ability for hefty fines to be imposed and a prison sentence, when we have not even defined what public entertainment is. So I think we have completely put the cart before the horse. If you go on to the

Jersey Law website and try and find the judgments that relate to public entertainment, there is no entry there under the definitions. You have got public nuisance, you have got public mischief but no public entertainment. It would be interesting, and I would like to ask the Minister this: when was the last occasion that somebody was prosecuted under these Regulations for having contravened the rules, for not seeking the Bailiff's permission? Also, in one sense, the panel could have had a bit of fun here and could have said: "We want to pull this, we do not want this to be debated today because we think these questions that keep on recurring ever since 2001, 2004, 2007 and again in 2010 remain unanswered", despite the good work of the previous panel that was looking at it. We would have been quite within our rights. That would have been the litmus test, if we had just had a complete vacuum and said: "Well, there is going to be no regulation to say what happens if you do not apply for a licence for public entertainment" which has not even been defined by us. I suspect nothing major would happen. I think Jersey Live, for example, would still get organised, I think they would still be well run. I think the police or the private security forces that they employ would still be going up there, they would still make sure that they are good neighbours to Trinity and the adjoining Parishes and that everything would work really well. But I think, of course, we are mindful of the fact that there is an unknown. This is really where we would like States Members' input from, and members of the public, when looking at this because we need to look at these things in the round. It does affect events right from the top for large events, which may even bring in tourists to the Island, of course, without camping facilities, but some people may come over nonetheless to watch Jersey Live. Others may come over for small folk festivals and they may come over to watch sunset concerts that have free entry, which are equally good, one might argue. That is, I think, where we would like to also hear from the Parish administrations about their views. We know that the Constable of St. Martin, for example, has got involvement in organising the fete down at Gorey, and it is interesting to hear about all those things. It may be that, rather than having a complete new statutory body with the expense and the legal paraphernalia that needs to be brought in for that, we could have something moving and akin towards complete deregulation where there may be other laws in place which already deal with this and for which we do not necessarily need any regulation which deals specifically with public entertainment. But just to go back, it does seem to me that it almost is being suggested that we know what public entertainment means and that a demonstration is not public entertainment. Unfortunately, some of the anoraks that I know, that is their public entertainment once a year: to go to a demonstration, either in the Royal Square, in Howard Davis Park marching towards the hospital, that is very much their form of public entertainment. I do not necessarily include myself in that, although it may partially be there. But what happens if somebody whips out a guitar at the demonstration and starts playing music or you get a 5-piece band and then you have amplified music during a demonstration? Or, as I think the Constable of St. Saviour and I have already pencilled-in, a performance up at the new houses when they get built at Plémont; we will group there and whip out our instruments, so to speak, and maybe have a picnic, maybe some brie, some Boursin, and whatever. I certainly do not intend to apply for Bailiff's permission to do that and I may well find myself having 6 months in prison. But I should not certainly give the establishment any encouragement to do that, given the current political climate and certainly comments that are being made about the finance industry, otherwise they may well just take that opportunity to bang me up back at La Moye. But at least that would have me back living in my district.

### **The Deputy Bailiff:**

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

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

I want to thank the Members for their very interesting speeches and very informative speeches in some cases. I thought the Constable of St. Martin's speech was considerably better than my own.

But if I can deal with the points which arose. Firstly, the issue raised by Deputy Baudains and then by Deputy Tadier. I am afraid that I have bad news for them, there is no vacuum which arises if this is not passed; if this is not passed, as I said in my opening speech, we simply go back to the customary law position which was indeed less clear than these Regulations. So I am afraid that if you vote against it you are probably voting for something worse than what we have here. Statutory interpretation is a very interesting part of the work of a criminal judge, it is one of the areas I personally found the most interesting and, indeed, where you have a statute which contains wording but there is no clear definition, the judge then has to make a decision on that, and will do that looking at the normal use of the words and looking at ways in which it may have been interpreted in the past in other statutes, and so on. I once found myself in the interesting position of having to interpret the offence of intermeddling, which is contained in the probate law. It was only once I had to interpret it as a judge with a live case I realised how hopelessly undefined everything was but, nevertheless, I came to certain conclusions, certain tests of fact and of law and of intent required to make sense of what otherwise would not have particularly been sensible. In relation to the last prosecution point raised by Deputy Tadier, I frankly do not know when the last prosecution was and the very fact that he has looked up to see if there is definitions in Jersey Law Reports indicates there has not been for some time. I do not recall any prosecution at any time during the period when I was either Judicial Greffier or Magistrate or since, but I cannot say. But there it is. I would urge Members not to drop from what they may not like here into a complete customary law uncertainty and, therefore, maintain the proposition.

**The Deputy Bailiff:**

The principles are proposed. Those Members in favour of adopting the principles kindly show? Those Members against? The principles are adopted. Connétable, I understood your speech earlier to mean that, although the panel was going to review this area, it did not want to have the detail of these Regulations referred at this stage. Is that correct?

**The Connétable of St. Martin:**

That is correct, Sir.

**The Deputy Bailiff:**

Very well, do you wish to propose the Regulations *en bloc*, Minister?

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

Yes, Sir. I would very quickly explain that because 1 and 2 are the same as before, they create the underlying offences. Article 3 is very similar to before, but it simply includes separate limited partnerships in the definition. Other than that, everything else is the same as before, except for the 2 bits which I referred to before, the 2 powers which have been omitted because they are no longer required.

**The Deputy Bailiff:**

Are details of the Regulations seconded? **[Seconded]** Does any Member wish to speak? Deputy Tadier.

**9.2.1 Deputy M. Tadier:**

Just to ask if they could be taken separately. I do not really need to speak at length, but I certainly have the same qualms that some other Members have about the length and the heftiness of the sentences and punishment involved, so if I could just ask for those to be ...

**The Deputy Bailiff:**

We can certainly take the individual Regulations separately at a later stage but if it is permissible, and I think it is, I think we will debate them as a whole. So if you would like to make a comment on the individual ...

**Deputy M. Tadier:**

I have got nothing additional to add, I think it has been captured.

**The Deputy Bailiff:**

All right. Does any other Member wish to speak? Minister, do you wish to reply on the penalty?

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

Yes, Sir, with further bad news for those who do not like the penalties because, if they vote against Articles 1 and 2 so that the offences do not exist, we then do fall back to customary law and customary law offences have indefinite penalties, unlimited penalties, both in terms of fine and in terms of length of imprisonment. So that is worse again. I would point out, and perhaps I should have done but, in fact, the customary law offences do still exist in parallel, but with the existence of the Regulations, it would be most unlikely in practice that anybody will ever seek to charge them, because this alternative would be available. But there we are. I maintain Articles 1 to 5.

**The Deputy Bailiff:**

Very well, in the light of what the Minister has said, Deputy, do you still want a separate vote on these Regulations?

**Deputy M. Tadier:**

Did I speak too hastily? I do not know if the Minister proposed, or has he just summed-up, essentially?

**The Deputy Bailiff:**

He just summed-up.

**Deputy M. Tadier:**

Yes. I would still like a separate vote.

**The Deputy Bailiff:**

Very well. Then the first vote will be on Regulation 1. The appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 30</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator A. Breckon		
Senator S.C. Ferguson		Deputy R.G. Le Hérisier (S)		
Senator B.I. Le Marquand		Deputy M. Tadier (B)		
Senator F. du H. Le Gresley		Deputy T.M. Pitman (H)		
Senator L.J. Farnham		Deputy G.C.L. Baudains (C)		
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				

Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
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)				

**The Deputy Bailiff:**

We now come to the vote on Regulation 2. I ask the Greffier to open the voting.

<b>POUR: 31</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 1</b>
Senator P.F. Routier		Senator A. Breckon		Deputy M.R. Higgins (H)
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator B.I. Le Marquand		Deputy T.M. Pitman (H)		
Senator F. du H. Le Gresley		Deputy G.C.L. Baudains (C)		
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisser (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
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 of St. Peter				
Deputy R.J. Rondel (H)				

**The Deputy Bailiff:**

Can I ask the Greffier to reset the voting. Deputy, you made the request, but can we vote on Regulations 3, 4 and 5 together?

**Deputy M. Tadier:**

Sir, I would still like 4 to be taken separately because if we did not vote for 4 then it could possibly abolish ...

**The Deputy Bailiff:**

Very well, we will take them all individually. Regulation 3. I ask the Greffier to open the voting.

\*\*[32 votes in favour, 3 votes against, one abstention]

**The Deputy Bailiff:**

I ask the Greffier to reset the voting and to open the voting on regulation 4.

[16:00]

<b>POUR: 32</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 1</b>
Senator P.F. Routier		Deputy M. Tadier (B)		Deputy M.R. Higgins (H)
Senator A. Breckon		Deputy T.M. Pitman (H)		
Senator S.C. Ferguson		Deputy G.C.L. Baudains (C)		
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
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)				
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**The Deputy Bailiff:**

We come to Regulation 5. I ask the Greffier to open the voting.

<b>POUR: 34</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 1</b>
Senator P.F. Routier		Deputy T.M. Pitman (H)		Deputy M.R. Higgins (H)
Senator A. Breckon		Deputy G.C.L. Baudains (C)		
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
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)				

**The Deputy Bailiff:**

Now, Minister, do you move the Regulations in Third Reading?

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

I do, Sir. I do not think I need say any more.

**The Deputy Bailiff:**

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

## **10. Draft Control of Housing and Work (Business Licences - Annual Charges for Registered Persons) (Jersey) Regulations 201- (P.52/2013)**

### **The Deputy Bailiff:**

We now come to P.50, Draft Taxation (Accounting Records) (Jersey) Regulations. It has been noted that there is an error in the recital to these Regulations and that is just being corrected. I hope Members will agree to take the revised Regulations on the adoption of the slip rule, just to correct some very minor language deficiencies in the opening preamble, and the differences will be made plain to Members when the revised proposition is before them. So instead, we will come to P.52 - Draft Control of Housing and Work (Business Licences - Annual Charges for Registered Persons) (Jersey) Regulations - lodged by the Chief Minister. I ask the Greffier to read the citation of the draft.

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

The Draft Control of Housing and Work (Business Licences - Annual Charges for Registered Persons) (Jersey) Regulations. The States, in pursuance of Article 31 of Control of Housing and Work (Jersey) Law 2012, have made the following Regulations.

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

The Strategic Plan gives a clear direction on the economic and immigration policies; it tasks us with getting local people into work and seeking to combine a strong and sustainable economy with limited immigration. This means supporting local employment first and, where migration is needed, to focus it on areas which deliver the greatest economic and social benefit. Indeed, for centuries, migrants have brought great benefit to our Island and we should continue to welcome this while protecting both our future prosperity and our environment. The new Control of Housing and Work Law gives this Assembly an essential tool to secure this balance. Naturally, the fees levied to meet the costs of administering the law should complement these objectives, indeed, following a period of consultation, we have recently published our consultation findings and the Draft Fee Order which is R.35. The Order was developed in conjunction with other Ministers, in particular, the annual charge on registered employees was developed with the Minister for Economic Development to closely align the charges with our strategic aims. Indeed, today is a debate specifically about this Regulation which gives the power to introduce the annual charge on registered employees. This fee would be paid annually in respect of the number of permissions granted to a business for permanent registered employees, irrespective of how many people they employ. I would stress that there are no charges proposed whatsoever in relation to the employment of entitled people so, while I appreciate that some employers may face some challenges, they can avoid this charge by recruiting entitled people and at the same time help to reduce the unemployed numbers and the income support budget. Indeed, the Social Security Department have developed a range of programmes under the Back to Work scheme to support unemployed people and prospective employers. It is also worth noting that Guernsey and the Isle of Man levy fees comparable to ours and it seems reasonable to have a consistency of approach. I ask Members to support the proposition.

### **The Deputy Bailiff:**

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

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

Just a question to the rapporteur as to whether companies will, as at present, be able to make large scale use of people drafted into the Island from the U.K. or elsewhere on secondment and thereby avoid paying fees for registered people?

#### **10.1.2 Deputy J.P.G. Baker of St. Helier:**

For the past 18 months or so, I have often struggled to see the link between the Council of Ministers' strategic aim of creating jobs and some of the propositions that we have debated. Often the correlation is at odds with their main stated strategic aim, and I believe that this proposition is one of those. As is clear in the attached report for the proposition, the consultation process produced overwhelming unsupported views from industries such as leisure, tourism, construction and farming. The Council of Ministers have ignored the findings of this consultation process. The idea to me that in the midst of a recession we as a government are now planning to charge individuals and businesses to employ people and introduce another level and layer of paperwork, administration and costs is beyond my comprehension. None of us needs reminding of the current level of unemployment in the Island and the fact that overall it is continuing to rise. So what are we doing? We are creating another hurdle for businesses to get over in order just to survive. I spoke to a local hotel group last week about this. For them 2012 was a loss-making year and therefore they are under significant pressure. They need a real help for them to survive this year; what they do not need is another £14,000 added to their losses, the consequence of which is another business closing and more unemployment. The net result: less revenue to the Island and more unemployment. This legislation is uncompetitive. No Western jurisdictions that I am aware of or that we compete with are doing this. The comparison with Guernsey and the Isle of Man are inaccurate and I do not have the time or the ability perhaps in this relatively short speech to go into it, but then it is not the same thing to say: "Well, Guernsey and the Isle of Man do something similar." The cost of operating in Jersey along with in many areas lower than average productivity is making our lives harder and harder and the chances of us building a prosperous future once again are reducing. Why are we making our lives harder? There is nothing to be gained from moralising and legislating against businesses. These guys are the only contributors to the Island's economy; if we want to enjoy tax surpluses again and continue to enjoy first-class public sector services on the Island and, importantly, support those less able than ourselves in the community, we should be doing everything possible to allow businesses to prosper and to flourish, not drive them to other economies, who welcome them with open arms. This piece of legislation is inflationary, it is protectionist and reduces consumer choice and it is discriminatory. Three weeks ago we congratulated ourselves on new anti-discrimination legislation. I struggled to support it, not because I am discriminatory, quite the opposite but, as an Island, we are neurotic about where you live and where you are born. It is parochialism at its worst and does nothing to improve our Island; in fact, it is hugely detrimental to our future prosperity. If nothing else, this legislation sends out yet again, along with the consultation process, that the States Assembly is out of touch with the business community. There is a second part to my argument, and that is the idea that we are pushing people into work at great expense and with great effort, but that does not create a sustainable future. The Minister for Social Security has rightly been applauded along with his team for getting, I think, 120 people back to work over the last month or so, and we are putting great effort into prodding people like cattle yet not proactively grasping opportunities for industry, investment and diversification. That is how we reduce unemployment: we create opportunities and we draw people out of unemployment and into new employment. We should not be tasking our welfare system with taking on this task for us. Of course, we must encourage people to work, but the way to ensure that this is sustainable and that there is a robust future, is by creating opportunities and employment prospects so people want to work and employers are not frightened of giving workers a job. Perhaps Members have wondered why global businesses are not forming an orderly queue to relocate here; it would seem on face value that our once competitive tax

structure should be enough, but it is not, other countries offer similar and even more advantageous tax structures, they offer a more productive workforce, large incentives for relocation and a more mature and sensible employment environment. It is not hard to understand that zero per cent tax in a lower productivity economy along with higher costs of business is less sustainable than paying higher taxes but with greater ease of operation and with the necessary agility to employ workers as a business grows without this type of pointless legislation. I attended Council of Ministers a few weeks ago when this was on the agenda and I asked how the fees were formulated, and the answer was that the fees were designed to cover the cost of scheme only. So we have a piece of legislation and a fee structure taking up many hours of Civil Service time to create a burden that generates zero accounts, nothing at all. I think it says in the comments that unemployment has continued to rise with the introduction of annual charges consistent with economic and strategic objectives. Well, not the objectives that I have heard read or subscribed to. We will not achieve diversification or substitution by continually interfering with the labour market. We have introduced more and more red tape designed to trip up employers and, not surprisingly, they are not employing as many people. People are not just given a chance; potential employees are looked on as liabilities and not as opportunities, which is wrong. We continue to create a protectionist-style Island and creating a growing gap with our competitor jurisdictions. I include the U.K. in that. Protectionism never works and will only damage our economy further. I appreciate this piece of legislation is not solely about immigration controls, but it is veiled as such and, if we want a recovery, if we want a strong and vibrant economy, if we want to continue to enjoy a higher quality of life, then stop bringing in all of this nonsense. Focus on creating opportunities and allow prosperity to return in an economy supported by Government and one that thrives because of the lack of interference as opposed to surviving in spite of all the red tape and white noise that we put up with in our tiny Island. Unless you wake up and allow a freer rein, we will have to endure higher personal taxes and a lower quality of service, something that sounds to me a lot like the law of diminishing returns. I will finish now, but I had an interesting meeting 10 days ago. I had to attend a meeting in Lausanne in Switzerland; nothing to do with the States at all. There was a local government official there and when he learned I was from Jersey he said to me who could he write to in the Government of Jersey to thank for all the inquiries that his department is receiving about businesses and individuals wishing to relocate there. Who says the Swiss do not have a sense of humour. **[Approbation]**

**Deputy M. Tadier:**

Sir, could I ask for clarification from the previous speaker, because I notice his Minister is not here. Are those comments his personal views or are they also shared by the department, and was the Assistant Minister speaking on behalf of the Economic Development Department?

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

They are my views; I have not discussed them with any Ministerial colleagues.

**The Deputy Bailiff:**

I am not sure whether there are any Members who are directly, or whose spouse or cohabitee has any interest as employers in this debate but, for the avoidance of doubt, from the Chair I would say that it is an interest which would be indirect, shared with a large class of persons and therefore it probably would be useful if, in accordance with Standing Order 106, if such persons were to declare the interest.

**Senator P.F. Routier:**

Sir, may I declare an interest that I am an employer but I do not employ any people who would be registered under this legislation.

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

Sir, I will declare an interest as well but, reading Standing Orders, I did not see it as a direct pecuniary interest.

[16:15]

**The Deputy Bailiff:**

No. As I have made clear, there is no direct interest so you are able to debate and vote in the debate but it should be declared. Will all those Members who wish to make the declaration please put their lights on and the Greffier will make a note.

**Senator L.J. Farnham:**

Sorry, Sir, I will be speaking but ...

**The Deputy Bailiff:**

Senator Farnham, the Constable of St. John ...

**The Connétable of St. John:**

As the Connétable of St. John, we obviously employ people within the Parish, so do we declare an interest?

**The Deputy Bailiff:**

Very well, Connétable. Deputy of St. Peter, Deputy Rondel, Deputy of St. Ouen.

**Senator S.C. Ferguson:**

Yes, and I am a director of a hotel, Sir.

**The Deputy Bailiff:**

Senator Ferguson.

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

I employ one individual, Sir.

**The Deputy Bailiff:**

Senator Ozouf. Very well.

**10.1.3 Senator S.C. Ferguson:**

Members may or may not remember that this particular business, this particular practice of getting employers to pay for a licence to employ non-local labour is a practice followed in Singapore, which is one of our main competitors. The thing in Singapore is that the money collected is ring-fenced and is held in a training fund for local residents. I am assured by the President of the Hospitality Association, Senator Farnham, that there are some 5,000 people or so who are non-local residents working in industry at the moment, and on that basis at £75 a head we are talking about £375,000 I think, if my arithmetic is right, for training.

**Senator P.F. Routier:**

Sir, as a matter of order it is £50 which is being proposed in the Order.

**Senator S.C. Ferguson:**

That is £250,000 then. It keeps changing. There would be a reasonable sum of money for training for locals. If the Minister for Treasury and Resources, who has just arrived, and the Minister for Social Security can assure us that this money will be ring-fenced for training for local people then I think this would be a viable approach and we should consider supporting this particular proposition.

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

After spending 2 years on a Scrutiny Panel looking at the main Housing and Work (Jersey) Law I can say without any doubt that I will be supporting this particular proposition. I felt like I was living in a twilight world listening to Deputy Baker with regards to all I heard was business, business, business. I thought the new road that we were going down in this Assembly was openness and transparency and believe it or not there is a cost to absolutely everything that we do. In terms of cutting out red tape, I am still waiting for the Economic Development Department to come forward and cut some of that red tape. I have been waiting since I came into the States in 2009, in and out of the department discussing with the Minister for Economic Development different ways. Still nothing has come forward. I believe this is an appropriate way forward. This is a 21st Century law. This is something that we are moving forward with and I am concerned when I hear Members like Deputy Baker just concentrating on the business side of things, especially when it is businesses that have got us into this recession and problem in the first place. I know the Minister for Treasury and Resources is sitting there getting upset and annoyed, but if he had read the comments of the former Chief of the Bank of England, Sir Mervyn King, discussing about the financial centres and what they have done in the banks, I think he will find that they are the main proprietors to what has happened with regards to where we are. Unfortunately this Assembly and the Council of Ministers have been rather behind the times for a long time and when I hear Members like Deputy Rondel coming back from Singapore and saying what a wonderful place it is and how forward thinking they are and this, that and the other it does concern me. I am glad that this particular charge is coming forward and I will say that I will continue trying to work with the Economic Development Department and the Chief Minister's Department, but with a balance of both the social and the business side of what we are supposed to do as States Members, and listen to everybody.

#### **10.1.5 The Connétable of St. John:**

I am minded to support this on the grounds that if this helps stop the number of white van men that come in on a daily basis from the U.K. to carry out contracts to the detriment of local companies and local people, then anything that stops that I am in favour of, but I do understand where Deputy Baker was coming from and he made a number of good points. We do need to keep our businesses running, and in fairness quite a number of people that report into Social Security really do not have the heart, for whatever reason, because the social security funding that they get in fact is good enough for them not to even bother having to get out of bed in the morning. I just wonder sometimes if we are going down the road of too much welfare to the detriment of those people who want to work. I only spoke yesterday to a bus driver. He said: "The only reason I am getting out of bed in the morning is that I have got a young child and I am trying to teach him the right way as he is brought up, but I could get as much from social security as being a bus driver." So I thought: "Well, what level have we pegged social security at if this is what I am getting told by the guy in the street?" It does worry me, but this may help stop the white van men from coming in off the boat on a daily basis carrying out a contract and then going back a day or 2 later.

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

I equally have some concerns over this. First of all, let us be clear that we need to tackle the unemployment situation on the Island. However, there are equally other priorities that we have committed to. One is to support local industry, one is to grow the economy and in fact encourage and diversify our economy still further. However, the results are not that. Yes, we have put a lot of effort and money, now, into supporting our finance industry, but what are we doing for our tourism industry? What are we doing for our agricultural industry and perhaps those industries that do rely on the lower paid workers? The fact is that if we want to support those industries we need to help them and allow them to employ the right people. Indeed, we import people from outside the Island

to come and work within the tourism industry and in the agricultural industry because our local people will not work there. Introducing a fee that charges businesses or expects businesses to pay for those employees I think is wrong, especially when we read the reports, because it seems, and maybe when the Assistant Minister sums-up he can address these points, because it specifically says here that this particular idea or proposal was not included in any consultation because of the concerns over the ability of businesses to pay. So we are told that this was not discussed with business. However, somewhere along the line, someone - and I presume it is not just the Chief Minister - has had the bright idea that we need some extra money so never mind about our consultation, we are going to introduce a charge. Furthermore, it is not clear to me if this is now an alternative fee than what was proposed to be levied from employees or is this in addition? If it is in addition we have got to be clear about that, for the simple reason that it goes totally against everything we keep getting told by the various Ministers and the Council of Ministers about making this Island and maintaining the competitiveness of businesses within this Island. You cannot have it both ways. You cannot start seeking to levy additional charges from business and adding in property taxes or whatever you like to call it that the Minister for Treasury and Resources is still planning to look at, and expect us to remain competitive. It is all very well saying: "Oh, well, Guernsey has this fee." Yes, but Guernsey does not have a lot of the charges that we have introduced either. Guernsey does not have G.S.T. for argument's sake. Guernsey does not have some of the other additional burdens that we place on business. So to be honest Guernsey is a red herring anyway. We need to be concerned about what is happening here. Here, our tourism industry is reducing, we have got the tourism officials that we employ acknowledging the fact that we are no longer a family Island. Well, who on earth are they planning to introduce here? Is it the silver service or do we want to introduce young people into the Island who plan to come back? It is a sad indictment that we seem to be complacent and happy enough that we see these industries, whether it is agriculture or tourism, declining and choose to do nothing about it. Yet we say we are doing something about it, we are going to add an extra cost. Unless the Assistant Minister can clearly give us assurances that the businesses themselves are happy and understand the implications of this proposal and have been properly consulted then I will make my decision from that. If he cannot I am afraid my suggestion is to all States Members throw this out.

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

This may sound strange coming from me, although it should not need to, that the first thing that leapt out of the page at me is why does it cost £5,000 to issue a registration card to a 1(1)(k)? Surely the printing costs for that piece of plastic with their name written on it are exactly the same as whether you are issuing that for a registered or otherwise licensed person. Looking at that from a high net worth individual who would want to relocate to Jersey I think I would resent paying that £5,000 fee over here. It seems that we have completely put the cart and the horse the wrong way around, in the sense that if the point of this is to extract the maximum amount of money and income, which I think is really what the driving force is here, it is going to generate roughly just under £1 million, then we should not be doing it by hiding stealth taxes for 1(1)(k) and charging them £5,000 for a card when we should be looking at the more general taxation and looking at the fees, looking at the level of taxes they pay, and looking at the thresholds they pay. We had this massive debate a few years ago. I am frankly quite surprised by some of these figures coming through, because I would have expected more of the Council of Ministers and more of the opposition to be coming from the Council of Ministers in the same vein from the very good speech I heard from Deputy Baker. I did not completely agree with it but in the speech he made the points were salient and well-presented, and I say that without being patronising, even though I do not necessarily agree with the direction of those comments. I read between the lines and I presume I would hear the same thing from the Minister for Economic Development. We are constantly told that it is critical when dealing with high net worth individuals or with skilled labourers, or even

semi and unskilled labourers, to get the right balance here and we must be sending out the message that Jersey is not closed for business, that we are not being overly bureaucratic and that they do look at the very minor details when they are deciding whether or not to relocate to Jersey. That just seems frankly bizarre and I think that is just one element of something that stood out on the page. It is completely bizarre. That is not how we should be trying to make money, from printing costs from cards. It is a hidden cost which I do not think will be received well. The Deputy of St. Ouen is also talking about the fact that we are trying on the one hand as a Government to get more locals into the jobs of agriculture and tourism. Quite rightly, but what have we been doing for the last 10 years? We have basically been selling this aspiration to school leavers that when they get out of school they are going to get a job in the finance industry or they are going to become an accountant or they are going to become an advocate. Nothing wrong with that, absolutely, aspiration is great, but aspiration should also fall into these other areas.

[16:30]

I was very pleased to be talking on Saturday with a couple who are getting involved with vodka production in Jersey. They are currently doing cider production and they do very good sausages, which is a slight aside. It seems that we have got now 2 companies competing for vodka production, and that is brilliant stuff. I look forward to the day when I can see Jersey vodka being put up in duty-frees in airports and boats around the world, and that has been done by the private sector. It has been done in spite of Government in many instances, and the red tape that we have provided. You cannot help feeling that it boils down to basic costs. If our school leavers knew that they could get a reasonable wage and they could afford to pay their rent, working in a field or in a hotel, in a bar in the hotel or as a chambermaid or whatever, I think a lot more people would take that leap. Job satisfaction is key and not everyone gets their job satisfaction from working in offices, but of course we know that we have invested in a system which makes it completely unviable for our locals to work in those industries. So what is the driving factor behind this report and this proposition today? Is it to try and get more locals into these jobs? I do not think that is going to do it. I do not think this is the way to do it. I think it is a back door; it is focusing on the money that is coming in, which is not even ring-fenced. It is another way to put off the long-term debate we have to have on how we raise our tax revenues, directly and indirectly, and how we spend them. There are so many stealth taxes and stealth and fundraising mechanisms that have been passed in this Assembly even in the last 2 years and which will continue to be done, and they will be sold to us on various bases. But it is because we know that the current economic model that we have, and I sympathise with the Minister for Treasury and Resources, although he will not necessarily admit to this, it is being eroded because of pressure from without and within. We have essentially agreed to partake in this race to the bottom on taxation and it is affecting our tax intake and our ability to raise taxes. I am not going to do it, but this definitely warrants some kind of reference back, or do we simply vote against this? I do not think it does what it says on the tin. I think there are so many holes in what is being proposed here today we would be best to move on to the next item and to reject this. It is strange today to have some kind of synergy between left, right and even centre of people who are looking at this and saying: "What on earth is this nonsense with which we have been presented today?" It does not do what it purports to do, it does not do what it says on the tin and it is simply, and quite frankly, bizarre.

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

I am really pleased to follow Deputy Tadier because I am very much in the same vein. I have also probably got some things in common firstly with the Deputy of St. Ouen because I am now totally confused, because I remember this and it was going to be the employee... and if you do come off that white van in the morning and you cannot pay £75: "Sorry, we do not want you here." Is this in addition? Is Deputy Baker right? I am very much like Deputy Tadier; I have some sympathy with

what he was saying, because if this is just a charge to go around, to cover the scheme, I do not want it, thank you. I think it is not in the report, if you listen very carefully to the Assistant Minister it is a stick, because in his opening speech he said: "Of course people out there who employ are entitled" which is anyone here over 5 years or born or anything: "they will not need to pay" so it is a stick. Where is the carrot? The Deputy of St. Ouen: I am slightly different. Our locals will not work in the industry. Well, we have to get a bit more stick. The things they are doing with the unemployed in the U.K. they could do, maybe in the Deputy Southern camp or in the Deputy Baker camp. I fall in the middle. They are making them sign-on daily; they are calling it 18 hours of community service. These could be on the farms. These are people who are recently unemployed who do not think they can work in agriculture, tourism or retail. In the U.K. it might be different industries, but we do not have to bring people in. It does come down to what Deputy Tadier said, it is about esteem, working. If I say I have got a relation: "Oh, where are they working? Are they working at Lloyds?" and then I go: "The chemist" you can see their face drop. People out there have not got the same esteem and that is what we instil in our youngsters. But this does not do what it says on the tin. I am really concerned because Deputy Baker does not speak very often in here, but he does know what he is talking about when he is talking about the employers out there. The employee is not paying. We will not get people to just avoid this charge and take on the unemployed 'Entitled', and that is exactly what the Assistant Minister said in his opening speech. He thinks it is going to happen; well, he can keep on dreaming. It is not. We need to find a much more transparent way of doing it and a fairer way. We do not need to be hitting the employers any more, and I will go further. I cannot remember, and I know the Deputy Bailiff knows, I normally do know my Standing Orders but I think it is Standing Order 20-something, and I would like to invoke it and move on to the next item.

**The Deputy Bailiff:**

You are proposing that we move on to the next item in accordance with Standing Order 85?

**Deputy J.A. Martin:**

I think 20 people have to vote for it, more than 20, otherwise it is not carried.

**The Deputy Bailiff:**

Standing Order 85, you are requesting that the States should move on to consideration of the next item at this stage, are you?

**Deputy J.A. Martin:**

Just before I do ask that, Sir, I was seeing the Minister for Treasury and Resources speaking to the Assistant Minister. Unless they are going to withdraw it today, then I will ask to move on to the next item.

**The Deputy Bailiff:**

It appears that it is not going to be withdrawn today. The Presiding Officer under Standing Order 85 is not to allow the proposal if it appears to him that it is an abuse of the procedure of the States or an infringement of the rights of a minority. In that context so far 9 Members have spoken. We normally require 10 Members to have spoken.

**Senator L.J. Farnham:**

Sir, I can say something very quickly.

**The Deputy Bailiff:**

In the circumstances I do not consider this to be an abuse of the procedure of the States or an infringement of the rights of the minority. There is to be no debate. The proposition is to move on to the next item and therefore a vote will be taken forthwith. Do you ask for the appel?

**Deputy J.A. Martin:**

Yes, please, Sir.

**The Deputy Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is to move on to the next item, in other words to leave P.52/2013 and I ask the Greffier to open the voting.

<b>POUR: 22</b>		<b>CONTRE: 18</b>		<b>ABSTAIN: 1</b>
Senator S.C. Ferguson		Senator P.F. Routier		Deputy of St. John
Senator L.J. Farnham		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator A. Breckon		
Connétable of Trinity		Senator B.I. Le Marquand		
Connétable of St. John		Senator F. du H. Le Gresley		
Connétable of St. Martin		Senator P.M. Bailhache		
Deputy R.C. Duhamel (S)		Connétable of St. Lawrence		
Deputy R.G. Le Hérisier (S)		Connétable of St. Mary		
Deputy J.A. Martin (H)		Connétable of St. Ouen		
Deputy G.P. Southern (H)		Deputy J.A. Hilton (H)		
Deputy of St. Ouen		Deputy of Trinity		
Deputy J.A.N. Le Fondré (L)		Deputy K.C. Lewis (S)		
Deputy S.S.P.A. Power (B)		Deputy E.J. Noel (L)		
Deputy S. Pitman (H)		Deputy A.K.F. Green (H)		
Deputy M. Tadier (B)		Deputy J.H. Young (B)		
Deputy T.M. Pitman (H)		Deputy S.J. Pinel (C)		
Deputy T.A. Vallois (S)		Deputy of St. Martin		
Deputy G.C.L. Baudains (C)		Deputy of St. Peter		
Deputy J.P.G. Baker (H)				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**Senator L.J. Farnham:**

May I just ask, Sir, what happens now to this projet?

**The Deputy Bailiff:**

The States are no longer debating it, so it lapses.

**Senator L.J. Farnham:**

Can it be re-lodged, Sir?

**The Deputy Bailiff:**

It can be re-lodged.

**Senator L.J. Farnham:**

I hope they see sense and do not do that, but thank you.

**Senator P.F. Routier:**

I think what we will need to do is... I have listened to what people's comments are and certainly we will be reassessing the fee structure that we need to cover the costs of implementing the Control of Housing and Work Law and we will be making an Order that allows us to do it from the current legislation that we have.

**The Connétable of St. John:**

Is the Assistant Minister saying he is going to do this through the back door?

**Senator P.F. Routier:**

No. What I was saying in this particular Regulation, we have already approved the process for making the fees for the rest of the legislation. This was just an individual part with regard to registered people. That is all we were debating today. The rest of the legislation, the fee-making power, has already been debated by this House, so we will need to think about that.

**The Deputy Bailiff:**

That is not a matter that is before the Assembly today and questions can be put no doubt on another occasion, but it does not arise on the Order Paper now. Senator Bailhache, are you ready to debate P.50?

**Senator P.M. Bailhache:**

I wonder if on the assumption that P.54 is going to be debated this afternoon whether we might defer P.50 until tomorrow morning, because I should just like an assurance from the Law Draftsman, which I have not yet received- or at least I do not think I have - about the *vires* of the Regulations and I would feel more comfortable if I could have that assurance before I launched upon the debate. So if the Assembly is prepared to agree to leave this over until tomorrow I should be most grateful.

**The Deputy Bailiff:**

Perhaps we can revisit that possibility depending on how we make progress with the remaining items on the agenda.

**11. Draft Control of Housing and Work (Transitional and Consequential Provisions) (No.2) (Jersey) Regulations 201- (P.53/2013)**

**The Deputy Bailiff:**

We come next to P.53/2013 - Draft Control of Housing and Work (Transitional and Consequential Provisions) (No.2) (Jersey) Regulations 201-, lodged by the Chief Minister. These are not dependent upon P.52?

**Senator P.F. Routier:**

Not at all, Sir.

**The Deputy Bailiff:**

All right, and I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Control of Housing and Work (Transitional and Consequential Provisions) (No. 2) (Jersey) Regulations 201- The States, in pursuance of Article 52 of the Control of Housing and Work (Jersey) Law 2012, have made the following Regulations.

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

Hopefully this will be a bit more straightforward. This Regulation supports the introduction of the Control of Housing and Work Law which comes into force on 1st July. This Regulation ensures that the 30th June manpower return due under the Regulation of Undertakings and Development Law continues to fall due, notwithstanding the repeal of that law and its replacement by the new law. In addition the Regulation makes the final consequential changes needed such that new residential tenancy law which came into force on 1st May 2013 refers to the new law and not the repealed Housing Law, and I make the Regulation.

**The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the principles? All Members in favour of adopting the principles kindly show? Those against? The principles are adopted. Do you propose the 2 Regulations together?

**Senator P.F. Routier:**

Yes, Sir, *en bloc*.

**The Deputy Bailiff:**

The Connétable of St. Martin, do you wish to scrutinise? Senator Ferguson? She is not here. The Deputy of St. Ouen, do you wish to scrutinise these Regulations? You are as much on the ball as the Chair is at the moment.

**The Deputy of St. Ouen:**

I was not expecting the Chairman not to be here.

**The Deputy Bailiff:**

Very well. Senator, do you wish to propose the Regulations *en bloc*?

**Senator P.F. Routier:**

Yes, Sir.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak? All those in favour of adopting the 2 Regulations kindly show. Those against? The 2 Regulations are adopted. Do you propose the Regulations for the Third Reading?

**Senator P.F. Routier:**

Yes, Sir.

**The Deputy Bailiff:**

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

**12. Draft Education (Amendment No.2) (Jersey) Law 201- (P.54/2013)**

**The Deputy Bailiff:**

We now come to P.54/2013 - Draft Education (Amendment No.2) (Jersey) Law 201-, lodged by the Minister for Education, Sport and Culture and I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Education (Amendment No.2) (Jersey) Law 201-. A Law to amend further the Education (Jersey) Law 1999. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

**Deputy J.H. Young:**

I declare an interest and withdraw from the Assembly, Sir.

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

In November 2012 I made a statement in the States which in essence explained to the States that I wished to introduce fairer arrangements similar to those now in place in Guernsey and the Isle of Man and other jurisdictions as well, whereby the calculation of a student grant for a university degree would be based on an assessment on the household income, and that I wish to change to that as opposed to the existing parental income basis.

[16:45]

After that statement there was a debate in the States on 29th January 2013 in response to a proposition lodged by Deputy Baudains of St. Clement and that debate was lost and the States supported my wish to move to a household income basis of assessing grants. Just by way of a quick reminder for Members, much of that debate centred around emotional discussion of what happens in family arrangements, but in the end I believe that the States supported my view that students become adults when they go to university. Taxpayer-funded grants are made to the adult student and not to the parent or step-parent, and the law change is about the means by which the department assesses the financial need of each student in as fair a way as possible. The new system will use the same information now for all students, regardless of whether they are living with both natural parents, a single or divorced parent, or with one parent and another step-parent. We will now be, as the result of this change if it is approved by the Assembly, able to move to a simple way of assessing a student's ability to pay and that is the household income where the student lives. I do not intend to go into very much more detail on this. I did say on several occasions both during the statement and during the debate in January this year that there may be some detail changes required to primary law to enable this to take place, and what we have in front of us today are those changes to the primary law that are necessary. I would make the proposition and I would look forward to comments from Members.

**The Deputy Bailiff:**

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

**12.1.1 Senator L.J. Farnham:**

In rising to speak I ask the Assembly to turn their minds to the important principle of education and the right and responsibility of a child's natural parents to fulfil that obligation. I will be raising some points that I seek clarification upon, and apologies if I cause a repeat of any previous discussions as I was excused from the States when Deputy Baudains' proposition was debated earlier this year. In his statement to the Assembly of November 2012 the Minister for Education, Sport and Culture stated that: "If a couple divorce it is often the case that only one partner's income is taken into account, the partner with care and control of the student. This is a source of significant concern in Jersey where 38 per cent of parents sending their children to university notify the Department that they are single parents for the purposes of student finance." He went on to say that it was anticipated that this change will lead to savings of approximately £60,000 in 2013 and that may increase to an annual saving of within the region of £500,000 after 3 years. There will be additional costs for some households that would come within the scope of the Order as the income of both the parent and his or her new partner will be taken into account in the assessment of the award. I would first like to ask the Minister exactly the reason that the current system is costing the

taxpayer £500,000 per annum more than the changes proposed, and how savings of £500,000 per annum after 3 years are arrived at. Reading into the Minister's statement I am inclined to believe that it may be because divorced parents are applying for a grant in the name of the parent with the lowest income, thereby qualifying for a grant which the higher income-earning parent would not receive. If this is the case then surely the way to deal with it is for the Grants Office to review the divorce agreement and determine the grant application on the income or incomes of the parent who has, pursuant to a divorce agreement or court order, the legal obligation to pay for the maintenance and education of the student. If one parent fails or refuses to co-operate in the grant application processing quite simply the grant should not be considered. If this is made a clear policy by the Department for Education, Sport and Culture it will not be long before family lawyers ensure that all ancillary agreements contain co-operation and financial disclosure obligations for the purpose of university grant applications. So quite simply I am asking if a tightening-up of the current system may be a more principled and more appropriate way of dealing with the issue. The principle that someone who is not the parent of a child should be deemed to be responsible for the costs of that child's education is, in my opinion, fundamentally flawed and morally wrong, and would inevitably lead to pressure being placed upon second families and may in some cases be a distinct disincentive to second partnerships or marriages. For example, will the provisions also apply to people who cohabit instead of remarrying? If cohabitation is not included then those who remarry will be further unfairly prejudiced. Furthermore, the burden of proving cohabitation will be potentially difficult and open to abuse and may even create a bigger challenge than currently exists. I cannot help also thinking - and I could be wrong - that these proposals are straying into the realms of family law issues and could prejudice the enforcement of ancillary agreements or orders of the Family Division of the Royal Court. In fact, the very existence of these provisions could encourage the natural parent to absolve themselves of any ongoing responsibility for the costs of tertiary education of the children, in the knowledge that the liability will be passed, by default, to a new partner or step-parent. Can I ask what would be the implications where by ancillary agreement or court order a parent is required to contribute to the cost of university education with the contribution as between the 2 natural parents being determined by reference to their respective income and assets, but due to failure or refusal on the part of one parent to co-operate with the grant process the partner or step-parent's income is taken into account, thereby potentially increasing or decreasing the amount of parental contribution required? Undoubtedly this could lead to further disputes and possibly litigation between natural parents. One might say that the natural parents could apply jointly for the grant and things could be resolved quite amicably between the natural parents, thereby avoiding the need for the partner or step-parent's income to be taken into account, but the sad and realistic fact of life is that most divorced parents cannot communicate in a civil way, or co-operate in such matters. This will inevitably mean that the burden will fall to a partner or step-parent who, by any analysis, will be forced to cover the costs of the defaulting natural parent. Usually parties who remarry each have first families. This raises further important questions. For example, will the financial obligations of the step-parent to their first family be taken into account when determining their disposable income for the purposes of the grant application? If these obligations are not taken into account there will be very real financial hardship for the parties of a second marriage who have children from 2 previous marriages to maintain and educate. If the obligations are to be taken into account there will be plenty of opportunity for abuse and the application process could become even more complex when dealing with financial disclosure. I think the proposition, although well-intentioned, could lead to difficulties and complications, many of which possibly remain unforeseen and I ask the Minister and his department to look again at tightening-up the existing system which quite rightly allows for the financial responsibility of education to remain with the natural parents at all times.

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

The Minister is in one of these difficult situations - and it was not always this Minister, it was a previous Minister at one point - and the department have always had to grapple with this kind of swings or roundabouts, because under any system there is a perceived and even an actual unfairness. It was because when we were on the previous Education panel you would hear all these complaints about anecdotal unfairness in the system whereby there was always an errant parent, who was usually the male, and they were always multimillionaires, but the parent who was a single mum, for example, was always getting a full grant paid for by the States when the parent was a multimillionaire. We heard many of these stories which could have easily been about the same person; we do not know, or it could have turned out that the poor rich individual who is no longer around was not even the parent in the first place. Short of the department doing biological DNA tests on the supposed parents it is difficult to see what the department could really do in reality. There are so many permutations of familial arrangements which do not simply involve divorces. You have people who were not married in the first place when they had their children, and the father for example has never been around. It is not so easy for the mother to depart, but it is easy for the father to depart. There are scenarios where somebody has been orphaned or widowed and that parent is no longer around because he or she is no longer alive, at which point you have to question should it be for the new parent to take up responsibility? There is an expression which is not especially parliamentary, but it is not un-parliamentary, which says: "Love me, love my dog" and we already know that the income support system is devised on households, although households are not always straightforward in their definition, and you can have people who are related still constituting different households. I think the Minister and also the very competent staff at the Department for Education, Sport and Culture have tried to do the right thing and say: "We need a simple solution here which is not necessarily going to solve every particular problem which arises, because we want to still be providing assistance to students who need it and if it means now and again we give a little bit more money to people who do not need it, so be it, so long as people are not discriminated against and not given money which might otherwise stop them from going to university." I genuinely think that is what they are trying to do, so I have got no problem with accepting the household thing, although Senator Farnham is quite right, the way we look at household income does vary from income support to legal aid, for example, which is not always that clear. There are questions to be asked about what the responsibility should be, and certainly if there are court orders in place and somebody knows, for example, at the point of divorce that one or more of the children is going to be in higher education or is already in higher education and a court order is being made then quite clearly the department need to make sure they know about that, that it is disclosed, and it will be good to hear from the Minister how those areas will be dealt with. It must not be that these things are not dealt with, because the State is always there as a fall-back position. The concerns I have though that the savings that are being spoken of, there is a risk that this is being driven as a C.S.R. (Comprehensive Savings Review) and that the correct thing is not being done because of that. I would like to see the savings that are made from this scheme once it is up and running be ring-fenced and reinvested back into higher education provision, because we know it is becoming an increasingly higher cost, notwithstanding the good work from negotiators within the department who have managed to get fixed fees for universities in the U.K. for the most part, which do not put Jersey at a disadvantage. That has to be commended, but those savings should be reinvested and it should not be again another stealth mechanism for funding Treasury's ever-diminishing returns to their unsustainable model. I am also concerned about this discretionary element in the Department for Education, Sport and Culture's funding structure. Can the Minister comment on whether at some point it will be made statutory that it should not be done discretionarily? We are always told that the fact that it is discretionary is a positive thing because it means that even if somebody does not meet the criteria they can take on board special circumstances and that discretion can be applied, but of course discretion is always a double-edged sword, because people like to have certainty about what they are entitled to.

[17:00]

Can the Minister perhaps talk about those last 2 issues about why savings are not going to be reinvested, because it seems to me this could be called a crafty way of trying to make cuts to the higher education budget which are going to affect a minority of parents adversely because they do not fit the criteria. I know he has spoken in the past of trying to help the majority but it sounds like it might be done at the cost of the minority and whether he would be prepared to fight for that budget to be kept with first of all the department but also be reinvested into higher education, and secondly whether there are any moves towards statutory funding for higher education rather than discretionary funding. At this point it may well be possible that I will not be here if a vote is called, because I do have an appointment that I need to go off to, so I do give my apologies if that is the case, but I will be listening out one way or the other for the Minister's response.

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

I am not going to speak very long. My thoughts are pretty much in the same lines as Senator Farnham. He explained quite clearly there are going to be areas which are not going to be thought of with regards to this and the particular concerns that are going to be expressed if this is approved. But, as Assistant Minister for Education, Sport and Culture in 2011, I did raise these concerns with the Director of Education, Sport and Culture and read a report that was commissioned by the department, I think - according to the report that I have just been given - at about a cost of £35,000, by the looks of things, to basically tell us that we should do the same thing as Guernsey and Isle of Man. But to allay my fears that if there are parents who are able to make agreements, or should they go through a divorce agreement and have it within their contract of a divorce agreement stating that they will still be financially responsible, in terms of paying for higher education, then that would be something that would be considered by the department. However, my concern is, and this is a learning curve from being in the States, when you get told one thing after it has been approved something else can happen. I just want to know from the Minister whether some type of an agreement, whether it be a Ministerial Decision or a high level policy or something agreed by himself or the Council of Ministers as to if there is an agreement in place, then that will be the case going forward; it will not be just changed here and there by whichever Minister comes in place later on. So that there is a clear understanding between parents because if those parents do understand that then they can put that agreement in place through divorce or they can put that agreement in place if they do talk to each other and it is easier to discuss things by putting it in a contract between them because that would allay my fears further. I can understand why this is being brought forward and I can understand the difficulties with chasing after natural parents and the difficulties, of course, that means testing and the income support system has presented to this Island since 2008. I would really like that reassurance from the Minister because I think from this point forward, as we move forward, we do have to think in the long-term and a lot of people out there would like to be able to ensure that they have the right savings and the right monetary amount for their children, should they wish to go through higher education in the future. There has to be recognition there, not just from the States side but from the parents as well.

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

I am obviously not going to rehearse the arguments I made during the previous debate on this issue, but I have to agree with Deputy Tadier that this is C.S.R.-based, it really has nothing to do with fairness; in fact, in my view, it does quite the opposite. I am concerned this simply is not going to work because if the Minister is unable to persuade the biological parent to pay for his or her children's education, what chance is there of getting funds from a non-relative who just happens to have a relationship with the remaining parent? It simply will not work. Another consideration which I would like the Minister to address in his summing-up, is it not the case that most of these students are, in fact, no longer defined as children and, therefore, the Minister is technically unable

to force parents, partners, or whoever, to pay up? It does seem to me that the whole grant system for education is a shambles and that that is where I would rather the Minister was directing his energies. Needless to say, I will not be supporting this.

#### **12.1.5 Deputy R.G. Bryans:**

I think it has already been said we have already debated this in considerable detail last time so I will not reiterate too much. We have agreed the law and I would just like to say a couple things, natural parents are not excluded, they can opt to have their incomes taken into consideration. This is very much about targeting the money we have to those who genuinely need it and our direction in Education and I thank both Deputy Tadier and Deputy Vallois for agreeing that this has been a very difficult process for us at Education, but I equally refute that this is just C.S.R.-driven. Without doubt, and we will be very transparent about it, there is C.S.R. involved in this, and we have said that from the outset, but our focus has always been making sure that every student has every opportunity to get into higher education. It is fairer, equally, especially for those married couples who through 3 consultations have told us an awful lot that this was unfair and the situation was we had to redress the balance, so this is our way of doing it. A couple of other things that we did say at the last meeting that are important to take on board: one is that we have a very effective appeal situation and appeals panel that meet for various reasons and that has been the core of what we have done. Equally, I would say - I think it was the Constable of St. Martin who said last time what would we do if it did not work - I think it is a bit like Obama when he sends George Mitchell to Israel and he was asked: "Does it work, what you do?" and he said: "It is quite simple, we stop and do something different." We have given ourselves the opportunity to look at what we are doing and to change it if necessary. We have given ourselves the appeals panel but our focus is totally on making sure that every student gets every opportunity to obtain higher education.

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

Does anyone wish to speak? I will call upon the Minister to reply.

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

Thank you very much to all of those Members that have spoken and I know that everybody speaks from the heart in many cases, and I think that is right. Let me talk to Senator Farnham's questions for the moment. It is a shame that he was not at the previous debate because most of the points were covered there but I will, for his sake, just very quickly explain to him that, first of all, we are talking about adults, we are not talking about children, so his questions about the legal obligations of parents do not apply because these are young adults that we are talking about. Why a £500,000 cost in saving in the C.S.R. was his second question; where does it come from? Quite simply, that is because of the behaviour that we currently are experiencing from parents. Unfortunately, of the 38 per cent or so of students from divorced or separated households, the parents involved are currently, in the main, declaring only one income as opposed to 2 - and here I will talk to Deputy Vallois' question - unless there is a legal agreement in place. If only there were legal agreements in place for all students then we probably would not be having this discussion or the need for this change to the law but unfortunately that is not the case, it is a diminishing number of situations where legal agreements apply after a person becomes 18 years-old, and that is the essence of the problem. I think the other main area to talk about was why do we not go after the parents, why do we not go after the birth parents? We did cover this in the previous debate but I cannot really do any better than to just read a couple of excerpts from my previous speech from the previous debate. I know it is a bit of a repetition but I think it probably does bear just repeating. It is slightly technical but I am going to explain it: "Fundamentally in law, a debt must exist first before a court can become involved. A discretionary grant system does not produce a debt, both a request for a grant and the awarding of it are voluntary, so a debt cannot exist." That means that it is not

possible to use the law courts to chase the voluntary request for grant aid and a voluntary award of grant aid. It is not possible to enforce that in any way through the law courts. I will just refer to Deputy Tadier who is not here at the moment. He wanted to know why we could not ring-fence this £500,000 a year and use it for student grants. I would like to just remind him that, first of all, all departments have been required to make C.S.R. savings and we have complied with that as far as we have been able. But I think it is also true to say and I need to point out to Members, that in the last M.T.F.P. the department were very successful with growth bids and one of those was around the potential rises to higher education grants and tuition costs from the U.K. and we were successful in obtaining growth bids to the tune of something like 3 or 4 times this C.S.R. saving. Whereas we have saved something by being more equitable and being more efficient in the way we apply our monies for student grants, we have also been successful in obtaining the Treasury and the States as a whole to accept that there are going to be increases to tuition fees in the future and that they are covered through growth in the M.T.F.P. The other thing that Deputy Tadier asked was whether we would move to a statutory rather than a discretionary system. I think I have already answered that in that what we are talking about here are adults not children. In my view, it has to remain, therefore, a discretionary grant system. I think really there is not much point in me adding anything else, I think we have all had a long day anyway, so with that I would ask Members to support this small change to the law and I maintain the proposition.

**The Deputy Bailiff:**

The appel is called for. The vote is on the principles of the Draft Education (Amendment No.2) (Jersey) Law. Members return to their seats and I ask the Greffier to open the voting.

<b>POUR: 30</b>		<b>CONTRE: 7</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Connétable of St. Ouen		
Senator S.C. Ferguson		Deputy J.A. Martin (H)		
Senator A.J.H. Maclean		Deputy G.P. Southern (H)		
Senator B.I. Le Marquand		Deputy S. Pitman (H)		
Senator F. du H. Le Gresley		Deputy T.A. Vallois (S)		
Senator L.J. Farnham		Deputy G.C.L. Baudains (C)		
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Mary				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
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)				

**The Deputy Bailiff:**

Connétable, do you wish to scrutinise this legislation? Minister, do you propose the Regulation of the Articles 1 and 2 together?

**The Deputy of St. John:**

Yes, please.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak? Those Members in favour of adopting the Articles kindly show? Those against? The Articles are adopted. Do you propose the law in Third Reading?

**The Deputy of St. John:**

Yes, please.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak? Those in favour of adopting the law in Third Reading kindly show? Those against? The law is adopted in Third Reading.

**Senator L.J. Farnham:**

I do beg your indulgence, can I just ask for clarification on P.52? We have just moved on to the next item but I just want to be absolutely clear, have the Regulations now gone? Do they need to be withdrawn by the Assistant Minister?

**The Deputy Bailiff:**

No, they have gone since they are not being debated. They are there on the list of propositions which have been lodged so they do not need to be re-lodged.

**Senator L.J. Farnham:**

No, Sir, but do they need to be withdrawn, is what I am asking?

**The Deputy Bailiff:**

That is a matter for the Minister. They do not need to be withdrawn today.

**Senator P.F. Routier:**

If it should help Members, I will withdraw them at the present time and I will reconsider our position.

**The Deputy Bailiff:**

They have been withdrawn.

**Senator L.J. Farnham:**

Thank you, Sir, and thank the Assistant Minister.

**The Deputy Bailiff:**

I give notice that the Hospital Outpatients: re-introduction of prescription charges, P.72, has been lodged by the Minister for Health and Social Services.

[17:15]

### **13. Draft Taxation (Accounting Records) (Jersey) Regulations 201- (P.50/2013)**

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

We now come to P.50 - Draft Taxation (Accounting Records) (Jersey) Regulations 201-. Assistant Chief Minister, are you ready to proceed?

#### **Senator P.M. Bailhache:**

Yes, I am. I have now had an assurance from the Law Draftsman and from the Solicitor General and I am content to proceed.

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

I understand that you would ask the States to adopt the proposition, taking the preamble and deleting the words: “and following the decision of the States taken on the day these Regulations are made to adopt P.50/2013.”

#### **Senator P.M. Bailhache:**

If Members would be good enough to allow that deletion that would make the preamble make sense and I apologise to Members for the fact that this error has crept in. If the words: “and following the decision of the States taken on the day these Regulations are made to adopt P.50/2013” could be omitted under the Slip Rule, I should be most grateful.

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

If Members are content for us to proceed in that way I will ask the Greffier to read the citation of the draft as amended.

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

The Draft Taxation (Accounting Records) (Jersey) Regulations 201-. The States, in pursuance of Article 1(1) of the Taxation (Implementation) (Jersey) Law 2004, have made the following Regulations.

#### **12.1 Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):**

These draft Regulations are required in order to ensure that Jersey can meet the obligations that flow from the States ratification of 31 tax information exchange agreements and 8 D.T.A.s (Double Tax Agreements) as to the current international standard. The *vires* for the Regulations comes from the Taxation (Implementation) (Jersey) Law 2004 which allows the States in respect of agreements or obligations that they have approved concerning taxation to: “... make such provision as appears to them to be necessary or expedient for the purposes of dealing with matters arising out of, or related to, such an agreement or obligation.” The need for the Regulations was identified by the Global Forum assessors when assessing Jersey’s compliance with the current international standards. They recommended that Jersey should create a statutory requirement to keep adequate accounting records and that those records should be kept for a minimum 5-year period or more. Because of the gap in the statutory requirement, the Global Forum assessors determined the relevant essential element in the Global Forum’s terms of reference not to be “in place” but “in place but certain aspects of the legal implementation of the element needs improvement.” In other words, we got an A but we did not get an A-star. In taking action to fill the gap, Jersey has been greatly assisted by the fact that Guernsey, which had the same shortcoming in its legislation, has

recently amended its legislation and the Guernsey Regulations have been approved by the Global Forum as meriting the determination of “in place” for the essential elements concerned. The draft Jersey Regulations have been drafted with the Guernsey Regulations in mind and we are confident that they will lead to the Global Forum approving the position that Jersey will then have and as it were, according an A-star to our compliance with the international standards. I move the principles to the Regulations.

**The Deputy Bailiff:**

Does any Member wish to speak to the principles? Those adopting the principles kindly show? Those against? The principles are adopted. How do you wish to proceed? Sorry, I really am having a very bad day today. Senator Ferguson, do you wish to scrutinise these Regulations?

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

We have considered it, Sir, but no.

**The Deputy Bailiff:**

I must have anticipated that.

**12.2 Senator P.M. Bailhache:**

If the Assembly is minded to allow me to propose the Regulations *en bloc* I would like to do that and be prepared to answer any questions on any of those Regulations.

**The Deputy Bailiff:**

Seconded? [Seconded] Does any Member wish to speak on any of the Regulations? Deputy Baudains.

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

In reference to Article 5, Part 2, I wonder if the rapporteur could give his opinion on whether he thinks the level 4 fine is suitable for perhaps a very small business.

**The Deputy Bailiff:**

Does anyone wish to speak? I call on the Assistant Chief Minister to reply.

**12.2.2 Senator P.M. Bailhache:**

I understand the point being made by Deputy Baudains but I think that that really is a matter for the Comptroller’s discretion. If the company were a very substantial enterprise it might be necessary to impose a penalty up to the maximum level 4. If it was a very small one-man business I am quite sure that the Comptroller would take a more beneficial or benevolent approach.

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

I wonder if perhaps if he could expand on that because my reading of it is that one would be liable to a fine of level 4 not up to.

**Senator P.M. Bailhache:**

I am sorry, I had not understood what the Deputy was saying. The liability is to a fine of level 4 on the standard scale. Level 4 expresses the maximum penalty that can be imposed and it would be a matter for the discretion of the court, not the Comptroller, I am sorry, to decide where on the scale was the appropriate point at which to pitch the fine. But, no, there would be no obligation to impose a fine up to the maximum on level 4.

**The Deputy Bailiff:**

Members in favour of adopting the Regulations kindly show? Those against? The Regulations have been individually adopted. Do you wish to move the Regulations in Third Reading?

**Senator P.M. Bailhache:**

I move the Regulations in Third Reading.

**The Deputy Bailiff:**

Does any Member wish to speak? Those Members in favour ... the appel is called for. The vote is on whether to adopt the Taxation (Accounting Records) (Jersey) Regulations in Third Reading. All Members return to their seats, the Greffier will open the voting.

<b>POUR: 41</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy T.M. Pitman (H)		
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
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)				

## **QUESTIONS - resumption**

### **13. Questions to Ministers without notice - The Chief Minister**

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

If Members agree, just in time, the Chief Minister has returned to take Question Time. It will take us beyond 5.30 p.m. but I am assuming that Members want to proceed in that way. The Chief Minister's questions are now open; I call on Deputy Trevor Pitman.

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

I think it was 2 sittings ago that I was accused of bringing a malicious, fictitious document purporting to be an email from a constituent; basically that I and the constituent were liars. Could the Chief Minister at least inform the Assembly that he now knows that that person is not fictitious but is a real person who has requested to meet the Chief Minister with his travelling business partner who also saw the same things?

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

As Members will be aware, I, in my role as Chief Minister, have any number of confidential meetings where individuals wish to pass information to me and until I have undertaken such meetings I do not think it is right for me to talk about them in the public domain.

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

With due respect, I think the Chief Minister should be at least confirming if the gentleman has contacted him otherwise it really does look like he has got something to hide.

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

I do not believe I have anything to hide at all. I think it is right and proper that when a Minister is approached on a confidential matter and individuals have asked for matters to remain confidential it is not professionally correct for a Minister to talk about that publicly.

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

With due respect, I was copied in and the Chief Minister knows that full well and the gentleman is very happy that his reputation is cleared.

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

I do not believe that was a question.

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

Could the Chief Minister advise what consultation the Treasury Department has with his department with regards to the Treasurer of the States advising the Council of Ministers?

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

With regard to issues like that there is always consultation undertaken officer to officer. There was also a full and frank discussion around the Council of Ministers' table and as a result of that a number of issues were raised and further information was requested with regard to the amendments being proposed.

#### **13.3 Deputy J.A.N. Le Fondré:**

Regarding matters ongoing with the Dean and the Bishop of Winchester, would the Chief Minister release the terms of reference for Dame Heather Steel investigation into the Korris Review on safeguarding?

**Senator I.J. Gorst:**

They are terms of reference which are of a review which is instigated by the Dean. I have had other requests by the Bishop - it has been a long day, but perhaps not as long as it has been in here, however. I have asked my officers to inquire of the Bishop whether those terms of reference can be made public and, as far as I am aware, I have not yet heard back why they have not been made public and whether they will be in the future.

**13.3.1 Deputy J.A.N. Le Fondré:**

Just obviously to emphasise, it is not only a matter of public interest but it is also relating to a Member of this Assembly so I would hope those terms of reference will be made public at some point.

**Senator I.J. Gorst:**

As I indicated, I have requested of the Bishop and his office that they are made public.

**13.4 Deputy G.P. Southern:**

I thought you had already seen me, Sir. Is the Minister aware of further aggressive tax avoidance cases reported in the *Guardian* and in *Accountancy Live* involving a company which is described as “Jersey-based N.T. Advisers” which H.M.R.C. (Her Majesty’s Revenue and Customs) has taken out cases against in the previous week? If not, will he investigate the activities of this company said to be operating through SG Hambros Bank and report back to the House?

**Senator I.J. Gorst:**

I am sure the Deputy means not “taken out” but win cases against such schemes and, as the Deputy will know if he has read around that issue, they are historic schemes and have not been involved with the Jersey Administrator Provider for a number of years. They were historic schemes. It does, however, take a number of years and take a great deal of time to bring such schemes through the court process and that is what we have seen, a successful completion of that in the last week.

**13.5 Deputy M.R. Higgins:**

Following complaints to the Chief Executive, copied to the Chief Minister on 7th May regarding allegations of perverting the course of justice by the Chief Officer and Deputy Chief Officer of Police and others, has an external police force been appointed to investigate the allegations and if not, why not?

**Senator I.J. Gorst:**

One of the joys of modern transport is that one can listen to the radio and I did just that on the way from the airport to the States Assembly this afternoon. The report of the answer given to that question by the Minister for Home Affairs I fully agree with and can add nothing further to it in this matter.

**13.6 Deputy G.P. Southern:**

How pleasant it is to have the real Chief Minister back. Can he confirm the impression given by his Assistant Minister that Jersey has no population target at the moment, reduced from the previous immigration target of 250 heads of household?

**Senator I.J. Gorst:**

The Deputy knows as well as every other Member in this Assembly that a population strategy policy, if I might use that word, was included in the Strategic Plan and that is the policy that the Migration Advisory Group have been working towards ever since and, in fact, prior to the approval of the Strategic Plan. The Deputy knows that there is no number attached but that Migration Advisory Group is being robust and being firm and, once again, the reports of the decision of this Assembly might infer that Members of this Assembly believe that we are being too robust with regard to control of population.

**13.6.1 Deputy G.P. Southern:**

A point of clarification, if I may, is the Chief Minister saying that the 250 heads of household as a target for inward migration was never accepted by this House because I believe it did come to the House and was accepted by this House?

**Senator I.J. Gorst:**

There is no population number in the policy that is being followed by the Migration Advisory Group, as detailed in our Strategic Plan.

[17:30]

**13.7 The Connétable of St. John:**

Over the last couple of months we have had a number of French delegations attend the Island. I had sent an email to the Minister and he failed to give me a response. I suggested that given that we have a limited amount of French speakers within the Chamber that he should make use of the French speaking A.P.F (Assemblée Parlementaire de la Francophonie) members to assist the Council of Ministers when these delegations arrive. But I have not had a response. Could he respond now in public?

**Senator I.J. Gorst:**

The Connétable makes a very good point and we do indeed endeavour to include French speakers in such delegations to make up for my woeful ability in French speaking. The Connétable is absolutely right and he will be aware that when the French Ambassador to the Court of St. James visited earlier this year we had a full States dinner and all States Members were invited to be a part of that event and to meet with that delegation. We try to include as many Members as we can because we recognise the importance of relationship building, not only with Ministers, but right across States Assembly Members.

**13.7.1 The Connétable of St. John:**

If I can come back in on that? There was a delegation, I think, last week or the week before from Normandy. How many non-Council Members from the A.P.F. attended, please?

**Senator I.J. Gorst:**

I do not know, off the top of my head. It was a great privilege for me to welcome that delegation. The report that I have of it was that productive work was undertaken and again it was work being undertaken and this time not only with La Manche but the region as well and the Préfet, and we are building on that relationship and it is going in the right direction.

**The Connétable of St. John:**

He still has not answered my question. Could he answer how many non-Council Members were from the A.P.L.F.?

**Senator I.J. Gorst:**

If he is referring to non-Council of Ministers members, there were at least 2. But, as I say, I did not know the number of non-A.P.F. Members, which I think was the initial question.

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

Following on from my colleague, I was going to congratulate the Chief Minister on the effort that has been put into strengthening the relationships we have with our French counterparts. To inquire further to recent visits, will he be pursuing the matter of a bilingual school with the Minister for Education, Sport and Culture?

**Senator I.J. Gorst:**

Yes, indeed, I also think it a very good idea. I think that there would be a great deal of interest from parents across the Island but a lot more work needs to be undertaken and we need to ensure that all issues have been considered prior to a launch. It is rather remiss of me, I am due to visit France tomorrow evening for an engagement on Thursday and perhaps the Connétable would like to come with me.

**The Connétable of St. John:**

He is very remiss.

**The Connétable of St. Mary:**

I was not sure which Connétable the Chief Minister was talking to. **[Laughter]** I will, of course, be away on A.P.F. business myself on that day, unfortunately.

**13.9 Senator S.C. Ferguson:**

We have had a very useful list of consultants' reports that have been given to the States. Would the Chief Minister like to explain why the particular page of the Register of Reports is no longer to be found anywhere on the website?

**Senator I.J. Gorst:**

I am not aware that it is no longer to be found. I think that it may not be up to date and that is an issue which I have taken up with staff to make sure that the protocol of updating reports on the website is understood by all and that same protocol is undertaken by all. I do not believe that it has been in the past.

**Senator S.C. Ferguson:**

I can assure him that it is almost impossible to find it.

**13.10 Deputy T.M. Pitman:**

Could the Chief Minister give the Assembly an update on where we are with the Committee of Inquiry into Historic Abuse? How is that progressing and what is his estimation of getting the whole thing completed?

**Senator I.J. Gorst:**

Of course, as the Deputy knows, this is no longer an issue for me other than bringing forward for what I hope will be ratification of a chairman in due course. It is being undertaken by the Greffier with the assistance of Verita and one other individual whose name escapes me at this moment in time. However, I understand from the Greffier that he is standing by the timetable that he announced to the Assembly earlier this year and is on track to deliver that. But I must make it clear, it is nothing to do with me in that regard, it is an independent selection process as this Assembly agreed.

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

Would the Chief Minister confirm whether or not an agreement has been reached with the nurses regarding their improved pay offer and proposed settlement and also how that may or may not affect the stance that he has taken up to now regarding all States employees being treated equally?

**Senator I.J. Gorst:**

I am not aware that agreement has been reached. The nursing representatives, together with my officers, have been meeting, together with J.A.C.S. (Jersey Advisory and Conciliation Service) and I hope that we will shortly be able to reach agreement. The Deputy should be aware that we have taken a different approach to nurses than we have to every other pay group and that is for very good reasons which I have outlined before.

**13.12 Deputy R.G. Le Hérissier:**

On reading that very useful list of consultants' reports and the costs thereof, could the Chief Minister tell us what conclusions he arrived at?

**Senator I.J. Gorst:**

That sometimes answering States questions is a costly, timely process. What I hope is that we will be able to learn a lot from the modernisation process in its initial stages. This will be helpful in that it is gathering data and when we gather that data together we can start to look at trends and, therefore, we can start to see where we can change, where we can create efficiencies, where we can create costs savings and perhaps if there is a benefit of that answer, it is just that.

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

The Chief Minister has been out of the Island on States business today, could he give us a very résumé of his day?

**Senator I.J. Gorst:**

It was a great honour and a privilege for me to be invited to the 60th celebration of the Coronation of Her Majesty. As I said earlier, it was a traditional and timeless service and I think that our invitation reflects the regard in which Her Majesty holds this Island and it is one that is reflected, I know, of loyalty to Her Majesty by every member of this community. [Approbation]

**13.14 Deputy J.H. Young:**

The Chief Minister is, I think, nearly halfway through his 3-year term heading up the Council of Ministers' team. Does the Chief Minister consider there might be some mileage in producing a half-term report of the Council of Ministers and their greatest achievements and priorities for the remaining half-term?

**Senator I.J. Gorst:**

In my experience, and it is a while since I have had a half-term report, half-term reports are compiled by other individuals and they do not necessarily say what you want them to say. Perhaps in this office I am in the position of being able to produce a half-term report which perhaps does say what I want it to say. The Deputy makes a very good point and I am not aware whether we are due to be considering such a report, but if we are not then I think it is something that we should.

## **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Deputy Bailiff:**

That brings the 15 minutes for Chief Minister's question time to an end. We come to item M, the Arrangement of Public Business and I call on the Chairman to speak.

#### **14. The Connétable of St. Helier (Chairman, Privileges and Procedures Committee):**

The business for the next meetings is as set out under M with the following changes: first of all, P.4 is withdrawn from the beginning of the next meeting, Code of Conduct for Elected Members: Commissioner for Standards. Following a useful meeting I had yesterday with our counterpart committee in Guernsey, we are going to be actively exploring the possibility of working jointly with Guernsey so this proposition has been withdrawn. On 16th July we have to add P.69 - Draft Firearms (Amendment No. 3) (Jersey) Law 201-; P.70 - Draft Loi (201-) (Amendement) sur la Voirie in the name of the Committee of Constables; and P.72 - Hospital Outpatients: re-introduction of prescription charges in the name of the Minister for Health. On 2nd July, P.71 - Island Plan Review - in the name of Deputy Young.

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

Thank you very much. Senator Ozouf.

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

I know I have spoken to the Greffier about this; I had a Public Finances Law amendment which is nearly ready. I just wanted to know whether or not it was possible that it was going to be lodged today because otherwise it is going to be on Thursday and we might not get there before the summer break and it is something we are wanting to get there.

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

The Deputy is shaking his head. I am not sure it is going to be lodged today. Very well, the States have concluded their business and stands adjourned until 18th June.

#### **ADJOURNMENT**

[17:41]