

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 4th JUNE 2014

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[09:31]

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

PUBLIC BUSINESS – resumption

1. Sunstone Holdings Limited and De Lec Limited – *ex gratia* payments to investors (P.90/2013) - resumption

The Bailiff:

So we return now to the consideration of Projet 90, Sunstone Holdings Limited and De Lec Limited - *ex gratia* payments to investors lodged by Senator Breckon. The debate is now open and I see the Chief Minister.

1.1 Senator I.J. Gorst:

I doubt that Members will recall the speech that I gave to the Assembly last September on this proposition, however some may, and my position remains unchanged. Given the time that has elapsed I intend to repeat some of the points that I made in that speech. I also intend to briefly summarise to Members what has happened since last September and refer to new matters that have arisen as a result of David Thomas' report. Some will recall that last September there were a number of questions raised in the debate that could not be answered. I agreed to undertake an inquiry to get some of the answers, and with this in mind Members agreed that the debate should be adjourned. Subsequently I asked an independent expert, David Thomas, to undertake an inquiry. I proceeded to agree terms of reference with Senator Breckon, which are set out in full in the further comments of the Council of Ministers which we presented on 29th April this year. I think it is important for Members that I outline at the start some of the qualifications of David Thomas to explain why I rely on the conclusions of his report in full. David Thomas was appointed the Banking Ombudsman in the United Kingdom in 1997 after practising for 28 years as a solicitor. He then became Principal Ombudsman and subsequently Chief Ombudsman of the Financial Ombudsman Service. He is currently acting as part-time consultant to the new Chief Ombudsman with the title of Lead Ombudsman. The report that David Thomas has produced is the result of a significant work which involved, among other matters, the consideration of 24 storage boxes of files, potentially relevant to the J.F.S.C.'s (Jersey Financial Services Commission) supervision of Goldridge and the disclosure of a significant amount of information from the States of Jersey police. I hope that Members have had an opportunity in advance of the debate today to consider Mr. Thomas' report. I appreciate that because of the statutory constraints set by Article 37 of the Financial Services Commission (Jersey) Law Members are not able to see for themselves the full results of David Thomas' inquiry, but I can assure Members that it has been comprehensive, thorough, and above all, independent and I stand fully by the conclusions of the report. It would not be right, and I do not propose to go through the report today in detail, but I do think it is worthwhile considering the conclusions that are reached in chapter 10 of the report so that we are in no doubt about the findings of that report. I will refer to those findings in turn, so that there can be no misunderstanding of David Thomas' conclusions. To the question: "Did 2 investors express concerns to the J.F.S.C. in 2006 or 2007?" the report found the answer to that question was no. In question: "Was the J.F.S.C. aware and should it have taken action before 2008?" the answer to that question is no. In question: "Should the J.F.S.C. have been aware of warning signs, irregularities and taken action concerning the incorporation operation of Sunstone and De Lec by the regulated principals?" that is Cameron, Foot and Lewis. In answer to that question no. In question: "Were there regulatory breaches on behalf of Goldridge?" David Thomas says in answer to that: "I am prevented by law from adding to the J.F.S.C.'s 2008 statement which has been included in an annex." In question: "Were the J.F.S.C. enforcement actions in respect of Goldridge sufficient?" the answer of David Thomas is: "If the J.F.S.C. had taken timely and sufficient action issues,

including Goldridge, unconnected with Sunstone and De Lec, it would have been likely to become public by January 2007. If the J.F.S.C. had possessed a wider range of graduated powers these issues could have become public at a much earlier date” and I will come on and talk about those later in my speech. In question: “If the J.F.S.C. should have been aware and should have taken action in respect of Goldridge before January 2008 would that have made any difference to the loss incurred by investors in Sunstone and De Lec?” in answer to that question: “Investors would have been unlikely to invest or increase an existing investment in Sunstone and De Lec after March 2007 but it would have made little or no difference to the losses incurred by those who had already invested by March 2007 and for the removal of any doubt it would have made little or no difference to those who had invested by March 2007 but rolled over their existing investments at a later date.” I think it is extremely important that Members are aware of those questions and those findings in that independent report. I also hope that Members have had an opportunity to consider the comments of the Council of Ministers that were presented last week. Again, for the avoidance of doubt, let me re-emphasise the position taken by the Council of Ministers on a number of key points that are of particular relevance when considering the proposition of Senator Breckon. The circumstances of the Alternate Insurance Services Limited case are so significantly different from those of Sunstone and De Lec that the former does not establish a precedent of which advantage can be taken in this latter case. David Thomas’ report has conclusively stated that the J.F.S.C. acted immediately upon notice in January 2008. When investment is contemplated in high risk areas such as off-plan foreign property purchases - which is what this was - investors should always seek independent advice separate from those promoting the investment scheme. The fact that the principals marketing the scheme had been separately approved by the J.F.S.C. as fit and proper - and Senator Breckon spoke about this yesterday - for different regulated purposes is not a sufficient reason for not taking proper investment advice, nor for justifying compensation by the taxpayer if the investment decisions taken should prove to be faulty. As the J.F.S.C. had no statutory responsibility for the scheme there is no case, I believe, for the Commission to be called on to meet the claim for compensation, which is what the proposition asks. Indeed, it should be noted that it would potentially be objectionable to some of those in the financial services industry who pay licence fees, for their fees to be used to fund compensation from an unregulated investment scheme. To my mind, more importantly, any call on the J.F.S.C. to provide funding for compensation in this matter would potentially severely compromise the independence of the regulator. The proposal, as I have said in part (b) of the proposition would potentially place Jersey in conflict with internationally accepted principles of financial regulation. Namely, that the regulator must be independent of government, that government cannot be seen to direct the regulator to act in any certain manner as and when it feels appropriate. I must also inform the Assembly that I have not at this point taken legal advice with regard to the legality of this part of the proposition and should it be approved today I would need to do so, but I must say for my part I am far from certain that it would be legally possible.

[9:45]

Any decision on whether the taxpayer should compensate the investors should depend upon whether the circumstances can be seen as sufficiently exceptional in terms of the hardship suffered to justify public support. Members will recall that in their previous comments the Council of Ministers expressed the view that it was extremely unlikely that if the same circumstances had prevailed in the U.K. (United Kingdom) compensation would have been forthcoming under the U.K. investor protection scheme. On the information that David Thomas had provided to him that was not available to the Council of Ministers at the time that previous comments were lodged it appears a group of investors might have been subject to compensation under the U.K. investor protection scheme if the same circumstances had prevailed in the U.K. and Members hopefully will have noted that this is detailed in section 5.5 to 5.7 of Mr. Thomas’ report. Jersey does not

currently have an investor protection scheme. The reasons why an investor protection scheme has not been introduced in Jersey to date was set out in our original comments when the proposition was initially debated in 2013, but in summary such a scheme, if it is to be funded by investment advisers - which is how it is funded elsewhere or we might expect it to be funded - could be called, so if the scheme were funded by those advisers and could be called upon it could force many small investment advisers out of business. If investment advisers were to seek to pass the cost on to their clients, those clients can be expected to be attracted to the idea of moving their business to competitor jurisdictions, and for those reasons the introduction of an investment protection scheme in Jersey has not been, and is not, supported at the present time. I therefore maintain the view and support the Council of Ministers' view that notwithstanding that it could be said that some of the investors may have fallen within the U.K. investor protection scheme if their same circumstances had, as I have said, prevailed in the U.K. there, I do not believe, are sufficient grounds for suggesting they be compensated in Jersey. Compensation would set a precedent for introducing an investor protection scheme which is undesirable, and I am pleased that that is accepted by those who may be now supporting the proposition, which I believe is undesirable for the reasons that I have outlined briefly today but also are included in the comments of the Council of Ministers. Alternatively, compensation in this matter could set a precedent which would lead to future applications being made to the States Assembly to effectively act as a compensation scheme funded by the taxpayer, and so I hope that Members will share my view that this would be fundamentally wrong. Members will however be aware from the further comments of the Council of Ministers that there is a conclusion in the report that a number of investors might not have invested money if issues had come into the public domain in March 2007 as I have already said, which would have had a significant impact on the reputations of Cameron, Foot and Lewis. I feel that it is important at this point to address some of the points that Senator Breckon made in his opening remarks relating to this finding, and I want Members to be absolutely clear here: "The report concludes that the J.F.S.C. could have acted sooner in bringing issues including Goldridge into the public domain by March 2007. This would have had a significant reputational effect on the principals." I would also highlight however that the conclusions of the report state - and this is important because we cannot just pick and choose individual elements of the conclusions - the conclusions of the report state: "This would have made little or no difference to the losses incurred by those who had already invested by March 2007 or those who had invested by March 2007 but rolled over their existing investment at a later date." I appreciate these are, to some extent, technical but I hope that Members are following because they are important conclusions of the independent report, conclusions which Senator Breckon did not comment upon in his opening remarks. Senator Breckon did suggest in his opening remarks that the reasoning behind this conclusion is that the J.F.S.C. had other powers that they did not use. Particularly he mentioned the following parts of the Financial Services (Jersey) Law, Article 9, Power to Revoke a Registration, or Article 23, Power to Give Direction. Let us be clear here. David Thomas, who has had the advantage of studying all the relevant documentation, reached the firm conclusion that there was nothing the Commission could have done that would have had the effect of bringing matters into the public domain earlier than 2007, which might have persuaded people not to invest. There are, in my view, no grounds to challenge his view and there can be no suggestion that in any circumstance matters could have come into the public domain any earlier than March 2007. Regardless of this, clearly the report of David Thomas does conclude that the J.F.S.C. could have acted sooner than 2008 in bringing issues, including Goldridge, into the public domain. Therefore the Council of Ministers have agreed that it is for consideration whether in the light of this a case can be made for some investors who might have been dissuaded from investing if information had been made available in 2007 to be recompensed in some way. I have undertaken that I shall ask David Thomas to carry out further work on this matter and I will report the results of those findings back to the States in due course. I am conscious that among the investors generally there are cases of particular hardship

and I am naturally sympathetic to their position. However, unfortunately, inevitably this can always be an outcome when poor investment decisions are made. In deciding whether such hardship should justify compensation being provided from public funds the reasons for this must be shown to be exceptional if a precedent is not to be set of which many others could seek to take advantage. On the basis of information presently before this Assembly I do not believe that this can be said to be proven in this case. In conclusion, notwithstanding my undertaking to carry out this further work, my position and that of the Council of Ministers is that the proposition before the Assembly, as Senator Breckon is maintaining, opposition remains firm, and that is that in light of everything included in the independent report the proposition as presented should be today rejected. Thank you.

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

I wonder if the Chief Minister, given the quite important material he has put in front of us, could give us a possible date or an approximate date as to when Mr. Thomas could report back, because this is dragging on an awfully long time.

Senator I.J. Gorst:

Officers have already on my behalf spoken to Mr. Thomas about this work. It is technical, detailed work and it will take some months to undertake, but it is the only area within the independent report that I, and the Council of Ministers when they read it, recognised that there was further work that needed to be undertaken in this area. Members will be aware of the number of months it has taken to get to this point and so even more detailed work will unfortunately take many months into the future as well.

Deputy J.A. Martin of St. Helier:

Can I ask for a point of clarification of the Chief Minister? I think earlier on in his speech he said that he had not taken any legal advice on if this was passed today whether it would meet international conventions being the regulator from where it was paid out. If that is so, could he explain why? Are we wasting our time? Why has the Chief Minister not taken legal advice?

Senator I.J. Gorst:

It would not be normal that one would ask for such advice. My concerns of course may be proven to be unfounded but when I look at the international standards governing the independence of regulators I say to the Assembly that I am far from certain that it would be possible and I would need to take comprehensive legal advice on that particular point, should the States accept the proposition today.

Deputy R.G. Le Hérisier:

I wonder with the Attorney General back, I am very worried about the earlier comment as was Deputy Martin, because it strikes me that if we do embark on a fully fledged debate and then we are told that legally the States are not in a position to pay, assuming for example there was a compensation decision made, we are going to look very foolish. I wonder if it might not be the time to ask the Attorney General whether we can proceed.

The Bailiff:

Yes. Just to be clear, Deputy, I think what the Chief Minister said was that it was part (b) only that he had reservations about. In other words there is nothing to stop the States deciding to pay out this money. It is a question of whether it can pass legislation to force the Financial Services Commission to reimburse the States. It is only that second part (b) which the Chief Minister was expressing reservations about.

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

May I seek clarification from you, Sir? Are we able to vote on each part separately on this proposition?

The Bailiff:

Senator Breckon did say right at the beginning of his speech that he wanted (a) and (b) to be taken together and (c) separately.

Deputy J.A.N. Le Fondré:

Just to be clear, I appreciate Senator Breckon's position but hypothetically could we vote on (b) separate from (a) if he was willing to change it? Is there anything that prevents... do (a) and (b) have to be put together?

The Bailiff:

I would have thought no, if Senator Breckon wants to take them separately he can. It is a matter entirely for him.

Senator P.F.C. Ozouf:

May I just signal some legal advice? There are issues to make the necessary legislation. I do not know if that is just simply loose wording but I think the Attorney General is going to have to answer, and I just give notice now, that under the Financial Services Commission Law there are certain powers of direction that in theory could be used, which fall short of legislation, which could be directed. That is not desirable but I think we need to know what the legal position is of the requirements that the Minister could direct now. This is not a legal issue. The political issues will be rehearsed later, but effectively there are powers of course under the direction. They should not be used but we need to be told by the Attorney General what they are and what they are not and whether or not they can be used. There is legislation in the use of the existing legislation.

Deputy J.H. Young of St. Brelade:

Could I ask for further clarification on the Chief Minister's speech?

The Bailiff:

One moment. Can we deal with one thing at a time, Deputy? I suspect the Attorney may want to think about this. I think there are 2 issues which Members would value his assistance on. The first, which has just been raised by Senator Ozouf, is that there are apparently powers of direction which can be given to the Financial Services Commission and I think the question is could legally the direction be given to reimburse the States for any money it agrees to pay out to the investors? The second is whether, as the Chief Minister has indicated, (b) is possible. In other words, is it open to this Assembly to pass legislation requiring the Financial Services Commission to reimburse them on a one-off basis for the cost of compensation? There are those 2 issues. Do you want to take time to think about them, Attorney, or are you in a position to answer?

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

I certainly wish to take time to look at the powers of direction point. On the second point it is I think a quite potentially subtle and complex matter. There is no question about it that under the Financial Services Commission (Jersey) Law 1998 Article 2(4), the commission is structurally independent of the States and Government. It is a strict statutory position and it was set up in that way because it is essential that there is a structural independence between a regulator and the Government. Similarly, under Article 9 of that same law, the Commission is not liable for any losses occasioned in and about the exercise of its function unless they are carried out in bad faith. The primary statutory position it seems to me, without looking at the powers of direction which I

will come on to do subsequently, is that it is not generally appropriate and indeed possible within the current statutory regime to achieve what part (b) of the proposition wishes to achieve. Of course part (b) talks about bringing forward legislation and as a matter of pure parliamentary sovereignty it is open to this Assembly, and it would not be a breach of human rights or international conventions as far as I am aware, to bring forward whatever legislation it wishes.

[10:00]

However, I can see that that would lead to very difficult structural questions and very difficult questions of influence and possibly the functioning in the future of the Commission if its independence is once seen to be compromised by a decision of the Assembly. I do not think I can advise on the second point without doing considerably more work any further than I have done, and I would like the opportunity, if I may, to look at the directions point that has been made.

The Bailiff:

Well, the directions point is not directly relevant to the proposition because the proposition in (b) talks about doing this by legislation, so the directions point does not directly arise but I understand why Members might wish to know whether in fact it can be achieved without the need for legislation.

Senator P.F.C. Ozouf:

Yes. So legislation is regulations as well.

The Bailiff:

Yes, but the powers of direction are in existing legislation, so it would not be a question of passing regulations.

Senator P.F.C. Ozouf:

I will develop my arguments later when I address the Assembly.

The Bailiff:

Very well, then the Attorney General will take time to think about the second point. Deputy Young, you wanted further clarification from the Chief Minister?

Deputy J.H. Young:

Yes, thank you. I wanted to ask the Chief Minister to clarify his remarks about Mr. Thomas' report on the question of March 2007, whether it was unlikely that investors would have invested if the J.F.S.C. had acted earlier. Did he say that he had any quantification of that or not to guide the Assembly?

Senator I.J. Gorst:

Does the Deputy mean quantification of number of investors or amounts? Either way I do not have that quantification. That is the extra work that would need to be undertaken.

Deputy J.A.N. Le Fondré:

Sir, may I seek a further point of clarification of the Chief Minister? I was waiting for the queue to get down to me. One question I would like to ask the Chief Minister further to his speech, and I will use the term "perpetrators of the fraud" is in relation to have any inquiries been requested by the Council of Ministers during this intervening period as to, for example, were any assets transferred from those perpetrators to spouses to avoid them being seized by the courts and, for example, have any inquiries been made as to what the status is of Mr. Christmas' pension when he comes out of prison?

Senator I.J. Gorst:

I would have thought that they were issues more correctly dealt with by the courts and the proceedings that were heard in that place. I undertook to instruct an independent investigation which is exactly what I have done. We are talking today about whether the regulator should fund compensation for those who were the victims of this fraud and not whether the assets are recoverable from elsewhere, which would be outside of my powers anyway.

Deputy J.A.N. Le Fondré:

That is the middle part of the proposition. The first part is whether we should pay compensation in the first place.

The Bailiff:

Yes, but I think the Chief Minister has made the point this is whether the States should pay the compensation. Very well. Does any other Member wish to speak?

1.1.1 Deputy S. Power of St. Brelade:

I will be brief. I am grateful to the Chief Minister for what he said this morning, but it does put us in a difficult position in that we are dealing to all intents and purposes with an incomplete situation and an incomplete summary of where we are. I have to condense this down to where I am this morning in dealing with this report and proposition. I come back to this point, that irrespective of fraud in general in Jersey there are always going to be cases where people are dishonest or people commit fraud or people commit fraudulent behaviour and that this is another example of that. My understanding of the papers that have been supplied both in the Council of Minister's comments and in the proposition is that to a large extent this operation, this entity, was unregulated in that it operated below the radar of the Jersey Financial Services Commission completely unregulated. As such, I accept what the Chief Minister said, that it is not down to the J.F.S.C. to pay compensation. I accept that point completely. However, there is a number of what I would call acid tests in this as to where this Assembly is this morning, and the first one is that a custodial or a series of custodial sentences were pronounced or made. In one of those custodial sentences an individual in a position of responsibility who was dispensing to all intents and purposes justice, whose opinion was relied on, whose opinion was trusted, who was an agent of the States of Jersey, who was an employee of the States of Jersey, was involved and was found guilty. To me that really is a test, a strong acid test. It is a test for me that the claim for responsibility in some cases and in this particular case the moral responsibility of this Assembly is to decide whether we are of the opinion can we make *ex gratia* payments from a fund or central reserves or funds that may be available to Treasury to do something about this? It is one of these reports and propositions that is an extremely difficult and uncomfortable one to deal with. We know from what the Chief Minister has said and from what Senator Breckon has said that the J.F.S.C. here are not responsible. This was an under the radar activity that was unregulated, fraudulent and illegal and the rest of it is very well documented. I do believe that this is not a normal fraud in the sense that I do not know how you define normal fraud but there is a complication to this fraud case in that the persons involved, one of them was in a position of responsibility, and because of the custodial sentence and because of what we know has come out in the media afterwards about pension funds and so on, the situation is far from straightforward. I believe that there is a case this morning and I disagree with the Chief Minister. There is a case here that we have to deal with in some way. There are some funds where the proceeds of crime in Jersey are available or are guarded by Treasury and in this case I will support part (a) and I am not sure about (b) or (c), but I am certainly going to support (a) and I hope colleagues can make some sense of that. I think it is a highly technical, legal case but when you boil it all down it is unadulterated fraud.

1.1.2 Deputy J.A.N. Le Fondré:

I will go. We know this is going to be a difficult day. In fact, I am reminded of a time for those of us who were in the Assembly, it was not a fraud, it was about a redundancy of the day, which was Woolworths. It is an analogy from the point of view that it was going to set a precedent and in those particular instances the employees had not been treated fairly. That was the legal position. The legal position was that we did not have any responsibility to them, but there was a possibility that assets could be recovered. I did not go with the vote that day but the Assembly as a majority voted to support those individuals. I think to give credit to Senator Breckon here there is a possibility that irrespective of the outcome today a subsection of the investors may achieve some form of compensation on the basis of the report, on what we have seen, but of course, as we heard, there is no guarantee because it is subject to the next piece of work that could take another few months to do, and this has been dragging on a long time. I think somewhere in the reports I read that 3 people have died in the time period already. I think it is also quite clear, as Deputy Power has alluded to already, this is not just about investors who simply took a loss on a risky investment. It is that extra 2 levels, and (1) is it was a fraud and (2), which is the key tipping point for me, it was a fraud that was partially committed by a judge. I will touch on that further down the line, but in my view, and I have said this previously in the state in the wider sense, not the States Assembly, have given that individual the cloak of respectability during that whole period when that fraud was being perpetrated. Therefore for me the March 2007, for example, cut-off date is a useful date from the point of view it is earlier than the F.S.C. (Financial Services Commission) got involved, but that cloak of respectability was put on that individual some time before then, I believe. I will refer to some comments I probably made in the last debate. I am very clear I do not point any fingers at the Financial Services Commission. I hold them in great regard. They have a huge volume of issues they have to deal with, whether it is dealing with the regulation that they have to deal with from Europe and all the rest of it to the regulation of all sorts of bodies at all sorts of levels. To an extent, because of the level of resource that they have, they have to take a risk-based approach. I think it was the Minister for Economic Development who stated at some point - and it might have been when he was talking about Alternate - that it was always intended to deal with exceptional cases as and when they arose on a case-by-case basis, and this is definitely an exceptional case. The reason I put it that way round is from that point of view and I would hope that Senator Breckon could split it into sections (a),(b) and (c) and separate votes. We have heard there is no procedural reason why he could not, because certainly I will not be supporting (c). I fully understand the issues around competition for the industry against our Island competitors and all that type of stuff, and I am happy to support the view that it is not appropriate to establish an investor compensation scheme at present. I am also happy not to support (b) in terms of which I think is one of the big concerns, where a lot of this has come from, because of trying to keep the independence of the Jersey Financial Services Commission and for all the reasons we have heard. That then causes me to focus on (a), and I think there I am trying to make the split between a legalistic issue and what I will call a political decision, and I think it is absolutely right for us to make that political decision. I quote ... I believe this was again from the Minister for Economic Development who was quoting the court in the Alternate case, which was a recommendation to compensate in the Alternate investor's case: "... is made because it is not acceptable that unsophisticated small investors in Jersey can be so badly advised. The advice given was dishonest, one might almost say fraudulent. It was misleading." That was a different set of circumstances and I cannot remember the details. I think it was tied-up with mis-selling or whatever, but here the case we are dealing with is definitely about fraud. It is one level different. The other quote I found quite interesting was that: "One of the reasons those offences are so serious is because it is vital that those who invest with professionals" and to me this was the crucial bit: "... whether they are regulated or unregulated in their business must be given accurate and honest advice." I was thinking personally, and it has happened, one gets approached at varying times with investment proposals, you know: "We are marketing this fund or that fund" or whatever, and if they are an I.F.A. (Independent Financial

Adviser) and therefore a professional and you believe them to be credible you are not going to go to another I.F.A. down the road just to check. You might sense check it yourself but I think you will rely on the independent financial adviser bit, particularly in addition, as I said, with this other veneer of respectability we have given when it is a judge that is involved in the promotion. The comment I think is worth making and again this is Senator Maclean in Hansard, and I am sure he will really thank me for quoting this one: "The responsibility quite simply was that these investors have been let down by the fact that the system did not suitably protect them. They were given the advice by members of this particular company which was recklessly misleading." That was the justification, as I said, on the Alternate situation when I think we paid out over £1 million anyway. I accept there are differences but as we have said it is a case-by-case basis and this is a different case.

[10:15]

The interesting thing, and I will probably get accused of taking an element of the report out of context, and I hope I am not, but the report from the adviser on the Sunstone case does ask the question: "Did J.F.S.C. take timely and sufficient enforcement action in respect of Goldridge Stone?" "Whether or not J.F.S.C. took timely and sufficient action in respect of Goldridge is a question of judgment" so if you like it is an opinion, it is not necessarily a matter of law: "... rather than as a question of fact. In my opinion however J.F.S.C. did not take timely and sufficient enforcement action in respect of Goldridge Stone." You see, I think that the nature of the individuals concerned, and some were elderly individuals, they may well have been wealthy but they were elderly, my understanding has always been that the regulated individuals from Goldridge Stone basically took advantage of the information they had from that position and then blurred the matter by booking it all under an unregulated entity. I do not think the investors would have particularly been sophisticated enough to identify that situation. That is obviously an opinion that might not match up with reality. But I think when you put all that together that is why I am very much supporting part (a). As I said, the tipping point for me is the role of the judge. In the last debate we heard that he prodigiously wrote the judicial code. His position as a judge was used to promote a fraud and, as we know, such was the setting of that particular individual's moral compass he continued to claim his judge's salary, even in the early days of while he was in prison and that was to the tune of £500,000 in the 4 years he was arrested. As I said, I am curious, and that is why I was curious whether the Council of Ministers asked the question during their deliberations over the many months it has taken since the last debate. I am curious: is there any truth in the rumour he will continue to be entitled to claim his pension? It then comes down to, as Deputy Power says, this moral judgment. It is a political decision; that is okay because one way this message could be interpreted, and I make no excuse for repeating what I said last time round, the message will be, if we do not support this today, it is okay to defraud people, including the terminally ill. You will go to jail for a period of time. You can continue to claim your salary and you can have your pension when you come out. Ultimately, in this particular circumstance, the pension will have been paid by, basically, the taxpayer at some point. The taxpayer will be compensating the fraudster who will not be compensating the victims. From a moral judgment position I cannot believe that stacks-up. As I said, I would very strongly support the view that one should do the compensation, according to the scheme that Senator Breckon has laid out. But we should very strongly look to repel the assets, if there are any, from the individuals who were the perpetrators and I would think that that is a matter of law and I do not know if it is possible. I have always understood that in a divorce pensions are brought into the pot. Maybe there is a legal difference in this situation so it may not be practical. But, as I said, in respect of all that, that would be where I would like to go but that is separate, that is a matter for us. I think there is that clichéd expression that justice needs to be seen to be done or something and I think also needs to be done swiftly. It is not much good waiting for many more months for any further investigation to be

done, it does not help the victims. We should sort the victims out first and then look to compensate from whatever sources we can achieve. I think that probably is what I have mainly got to say. I would conclude by, I think, saying that Jersey rightly has an extremely good reputation for its finance industry but I think one also has to accept that this is potentially a blot or a stain on that reputation. Yes, the perpetrators have been jailed, that is good but I think, ultimately, the question today in front of us is, do we have a moral responsibility to compensate the victims? We are for them the last chance, we are the final court of responsibility. In other words, I suspect, having been defrauded already, they probably do not have the resources to bring civil actions against the individuals, particularly given the legal situations, as I have understood, have occurred. They are looking to us as their parliament, as their representatives to assist them in very unfortunate circumstances. It is not a case of just speculation and they have lost the money and they are coming to us. This is a fraud and, most particularly, as I said, for me the tipping point, it was a fraud perpetrated by someone we had given a veneer of respectability to over a number of years. On that basis I shall be supporting part (a). I do urge other Members too.

1.1.3 Deputy J.M. Le Bailly of St. Mary:

We must remember that the people who invested with Sunstone did so in order to get a good return on their money, having been failed miserably by the banks' less than attractive rate of interest. However, they also knew that they could make a loss. That was acceptable if their money had been invested in the legitimate scheme that they were told that they would be part of. Unfortunately, their money was never invested on their behalf. It was embezzled by the very people who recommended the investment. How was that possible for one of our high-profile figures, a magistrate, to be part of an investment company while at the same time undertaking the duties of a judge in our courts? It is not ethical for a judge to be connected to a private enterprise, so just how was that possible? Is that not why we have a Jersey Financial Commission in order to safeguard clients' interests and to keep Jersey squeaky clean? Someone in this Financial Commission early on must have known that one of our senior judges had his fingers in the pie and that was not appropriate. The victims were totally taken in by having felt secure in having such a high-profile and respected top Island official endorsing and promoting the investment, even doing so in a promotional video wearing his judge's robes. That was the trap. This was not just a couple of spivs in flash suits. The frontman was a man of integrity. These people did not have an investment that went wrong, they were robbed. It is only fair that they receive compensation. The question is: where does that compensation come from? The Jersey Financial Commission is there to set regulation in the industry, that is their responsibility. They should have known that the directors of Sunstone were not working to accepted procedures. Identifying who the crooks are is part of their remit. If they did not know that then they have failed in their responsibility. We should not dismiss this as a business venture gone wrong. Imagine if it was your parents who had been persuaded to part with their life savings to this grubby little lot, would you not want recompense for them? Would you not want justice to ease their loss? This should certainly apply to the investors post-2007, that has not happened. We can allow at least part of that to be put right. I agree with the principle of this proposition.

1.1.4 Senator B.I. Le Marquand:

The problem with the current proposition is that it seeks to treat all the "investors" alike and to give them equal status when the circumstances of each are very different. Most investors were extremely unwise in relation to the decision to invest in this particular investment. What was being set up was a highly-g geared investment in the U.S. (United States) property market. Some had a 4 to one gearing, in other words three-quarters was being borrowed and a quarter being put in. That is incredibly high-risk investment because, effectively, if the value of the property goes up by a quarter you have doubled your money, if it goes down by a quarter you lose it all. Indeed, some

also have been persuaded to lend money at an interest rate, which are the forms that I have seen, at 7 per cent for an entity that was entering into such very highly-g geared investments, that is practically suicidal in terms of business sense. I say most of them were extremely unwise because in fact we do not know whether there were some investors who knew perfectly well what they were investing in and were happy to invest in a highly-g geared investment of this nature related to an individual property. Much has been made of the fraudulent element of some of the cases but fraud was not found in all cases. It appears that what was happening was as they got more and more desperate for money, as the system was running out of cash, that, indeed what was going on, became more and more fraudulent to draw in extra investors to keep the system going, a sort of Ponzi scheme but we do not know that that was the situation right from the start. Indeed, as I have said, there may well have been investors who knew perfectly well what they were investing in right from the start and that is one of the problems that I have. Some Members will be influenced, as indeed was the last speaker, by the involvement of the former assistant magistrate. I prefer if Members refer to the former assistant magistrate because if they refer to the former magistrate then he is the person who is currently speaking and I certainly would not have got involved in any way in this kind of thing. But, of course, the former assistant magistrate was very involved with one of the 2 companies and, indeed, that company was involved with far less in the way of investments than the other. Again, there is a differential if Members are influenced by that involvement. I am in a position, as having been the former magistrate, to comment to a degree on what was known or what was not known in relation to him and I can say categorically that what he was doing was completely unknown to any of those in authority, to myself, to the Bailiff or to anybody else. If we had known what he was doing then firm action would have been taken against him at an earlier stage because it was wholly improper for him to be involved in seeking investments from members of the public by virtue of his status. Indeed, it is contrary to the terms of office to be involved in other business in this kind of way. But the fact that this was unknown is amply demonstrated by the fact that after I had resigned - I gave quite a lot of notice of resignation because my intention was to stand for this election to this Assembly - the curious fact was that the former assistant magistrate then also resigned, that is the peculiarity of the situation. He thought that he was going to do so well out of this other business that he resigned his post. Then when things started to turn down he asked to withdraw his resignation, went to the Bailiff of the day who agreed to his resignation being withdrawn and he then subsequently applied for the post of magistrate, the post that I was vacating. Clearly there was a selection process. He was then selected for that post, although never sworn in as things turned out, and that, if I may say so, is ample demonstration that absolutely nobody within the system or the seniority of the ranks within the system had any idea of his involvement in this kind of way. I think it is very unfair to suggest, as did the last speaker, that the J.F.S.C. are at fault in some way for not knowing that he was doing this. Even those with whom he was working and those who were his seniors had absolutely no idea of this. But, as I said, this is a separate category of case, separate group of investors who invested in a different company and they were indeed in the minority. There is also the issue of date.

[10:30]

As a result of the work commissioned by the Chief Minister we have come up with a situation in which the independent investigator has looked at this, is clearly of the opinion that there was no failure on the part of the regulator in not knowing about the activities of these particular companies that were not regulated companies that could have been, frankly, doing almost anything, could have been set up purely for the purposes of individuals themselves who owned the company investing in property in America. There is no way of distinguishing in relation to that sort of thing. But what the investigator has come to the conclusion of - and this is his personal view, he makes that clear it is a personal view, it is a judgment call on his part - is that there were issues in relation to Goldridge Stone that could have led to earlier action. He is of the opinion that in relation to

Goldridge Stone that earlier action, on a balance of probability, should probably have been taken by January 2007. He is of the opinion that that, therefore, has a follow-on effect in terms of investors who may have invested from March 2007. They are a different group and, interestingly enough, they are potentially a different group in a different way because if they, indeed, have a stronger case for compensation than others - and that appears to be the situation certainly in my view - then why should they be put in with all the others in terms of receiving a percentage of compensation, which is based on a flat-rate basis right across? In fact the proposition is clearly based upon the United Kingdom Compensation Scheme and followed the figures at the relevant time, although that has since now changed from a maximum of £48,000 to £50,000. I have a problem with this lumping everybody in together into one scheme, irrespective of their degree of responsibility in relation to their decision making, irrespective of whether or not the former assistant magistrate was concerned in their case, irrespective or not whether they have a stronger case for compensation than others. For those reasons I will not be supporting any part of the proposition but will be supporting and, indeed, it was already my view that the Chief Minister should go down the route that he has of seeking to do extra work, to look specifically at this post-March 2007 group who, in my view, have a much stronger case for compensation than others.

1.1.5 Deputy R.G. Bryans of St. Helier:

I will be brief because I think Senator Le Marquand has covered a lot of what I wanted to say. Members of the Assembly will remember that I stood up to support Senator Breckon's proposition and I still congratulate him for bringing it to the Assembly because it has highlighted one particular aspect that gave me concern. The director of the J.F.S.C. kept referring to the initial briefing that we had that his Commission had not seen what he called the nexus or a connection between Goldridge Stone and the subsequently unregulated Sunstone Holdings. That was where I was concerned and that is where the independent, Mr. Thomas, has found a connection and found a nexus. It is that thing that clarifies it in the same way that Senator Le Marquand does, that begins to identify for me there is a case or is there a cause for compensation? Just to clarify the issue, Goldridge Stone was a regulated entity, it was a bunch of I.F.A.s. Then there was a point - and this is where I think the fraud begins to coagulate - when they moved from a regulated entity into an unregulated entity of Sunstone Holdings the shape-shifting is the bit that gave me the concern. I think the independent report has identified that. I am sure every Member in this Assembly feels the same, deeply sorry for these investors who put most of their life savings into this situation. I do not know that there is ever a compensation, certainly for the 3 that have already died, that we could ever give back. But I think the point for me was the clarity of understanding where the responsibility lay in this particular case. I am more than happy for the Chief Minister to take this on and go back to the independent and identify where the causes were and who could pay for this.

1.1.6 Deputy J.H. Young:

I should declare that very recently I discovered that a person known to me has taken a loss. I do not think I have a conflict but I have to declare it. I supported this before and I maintain that view. The reasons are is that 57 ordinary unsophisticated investors with very modest sums, retirement pockets and so on, retirement funds, invested £5.3 million in this very high-g geared high-risk scheme. Only £1.1 million was recovered, leaving a loss of £4.2 million and there was a connection to somebody in the most highest levels of government employ, which the way Jersey works would have definitely influenced people to come on board. I heard what the Chief Minister said and I accept that there are technical arguments to avoid responsibility but I think there is an overriding moral one. I think that where we had somebody operating in the market locally making such decisions indiscriminately in respect of personal circumstances, people who could ill afford to take those risks and were so exposed to high-risk investments, the fact that we ended up with that being unregulated, as what is being said there, troubles me immensely. I think it probably exposes

for me the wider issue that there is in Jersey, a massive gap. There is not availability, in my view, of what you might call a really effective private pension scheme for people that are not able to access these and you look nowhere else. The fact that you can earn, if you are a corporate player, 3.75 per cent on your money, when if you go to the bank as a private investor you get 0.1 per cent. Where does the difference come from? It is obviously because of the power of collective investment and people that are looking for this. I was very pleased with the Chief Minister for Mr. Thomas' report and the conclusion that says to me clearly is that he says in his opinion: "J.F.S.C. did not take timely and sufficient enforcement action in respect of Goldridge." I accept the fact there is this distinction between decisions taken by investors post-March 2007 that his report says was the key date. But, unfortunately, we do not have a proposition to that effect. The Deputy Chief Minister tells us he will support the Chief Minister's proposal to distinguish between the 2 groups of investors in producing some sort of scheme but we do not have it. It is not in the proposition and I am really disappointed there is no amendment. I would have thought, and I expected that if there was that sort of situation we would have had an amendment from the Chief Minister recognising that element. What we are asked to do I think here, and I think we have got no choice. Procedurally the choice before us is this, if we vote against this because something might be coming from the Chief Minister that is not going to come back to this Assembly in this Assembly's life. It is going to take months to do that work, it will not come back until 2015 and a new Assembly. Is it the right thing to do to those people? The court case was in 2012, people were convicted, serving time. The report came here in 2013, now it is with us halfway through 2014. I would have supported an amendment if there was one but there is not. I have to make a decision on the basis of what we have got. My personal take on this is that the case for the regulator doing more or should have been doing more is because I do not believe from what I have read that this started out as a fraud. This was a group of people seeking to make money on high-value investments. The risks were so there was no absence, there were no hedging measures, there were no guards against the risks happening. When the risks happened and the underlying base of the investment started to become questionable they then went into cover-up. They went into cover-up procedures and, finally, then they went to full-blown fraud. I think that shows you what potentially can happen in any sort of financial services. The slippery slope going from high risk to cover-up to eventual fraud to cover up the criminality. My view is that if we had an effective regulatory structure here for the small investors that process would have been stopped down the track before it got to full-blown fraud. It is not just an arithmetical thing. It is their own risk up to March 2007 and after that it is a liability. I think somewhere down that track people were encouraged to make investments and a more effective regulation would have halted it. Probably might have and meant that there would have been a greater recovery, instead of the £1.1 million, and the outcome would have been very different for investors. I ask myself here, why is this, have the J.F.S.C. got the right tools? Here I started looking around and I see what other regulators, they have got fining powers and I looked up some figures here. What was the U.K. Financial Services Authority and it is now the Financial Conduct Authority, according to their report in 2014 so far they have made £131 million in fines and in 2012 they have made £311 million in fines. In the U.S. you can look to fines of over 100 billion dollars against U.S. banks. You look at the European Banking Authority and you find they have got major fining powers. I think there is a case for giving our regulator regular teeth. I think the moral responsibility says to me because of the association with people with the highest level of authority and trust by going with this proposal then it will ultimately lead to strengthening of the role and the power of the regulators. I think that does also mean looking at the activities of such unregulated activities to see whether some of that in the future should come within the scope. I wish we had an amendment from the Chief Minister to draw those finer distinctions but we do not. I am going to come down in favour of the proposition.

1.1.7 Deputy J.A. Martin:

I was involved in one of the cases with Senator Breckon and trawled through many, many, many readings of court statements and evidence. Today I have heard some more evidence from Senator Le Marquand, who states that the former assistant magistrate thought this business was so lucrative he tendered his resignation. Unfortunately, we heard that on a turn of events he then reapplied and on another turn of events he was offered the job as magistrate. The Senator said if we had known he had been doing anything wrong he would not have been appointed and his words were: "Firm action would have been taken." What was the interview process in all this to a magistrate? On page 10 of the comments on 2(3): "In February 2004 De Lec, a property company, was incorporated as a company in Jersey. It was set up by Lewis, Ian Michael Christmas and a third person." I am sorry, a background check would have known and should have known what our former assistant magistrate was doing. We have the timeline also and, sorry, but the Senator and Deputy Young and the Deputy of St. Mary are all on the same track. When did this actual so-called high-gear investment become total fraud?

[10:45]

Because I can offer you a return of any amount if I am just going to go and play with it or spend it myself or have a good time because you are never going to get your money back, but I am headed up by someone who is totally respected on this Island, appointed, just as Senator Le Marquand said, by the top people to that job, fronting this fraud. It gets worse because Deputy Le Fondré asked: "What has happened to the pension? What has happened to compensation?" The person we were dealing with was under compensation and not confiscation and the magistrate refused to pay, was offered to do more time in jail and reneged his debts. When I was researching this I spoke to the Law Officers who said: "It is bigger than this, it will not be resolved today but this needs to be looked into." "I can pay possibly but will I do another 6 months where I would only serve 3 and the compensation falls away." As Senator Breckon said there was an arrest finally on the very good pension, whoever is paying it, but he was employed as a Crown Officer. I may be wrong, he was appointed by the Crown, and the firm action that was promised by Senator Le Marquand never happened. People out there cannot believe that the ex-magistrate retained all his wages and was doing a back office job. Because if I, as an ordinary person, had gone in and robbed a few packets of sweets or robbed from my company, I would be sacked that day; I would have no redress and I would be in court for stealing or fraud, it is a very similar fine line. The Chief Minister: I am very disappointed about the part (b) where we do not even know if it is legal; it is not moral. We have heard from the Minister for Treasury and Resources that possible directions could be made to the J.F.S.C., but we did hear in the Chief Minister's speech about what was said in all these pages. The investors should have had a third eye. Well, I have one arm in this business which is regulated. These people were regulated to give property advice but not in the company that they were investing in. So, it is very, very muddy. As I say, I also wonder sometimes where Jersey is coming from because it says under the ... this is not the right scheme, we have heard, from other people who are not supporting it. Maybe we are including too many people who should not get it: were they greedy? Well, only if you knew that you were investing in something that really was not there. But a lot of them were vulnerable people. Whether he was involved in the full extent but he was paraded out to a lot of these vulnerable people which thought: "Well, this must be legitimate because it is the magistrate" and he is saying or he is having dinner with them or whatever way these people were advised to part with their money or roll their money over, we had one of the top officials in Jersey sitting around that table. It appears that, under the report, if these people had been in the U.K., many of them would fall under that compensation scheme. But really why people are saying they cannot support (c) is because it says: "Currently Jersey does not have an investor protection scheme. The reasons why an investor protection scheme has not been introduced in Jersey to date were set out in the comments of the Council of Ministers. In summary, such a scheme, if it was to be funded by investment advisers, could force many out of business, and in the

absence of a similar scheme in competitive jurisdictions, such as Guernsey and the Isle of Man, business would be lost. For these reasons the introduction of an investor protection scheme in Jersey is not supported at the present time.” Well, go back 10 years. Had anyone heard of bank compensation scheme? I mean, we had to jump on that bandwagon very quickly because we would have lost. Where would you put your money? You have not got a lot to invest, you have got nothing to lose money-wise. Where would you put your money? I thought we were Jersey, well-regulated and above everybody else. But no, let us keep down to the other people’s level. Now, if I was looking around to invest, small amount, a few thousand, £50,000, where would I go? Where would I go? I would, with everything that has happened over the last many years in all different financial situations, go with a well-regulated compensation scheme, and Jersey should get ahead of the game. I really think, having dealt with one case but being involved and reading about lots of these cases, the Chief Minister’s: “Let us all go away and come back another day with some sort of scheme”, as Deputy Young said, will not be in this House and it will all start again. We have a moral judgment here to make. Do we let the J.F.S.C. because we can all say: “Well, this company, these people wearing this hat was not regulated” which I think Deputy Bryans seems okay with. I may have interpreted his words wrong but that part of the company was not regulated. These are the same people and they were regulated. But that is okay because the J.F.S.C. should not have been looking at it. When they did look at it, and if they had looked at it sooner, they wrote straight away and they reported it to the police. To me, it is quite simple. If you cannot, morally or financially, support (a) or (b), and I am looking forward to hearing from the Minister for Treasury and Resources about directions for the Jersey Financial Services Commission, but (c) is absolutely a must. We have got to get ahead of the game like Deputy Young says. We want to ... yes, big investors but you have a hundred, a few thousand small investors, it is all money and their money needs to be protected. We need to be well regulated. I really think that reading again the report from the independent Mr. Thomas, it has got to be supported. There are too many ‘ifs.’ Should you have known? Yes, you had known, and the absolute ... I mean, I know Senator Le Marquand was trying to be helpful but to me it has opened up another big can of worms. Who and when knew that this person, top of our Island judges in the magistrate, did not anything ... it astounds me when the resignation was tendered and when the business was going downhill he not only came back as an assistant but went for the magistrate’s job. But where were the checks? I will leave it there. I am absolutely amazed that this has happened and people have had this person touted in front of them saying: “Your money is safe, trust me.” I think it is totally immoral and we owe these people the respect they deserve, and they were not greedy people, they thought they were possibly on a high geared investment, but like the Deputy of St. Mary said, it was basic ... not basic, it was fraud. Thank you.

1.1.8 Senator P.M. Bailhache:

I think that Senator Breckon has made a good case but he is making life difficult for Members because once again we are debating a proposition without all the necessary information to hand. Paragraph (b) of the proposition seems to me potentially a disaster area where, even if it is legally possible to do what is suggested by the proposition, it is bound to have very unfortunate consequences for the Jersey Financial Services Commission and perhaps also for the Island’s reputation in terms of regulation, in that we will be demonstrating very clearly that the Commission is not really an independent player and that we are in a position to tell it what to do and to extract funds from it. Some Members may think that taking money from the Financial Services Commission is a neat solution because it is not taxpayers’ money but, as the Chief Minister has said in his speech, there seems absolutely no justification for requiring those who have contributed fees to the Jersey Financial Services Commission to, in effect, bail out those who have been the victims of fraudulent activities of those who have been convicted. I could not possibly vote for paragraph (b) in any circumstances. I turn to paragraph (a) and I said that Senator Breckon had made a good

case. He has made a good case in respect of some of the investors who may be deserving of an *ex gratia* payment from public funds but, as Senator Le Marquand said, I thought very persuasively, one size really does not fit all. If the Assembly adopts paragraph (a), £1.9 million of taxpayers' money, at its maximum, £1.9 million of taxpayers' money will be paid out and much of that will go to people who are quite undeserving of an *ex gratia* payment. Now, that seems to me to be absurd. We are turning the central reserves of the States, in effect, into an insurance scheme for all those who have made an unwise investment. There will, sadly, always be fraudsters. There will always be victims of fraudulent schemes, people who are taken in by smooth talking and by people whom they thought, wrongly, to be friends and to be trustworthy individuals. What we would be saying if we adopted paragraph (b) is that anyone in that position in the future is entitled to find a Member to bring a proposition and to say: "Never mind, we will compensate you with taxpayers' money." That does not seem to me to be a responsible position for this Assembly to take. I would have wished that Senator Breckon might have been willing to defer debate on his proposition so as to enable the Chief Minister to carry out the inquiries that he has undertaken to do, because that would put the Assembly in a position of having full knowledge in relation to this matter and to be able to make an informed decision. If the Senator insists on putting his proposition to the vote, like Senator Le Marquand I shall be bound to vote against all the paragraphs of it.

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

Having worked at the Jersey Financial Services for 12 years, along with Senator Ferguson who was also there for many, many years, I think I have got a better insight into the working of the Commission than many Members here. I know that the vast majority of members of the Commission are hardworking and conscientious and I have got a great deal of respect for what they do. I do, however, have concerns about the Commission and I have had those concerns for many, many years, and one of the main ones was to do with staff turnover. In fact, if I go back to the time that I joined the Commission in 1995, I think there are only 5 members left. The vast majority of people who come to the Commission have been drawn from industry partly because they wish to get up to date knowledge of what is going on and if you have been at the Commission for a longer period of time you may get out of date and not know the current practices.

[11:00]

But the problem with people coming from the industry is that the vast majority of them are only coming for 2 or 3 years. Why? It looks good on the C.V. (curriculum vitae) as they move from one company to another. Now, one of the problems with having a large turnover at times and people staying for such a short period of time is the lack of corporate memory. People forget what has gone on. They may not be aware of all the signs that have been there before, and so I do have concerns in that sense, and it may well be that in this case - I do not know, I do not know the facts, I have not discussed it with any member of the Commission - but it could be that maybe signs were there which were not passed on for whatever reason. I also know that the compliance and enforcement teams, even today, are very, very busy and there are many firms and individuals under investigation, and when evidence is obtained no doubt they will be brought to book, at least I hope so. Because there were things that we were aware of at times, it was just gathering the evidence to get sufficient to take action. Now, I think it was Deputy Young who addressed the Assembly about the Commission's lack of powers conferred to many other regulators. Well, I can tell you that, I think it was in 2005, I wrote a paper for the board of the Commission regarding, I think it was fining powers, and in fact I was reviewing a whole series of powers and there is no doubt in my mind that the Commission does not have sufficient powers and should have a wider range of powers so they can use them in particular circumstances. I will not say it was political objections but for a variety of reasons they were not followed through. I cannot remember now as to the reasons why not, but I do think that the Commission does lack proper powers. It should have those

that are held by other regulators abroad. Now, this is an exceptionally awkward case. My sympathies are for the people concerned and I would like to support them. I do have this problem, going back to Mr. Thomas' comments regarding the split between the investors in time. There is no doubt that those after the, I think it was March 2007 or March 2008, whatever the date was, have got certainly a better case in my mind than the others and unfortunately the proposition does not deal with it. So my heart is telling me to support. I have not really decided which way I am going to fall. But I want to comment on something else too. I found the Chief Minister's comments regarding the setting up of an investor compensation scheme as shameful, especially when one considers that he, his Minister for External Relations and Minister for Treasury and Resources and Geoff Cook of Jersey Finance, are going around this world telling people what a fantastic finance industry we have; we have got one of the best regulated, one of the best finance centres anywhere, and yet we encourage people to come to Jersey, and local people, to deposit their money, either in banks or invest in Jersey companies with Jersey professionals and Jersey businesses, and yet when push comes to shove we have no protection for them. Now, it may be of interest to you to know he said that, for example, we do not have a scheme and others do not have a scheme. Well, believe it or not, in the Financial Services (Jersey) Law - I think it is Article 27 - has an Article to do with compensation schemes, and it states that: "The States may by Regulations establish in relation to any financial service business, other than trust company business, or classes of such businesses, other than trust company businesses, schemes for compensation in cases where registered persons are unable or are likely to be unable to satisfy claims in respect of any description of civil liability incurred by them in connection with such business, and the provisions of such schemes may be different for different classes of persons or for different classes of such business." We have got the provision in the law, it has been there from the very beginning. It has been chosen for political reasons not to do it. Now, we are told it makes us uncompetitive. Well, let me just tell you that Guernsey, believe it or not, were told it has not got investor protection schemes. It does have one, it has got the Collective Investment Scheme Compensation for Investors Rules 1988 and they can, on this particular scheme, which I might add has not been called upon... provides for compensation for investors in Class 'A' schemes of up to £5 million in any one year. Subject to this limit the maximum compensation payable to an investor is 90 per cent of the first £50,000 and 30 per cent of the balance up to £100,000, making a maximum of £60,000. As I say, no one has called on it. In Europe, most investor compensation schemes are giving protection of up to 20,000 euros. Not very high but there is protection. Our competitors in Singapore and in Hong Kong have investor protection schemes. So I do not accept the argument that it makes us uncompetitive. In fact I would argue Jersey should be selling itself out as an ethical business and finance centre. We should have protection, investor compensation schemes and other protections for people so that people know that if something does go wrong the States are there and we will provide backing. I think it is both hypocritical and objectionable that we are going out into the world saying: "We are such a fantastic place, come here, invest your money" and then we walk away or we ignore them when things go wrong, and I think in this particular case, I have got to say it, it is with regret that we have a former assistant magistrate, is that right? Assistant magistrate - Senator Le Marquand is confirming it - who has been involved in this scheme. I must admit because what Deputy Martin was saying about De Lec, I was trying to think back when we were vetting companies in the Company Registry, whether it would have flagged-up the fact that the magistrate was involved. I think not. I think Jersey is so incestuous in the sense that lawyers, magistrates and others all have business interests, and I think probably you are looking at what the company is about, and on the face of it it probably looked fine so it probably went through. So I am not convinced that we would necessarily pick up on the fact that the magistrate was getting involved in schemes like this. Anyway, in conclusion I will just say that this is an exceptionally difficult one. I do want to help these people if I can. Whether or not I can go with the terms of (a) and (b), I am not convinced. (c) I will definitely be voting in favour of, and I think every Member should. If this Island is supposed

to stand up and be what it says it is; a respectable, well-regulated financial centre, we have got to have it. As far as these people are concerned I really do hope that certainly we can help some, if not all. Thank you.

1.1.10 Deputy S.G. Luce of St. Martin:

Like many Members in this Assembly, I am sure, that know some of these people have been personally affected I know some as well, and one particularly very well, a neighbour of mine since the 1980s. A more hardworking, honest and genuine Jersey person you could not wish to meet. Somebody I would certainly vouch for 100 per cent. This proposition today is probably as difficult for me as anyone. My neighbour's situation, like others, was particularly tragic, being preyed upon at a time of personal family crisis. As well as others, these cases are abhorrent to me; to deliberately target individuals when people are at their most vulnerable is despicable beyond belief. But we must get back to Senator Breckon's proposition because we are not here today to re-enact past court cases. The code of conduct that I signed up to when I became a States Member, as we all did, states quite clearly that I must put my public interests first and my private interests second, and as much as I would dearly love to support those individuals involved in this case that I privately know so well, I cannot today. The reasons are twofold. First, it is quite clear to me that the J.F.S.C. must remain and be seen to remain independent of government, and political meddling in how the J.F.S.C. run their affairs risks jobs in our primary industry. The necessary distance between us and the regulator should not be diminished. Secondly, while nothing would give me greater pleasure than to compensate those genuine hardship cases that I know so well, what about the other people who have lost money? Are they all penniless? How can we possibly decide to hand over hard-earned Jersey taxpayers' money under the heading "hardship" when we do not know each individual financial circumstance? In that regard I welcome the initiative and the commitment given by the Chief Minister this morning to investigate further, and I hope he can come back to this Assembly with some detail that we can really decide upon. Finally, can I just say that, for me, the J.F.S.C. do not come out of this completely blameless. Hindsight is a wonderful thing and, like all concerned in this case, if we could go back I am sure we would all do things differently. My hope would be that we can all learn from these sad circumstances. J.F.S.C. need to tighten up. Potential investors need to be ever more vigilant when making decisions on how they invest their hard-earned cash, and we need to do our very best to make sure both those things happen. People take decisions with their personal finances every day. But as much as I would really like to, I cannot vote in favour of setting a precedent that seeks compensation using taxpayers' money for failed business investments. We know things need to be done better. With considerably more detail I may well be persuaded differently, which is why I welcome the Chief Minister's commitment this morning, but I cannot support the proposition as it is before us today.

1.1.11 Deputy G.C.L. Baudains of St. Clement:

I was interested by some of the comments that Deputy Higgins made, chiefly where he said that the Commission probably lacks powers, and I tend to agree with him because in my view the public would expect the regulator to be able to prevent exactly the sort of problems that we are addressing today, but for technical reasons clearly they were not able to and no doubt the public will be asking why not. In the Chief Minister's speech he spoke of what the outside world might think of the regulator if we started giving it instructions. Well, first of all, I cast my mind back and wonder what the outside world, at that time, thought when some members of the Financial Services Commission were directors of some of the banks they were regulating, but fortunately we have moved on from that. We are faced with a problem where the regulator was unable to prevent the present problem, but, as I said, to interfere would apparently send out the wrong message. But what worries me is I wonder what sort of message we send out by walking away from a problem like this. I believe we have a moral duty to act here and to do so, I think, would send out the

message that we do care about the reputation of our finance industry and we do care about those people who use it. That said, I shall be supporting the proposition.

1.1.12 Senator P.F.C. Ozouf:

I have been trying to hold back for the debate in order to respond to a number of the questions that have been quite understandably raised by Members during the course of this debate and following the earlier remarks of the Chief Minister. A number of issues have been raised, and I would just ask at this stage for 2 issues. Senator Breckon earlier said that he will not split the proposition. Could I ask him to confirm that he has thought against that and either is going to withdraw (b) or seek a vote? Personally, I think we should have (b) and I think it should be thrown out, but can I just invite him because my remarks are going to be different if it is a joint (a) and (b) or going to be a separate one. May I?

Senator A. Breckon:

I did not say I would not split anything; I said I was considering taking (a) and (b) together and (c) separately and a number of Members in this debate have expressed a view that they would perhaps prefer if they were separated, so at this stage I am minded to do that, to separate (a), (b) and (c) for votes at the end of the debate. I hope that helps the Senator.

Senator P.F.C. Ozouf:

Okay but he is not prepared to withdraw (b)?

Senator A. Breckon:

No, there is a vote.

Senator P.F.C. Ozouf:

Okay, fine. That just helps guide how I can ... because I will try and deal with, effectively, now the 3 votes that Members have and I am going to deal with them in reverse order. But first of all, I should say that of course all Members of this Assembly, the Council of Ministers and the Chief Minister has considerable sympathy with those people who have been caught up in this situation. As the Deputy of St. Martin said, it is always an extremely difficult situation when dealing with people who are in a vulnerable position through personal circumstances or of limited means. Of course, fraud is always an extremely difficult thing. Fraud is not limited, of course, to people investing in schemes. Fraud can be perpetrated in all sorts of ways. Vulnerable people can be sold heating systems, housing renovations, they can be parting with money and therefore not get performance because people are dishonest and will suffer loss. The court system deals with the prosecution and conviction and, where appropriate, the recovery of losses incurred by people who perpetrate fraud.

[11:15]

What we have been told by a number of Members is just simply because ... that word is wrong, but because a fraud has been committed, therefore we should compensate, and I would just urge Members to think very carefully about that issue. Financial services are particularly sensitive but of course fraud is perpetrated sadly, not only in the area of financial services. Of course, financial services and people parting with their money do need to be particularly careful and it is extremely difficult to hear the remarks by Senator Breckon when he said that the people who were parting with their money regarded these people as friends. Of course, Government cannot regulate and compensate for every eventuality of people's own decision making. It is painful to say it but people and this Assembly, and as one of the Ministers responsible for financial services, we need to say very clearly that people generally need to be careful in their decision-making when making investments, and particularly making investments that purport to deliver high returns. They must

take proper advice and they must not simply rely on people who think that they are friends. Sunstone was not a regulated entity, and these are difficult issues to say, but people need to be aware and they need to take responsibility, to the extent that they can and should, for their own actions. But of course protections need to be put in place. The issue particularly is in relation to the matters of a magistrate who was clearly involved in this matter, and that makes it particularly difficult and some Members are saying: "Well, just because a magistrate was involved, that means that definitely we should be compensating because a magistrate should not be involved in fraud." I am afraid I cannot make that definite link. I think that would be wrong to make that link, indeed the J.F.S.C. has been criticised. I understand that the individual - I am using his former title, the former assistant magistrate or Mr. Christmas, it is appropriate to name the individual on this occasion I think probably - the individual was of course not involved in Sunstone. He was not one of the individuals, he was not known to be involved in that matter. I do not think it matters much. People need to understand and of course take proper advice. The Chief Minister has taken advice as to whether or not the compensation scheme would apply in all of the circumstances, and if a compensation scheme were to be in existence, whether or not the compensation scheme would have paid out, and Members have seen that report. Deputy Le Fondré is not in the Assembly and he was arguing that we should not have a depositor compensation scheme but effectively he is supporting (a) because he is saying that we should have a *de facto* publicly-funded compensation scheme. Compensation schemes are paid for by the industry so you cannot have, effectively, the line of argument that Deputy Le Fondré is saying, that we are suddenly going to have a depositor compensation scheme which is going to be publicly funded. That is an even greater step than effectively what is being set out in (c). We simply cannot have a catch-all States Assembly, public - and I speak as the Minister for Treasury and Resources - you simply cannot have the public finances acting as a compensation scheme for investors for financial services. It simply is a completely unsustainable position. The alternative issue was different. The U.K. Parliament ... no parliament in the world would accept the remarks of Deputy Le Fondré to say that you should have a publicly-funded compensation scheme. He does not want an industry compensation scheme, he wants a publicly funded one. That is effectively the summary of his remarks. I urge Members to think very carefully about that and I will come back to (a). The issue of a compensation scheme generally; well, the first thing is a number of issues have been raised about that. Guernsey does not have ... Deputy Higgins was wrong, I think, to suggest to the Assembly that Guernsey have some sort of scheme. They do not have a scheme that would have covered this issue and we are advised that there is no other proposal to have such a scheme. That does not mean to say that we should not take action, and we should not, in my view, accept (c). Just because there is a problem you should not, in fact, respond by saying: "Oh, we definitely need a compensation scheme." I think it was Deputy Martin or a number of Members have said: "Would we have a depositor compensation scheme for banking deposits?" Well, the reality is, is that, as we were explaining to investors last week, we would not want a banking deposit compensation scheme, we have never had to have one in Jersey, we have not had any banking collapses because we have had good regulation. Compensation is there when regulation fails. Now, the work that should be done, and I agree with that, is that we should be looking to constantly improve the regulatory environment for I.F.A.s so we should not be jumping straight to a compensation scheme which effectively adds cost and, if I may say so, what will happen if we do put a compensation scheme in place, which will have cost, then individuals in Jersey will not use the Jersey protected depositor compensation scheme financial services, they will go to Guernsey because they are cheaper. That is the reality of competition. Now, do we need to look at regulation? Yes, we do, and I am prepared, just as a case there are constant moves towards regulation, that we should do so. Now turning to the issues of the Financial Services Commission. I want to just confirm with the Attorney General, for the avoidance of any doubt, that (a), no ability to give directions for the Financial Services Commission could be invoked because there is an issue where the Commission does, in certain circumstances,

collect resources for the States and then pays them across. But I want to in this issue ... I am very disappointed that Senator Breckon is not withdrawing part (b). He should not be pursuing part (b) and if he does we should comprehensively reject it. To suggest for one moment that we should be requiring the reserves of the J.F.S.C. to be somehow used by this Assembly to pay for something, or to pay for something that we think should happen, would be an absolutely chaotic situation in terms of the independence of the Commission. It may be a legal issue and I would just invite the Attorney General to confirm that there are no directive abilities and there is nothing in the law that allows us to do it. I am requested under (b) to bring forward legislation. It is a political issue about whether legislation should be brought forward but I just want to confirm there is no ability to issue directions.

The Attorney General:

I think that is entirely correct. The only direction issuing provision that I have been able to find that covers the Commission at all is Article 12 of the 1998 law which sets it up and it is quite clear that that is very limited in its ambit and certainly could not cover a direction, in my view, to the Commission to make any form of payment of compensation or payment back into the general revenues of the States.

Senator P.F.C. Ozouf:

To send any message out, this is not a legal issue, it should not be a Treasury issue, the Assembly needs to send an absolutely clear message that we are not going to blur the independence of the Commission. To send such a message out would be extremely damaging to our reputation as an international financial centre, that somehow this Assembly thought that it could, whether or not this Assembly is autonomous, it is sovereign, we have abilities to pass legislation, but effectively to do so would be - it does not matter whether it is internationally unlawful - it would be politically absolutely the wrong thing to do, and we need to send out that message very, very clearly. I invite again, Senator Breckon to consider withdrawing it because it is effectively such a step so very far and so completely unacceptable. To respond before now coming to (a); (c), regulation of I.F.A.s needs to be looked at. (c) should not be approved. We have not got the evidence today or ever, the Isle of Man, Guernsey are not doing (c). It should be rejected. (b) absolutely not; clear message. Deputy Young and Deputy Higgins made 2 other comments. The fining ability of the Financial Services Commission is currently underway and being drafted, and yes, fining provisions have got an appropriate role and that is being considered. Everything else, I think, I disagree with in terms of what Deputy Higgins said and his comparisons - he is smiling at me - but the scheme does not exist in Guernsey and there is no ...

Deputy M.R. Higgins:

Will the Member give way for a moment?

Senator P.F.C. Ozouf:

Well, if he has got really anything substantive to add, then, yes.

Deputy M.R. Higgins:

When I mentioned the Guernsey scheme I mentioned the Collective Investment Scheme's Compensation of Investors Rules 1988. It is Guernsey law. They have the scheme they just have not used it, and that is for collective investment funds. I only made the point in that particular area I did not make it in relation to any other investment schemes.

Senator P.F.C. Ozouf:

That is exactly what we have here so I do not know what Deputy Higgins' point is. Collective investment schemes are entirely different, it is the deposit compensation scheme. Deputy

Higgins... it is a long time since he has worked in the Commission, I think the world has moved on quite substantially since then. He is not citing to Members anything that we do not have here. To pretend that Guernsey has got any different situation is not correct and not right. To Deputy Young, if I may say, in respect of pensions. Yes, the Queen's speeches including legislation today on Dutch-style collective investment schemes. I do not know whether or not he read the release by the Jersey Treasury last week about pensions, we already do what most people do in the U.K., you do not have to buy an annuity there are all sorts of other availabilities of using pensions. People get better value for pensions in Jersey already. What the Chancellor announced in the budget last year is already being done here and what we are going to be proposing this year in the budget, as pre-announced already, is further flexibility in pensions. If Deputy Young would like to be briefed on that, then I am happy to do so but I do not think it is fair. What we should be doing is of course making sure that the domestic financial services industry is working well and we have a wide availability in choice and appropriate regulation of that domestic area, and that is something which the Chief Minister and I, with colleagues and the Commission and our Financial Services Unit are looking at. So I hope that helps Deputy Young. Finally, to (a). I completely endorse the remarks that Senator Le Marquand has said. If (a) is accepted, we are effectively saying that the States is going to have a publicly-funded compensation scheme for all those investors. That would be a step far too far. That is clear from the report, it would not be recovered from the industry it would be publicly funded and, in any event, even if there was a scheme, all the investors would not receive this type of compensation, that is clear from the report that we have.

[11:30]

The Chief Minister has said, and Senator Le Marquand is quite right, that there are a number of these investors that, after that period in 2007, do need to be looked at. Now, part (a) does not allow that. It is to request the Minister for Treasury and Resources to make all payments effectively. Now, what we are asking Members to do is to reject part (a), that should not be accepted, that the Chief Minister is committing to saying that a review will be done as quickly as possible; it will take time because the information is complex, it is within various different entities, it is difficult to get that information, but of course it will be done and will be done properly. That review will be performed. The Chief Minister will advise, as appropriate, progress on that. We could provide an update on that without prejudice to anything perhaps by the end of the third quarter and then maybe this issue could be dealt with by the end of the year, if it is possible to do so. It is not easy to deal with these issues but we will look at the issue of the 2007 issues and those cases, those do need to be looked at in much granular detail. I think I have answered all of the questions that Members have raised. In summary, (c): that is not the right approach, looking at I.F.A. regulation and making the financial services industry domestically work well, not putting in compensation schemes which the competition is not doing. (b): absolutely not. I would be shocked if any Member of this Assembly thought that it was appropriate to fetter the independence of the J.F.S.C.; and (a): it is not possible as it is currently worded, more work needs to be done to deal with those people after 2007. I hope those observations are helpful.

The Bailiff:

Does any other Member wish to speak?

1.1.13 The Very Reverend R.F. Key, B.A., The Dean of Jersey:

I rise not because I understand financial investments but because I have heard the words "ethical" and "moral" used more times in this debate than for a long time in this Assembly, and I thought it might be helpful if I just try to clarify the questions that it seems to me in that area Members might want to ask themselves, though of course not expressing an opinion as to the correct answer. It is just a fact that the offices people hold affect the way in which those people are viewed. I have just

changed my car. My dear old “Deanmobile” as people affectionately called it, a very ancient Fiat Punto, was part exchanged. Why did I not sell it through the *Jersey Evening Post*? Because although as far as I am aware it was a very good runner, if someone had bought it and it had collapsed in a heap the next day, that would have affected my reputation simply because of the job I do and the position I occupy. Whether it is a dog collar or a judge’s scarlet robe, positions do give cloaks of respectability, with all the good things and the downsides of those things. I was once taken to task gently soon after I arrived when I walked through St. Helier on a Saturday morning towards a coffee morning wearing shorts and sunshades, and people said: “Well, you know, is that really appropriate for the Dean?” I confess, this Dean thinks it is, so that is fine. Let me just become more serious. First of all, there is an ethical issue about personal responsibility. *Caveat emptor* is as true now as it was 2,000 years ago and we cannot avoid, any of us, the personal responsibility for the decisions we take, whether that is about investments or the car we buy or anything else. We are responsible for our own personal decisions. Very helpfully, the Chief Minister and Senators Le Marquand and Ozouf have raised issues about the correct targeting of any relief that might be thought appropriate. That is a moral issue and some Members will think that targeting would be nice but is unnecessary. Others may well think that targeting is very important because we have a moral duty, as guardians of the finances of this Island, not to spend taxpayers’ money unnecessarily. It undoubtedly would have been better in a perfect world if the targeted scheme that may well come out of the Chief Minister’s research were to be debated at the same time as the broad brush scheme so that Members had a chance to decide and discern between one or another. Indiscriminate now or targeted later is therefore a moral question that Members will want to consider. Let me return to this matter of the cloak of respectability. The question, I think, is simply this: would people have invested in this scheme if it had not been fronted in part by the holder of a senior office in the Island? If the answer to that question is yes, then the second moral one that follows from it is this, and the answer is not simply one possibility, it is capable of 2 answers, yes or no. But here is the question. Does the fact that the Island gave the cloak of respectability to one of the perpetrators of the fraud mean that the Island bears a moral responsibility to ensure that those investors who were duped by that perpetrator are compensated? Members will make their minds up on those moral issues but it seems to me that there are those ethical questions; targeted or indiscriminate, the cloak of respectability given by the Island, and does the giving of that cloak mean that there is a residual responsibility on the representatives of the Island to, as it were, pick up part of the tab? What I think is clear is this, and I speak as one who holds one of these offices, it seems to me that if you have taken on one responsibility, that closes down to you certain other things that you otherwise might want to do. Whether that is selling second-hand Fiats through the *J.E.P.* (*Jersey Evening Post*) or seeking to make vast sums of money through investment schemes. You cannot have your cake and eat it. If you take on a public role then that is a wonderful privilege and it comes at some other personal costs and you need to count that cost, if I may quote the New Testament, before you build that particular tower. I hope the defining of those ethical questions may have helped Members. **[Approbation]**

1.1.14 Senator S.C. Ferguson:

Like most people here, I have great sympathy for the investors in this and I was hoping to be the first one to say *caveat emptor* but I have been trumped by the Dean. But technically, theoretically, this is a case of *caveat emptor*. No one should have all their investments in one basket. As the old source says: “If it looks to be too good to be true, it is.” But there are mitigating circumstances in this. As Senator Le Marquand has commented, this all developed into a Ponzi scheme, and taken together with the actions of the former assistant magistrate then the situation has overtones of Bernie Madoff in the U.S., if Members recall. These schemes are fine while the market is rising but like most of these schemes they go into freefall with a market setback. Now, Deputy Le Fondré raised an interesting point earlier this morning. He commented on tracing assets through to

connected parties. When I consider the Madoff case, the U.S. authorities involved in the case were much more energetic in recovering the assets which were in the hands of Madoff's family, his wife, his connected agents and also banks where some of the monies were deposited. My question is, why have we not taken such action? The pension pots, which were also mentioned, I would suspect that they must amount to some millions of pounds. Our Viscount is a master of tracing assets for errant dictators and so on; why can we not set him to work on this? I find the actions of the former assistant magistrate very dubious and I do place a degree of responsibility on the States for proper due diligence on applicants for senior positions. Now, over the last few months we have kept falling over cases of lack of due diligence and a viable and visible degree of scepticism. Now, I generally agree with Deputy Higgins' comments re the Jersey Financial Services Commission but I think perhaps people do not understand the total position. There are 2 sides to the J.F.S.C.; there is the regulatory side which everyone is gunning for, but there is also the registry side, and as I understand it when the J.F.S.C. was set up the registry division was included in order, as I understand it, to provide some revenue towards the running of the J.F.S.C. Perhaps the inclusion of a Crown Officer in a trading company should have been a warning sign. Difficult to know; if it was somebody less senior dealing with it then it may not have been noticed. This is again, unhappily, an area where one needs a degree of scepticism and to apply proper due diligence. In fact I do wonder if in future all senior members of Civil Service and Crown Offices should declare publicly all interests outside their work when being appointed. We have got the question of an investor compensation scheme and have been told that it is not clear that all cases would be compensated under the U.K. scheme. I have dealt with one or 2 cases under the U.K. scheme and yes, there were certain minefields to negotiate through when reclaiming assets. But I suppose basically I would like a more strenuous tracing of assets if this should be possible and I am waiting to hear the closing speech of Senator Breckon.

1.1.15 Senator F. du H. Le Gresley:

There are a number of issues that I think may have been missed in this debate which is a very difficult debate for States Members and we started that debate back in September last year. I think Senator Le Marquand has highlighted some of the issues about the investors that we are on the brink perhaps of providing compensation because Senator Breckon's proposition is targeted at the 57 investors who were identified in the court proceedings. We do know because back in September Deputy Breckon ... sorry, Senator Breckon kindly provided us with information from the Police Financial Crimes Unit, which I have still got, and we know that of those 57 investors, 11 had been repaid and 8 had lost less than £48,000. When I spoke in the earlier debates back in September, I pointed out that using the figures provided by the Police Financial Crimes Unit we were aware that 15 of these investors invested less than £50,000, 13 more than £100,000 and one person more than half a million. At that time I said, because Senator Breckon had stressed that these were the man in the street investors, the ordinary man and woman in the street, I respectfully suggested that the latter investor who invested more than half a million could hardly be called the ordinary man in the street. Furthermore, just because somebody invested less than £50,000 does not necessarily mean that that individual is an immature investor as this highly speculative investment may simply have been part of a portfolio of investments.

[11:45]

So we do have a problem with the proposition as it is worded, and we do not really know much about all these investors and their true financial position and as to why they were feeling that it was worth investing in the scheme set out by Sunstone and De Lec. Some Members - and I think it was Deputy Power - said that the scheme was illegal. Well, when it started out it was not illegal. It may have become illegal towards the end because of the way that money was being sucked-in, if you like, to keep the scheme going, but in the report from Mr. Thomas, he makes it clear, on page

10, that broadly Sunstone and De Lec operated in the same way. In return for a small deposit they reserved off-plan new houses that were to be constructed in the United States, mainly in Florida. The purchase was then to be financed partly by money from Jersey investors and mainly by mortgage loans obtained in the United States. The expressed intention was to let the houses for 2 years or so, for United States tax reasons, and then sell them in expectation of making a profit for investors. A total of 90 properties were reserved or purchased using the names of Cameron, Foot or Lewis and mortgages of \$16,500,000 were raised. So there was activity taking place, certainly at the beginning when these companies were set up back in 2004, 2005, which was not illegal but was attracting very high returns, which obviously was the reason that some of these investors, if not perhaps most of the investors were persuaded or attracted to moving their money. Now, the other point I wanted to make was that I think ... I do not want to criticise Senator Breckon but he does tend to choose his words carefully when he reads from reports. In other words, he is a bit selective in what he reads. What we need to understand - and this is from Mr. Thomas' report, page 9 - about the investment: "Most of the investors [and I am reading from his report] put money in Sunstone/De Lec directly or indirectly in one of 2 ways: as a loan or as a joint venture." Now, that says: "Most of the investors ..." Then it goes on to explain how this happens: "In relation to these promissory notes and joint venture agreements, some investors said they paid over their money before seeing the documents." Before seeing the documents. "Others said that they did not read the documents, relying instead on what they were told. Cameron Lewis and Foot seemed to have been plausible and persuasive, as can be seen from the samples at annexes D and E, it is reasonably apparent to anyone who reads the documents that they are promissory notes or joint venture agreements, rather than a form of conventional investment." Now, this is not anything I am inventing; this is in the respected report of Mr. Thomas. Now, some Members have made the point that they believe if we were in the U.K. Financial Services Compensation Scheme that a lot of these investors would have been compensated but it is clear again on page 9 of Mr. Thomas' report that most of the investors put their money into Sunstone/De Lec in one of 2 ways as a loan or joint venture. He then says in 5.6: "Investors who put funds directly or indirectly into Sunstone/De Lec under promissory notes or joint venture agreements, F.S.C., as in the U.K. scheme, would have been unlikely to compensate them because the promissory notes and joint venture agreements were not conventional regulated investments. So that is the majority would not have been compensated. I am going to finish and I am almost sad that I have to do this but we now know that (b) is unacceptable and I am sure that is going to be defeated and that is why Senator Breckon has agreed to now take the vote separately on each paragraph because I think he accepts that (b) is going to be lost. So we now know, because up until now, and I have heard investors say this and I have heard the public say this: "It is okay, it is not the taxpayers' money, it is the Financial Services Commission reserves. That is all right. We do not feel the pain of that." We now know if we agree (a), this is taxpayers' money. That is the money that you pay, that the man in the street pays, that is the money that people in old folks homes pay, as everybody who pays tax is going to be compensating some of these 46 or so investors, one of which invested over half a million in this scheme. I am going to finish by reading an email that was sent to myself in September last year. It was also sent to Senator Breckon and copied to members of the Council of Ministers, and it says this: "It is difficult for me to even begin to express my disgust and shared disbelief at your proposal [this is addressed to Senator Breckon] that we, the taxpayers of this Island, should be put forward to pay compensation to the individuals who lost monies through the fraudulent U.S. investment schemes. I think you need to take a reality check here, Senator. Firstly, I have absolutely no sympathy whatsoever for the people who lost their investments. They, like every investor presumably, went into this matter with their eyes open and let us face it; their principal aim was to make money. The fact that they lost their funds is their own risk in this matter. If this completely nonsensical proposal is passed by States Members, where will so-called taxpayer funded compensation end? Now, you may well be wondering quite why I am being so expressive on this

matter and here is the very reason why and as I said previously, a reality check for you and the Council of Ministers. My mum, who will be 92 in February, is still paying income tax. Why? Because her meagre pensions just push her over the thresholds. My mum was born in Jersey, lived through the Occupation and with my dad - now deceased - worked long and hard to bring up kids and saved even harder, and for what? To be still paying tax at 91 years old. She is now in a care home and currently paying £580 per week but will soon have to leave where she is because her needs are now greater than the home she is in can provide. The cost of the next home will be £1,200 to £1,500 per week. When she went into care, I made an appointment with the Income Tax Office to establish if she could be granted relief for the income tax on her pensions to help offset the cost of her care. The answer was no. I then asked if we rented out her little house to help offset the cost of her care, would the rent monies be deemed income and therefore taxed? Answer? Yes. One should bear in mind here that at her time of life, the amount of income tax she has to pay is a pittance by the overall Jersey tax take but, as a cost towards her care, it is substantial. So here is the real rub: as a result of your proposal, my mum, as a taxpayer, would have to contribute to any compensation paid to these investors. So, who do you think needs the money most? My mum or them? Thank you.” **[Approbation]**

The Bailiff:

Does any other Member wish to speak? Then I call upon Senator Breckon to reply.

1.1.16 Senator A. Breckon:

I would like to thank all Members for their contribution. I think I said at the start it is indeed a very difficult issue and it is difficult for us here yesterday and today but it has been even more difficult for those involved. I will not comment individually on Members’ contributions but I will summarise in more general terms. Firstly, I would like to quote from a document from the court. The Commissioner was Sir Christopher Pitchers and he had this to say, this is a judgment sentencing hearing on 5th October 2012. At paragraph 12, he said this: “It is important to stress that one of the reasons why these offences are so serious is because it is vital that those who invest with professionals, whether they are regulated or unregulated in their business, must have confidence that they are given accurate and honest advice and not being misled. But at the heart of this case is something more important. These victims, these investors who lost their money, were ordinary people whose lives have been altered for the worse for ever by your reckless and your later dishonest behaviour and that is a matter of great seriousness.” These were not people who could afford to lose the money that they lost and various Members have made reference to people’s individual circumstances and I cannot give Members details of that because I do not know, but what I do know is, as has been said and is acknowledged in some more detailed court papers, the personal impact it had on people has been highlighted to the court and it was done in a number of ways; it was statements that were given to the Financial Services Commission, to the Financial Crimes Unit and some people appeared in court to give evidence and were cross-examined. It is difficult for us here yesterday and today but just imagine how difficult it has been for some of those people, and as I say, I do not know them all, I do not know their circumstances, I just know that this is not just an unfortunate incident, it is very life changing for those people in different ways. Some Members have mentioned regulations and safeguards. Something that has been mentioned is the comparison with the bank deposit protection scheme and it was really difficult to convince the then Minister for Economic Development - which was Senator Ozouf, - that this was a good thing to do. Again, it was a cost of doing business; other places do not do it. I remember being contacted by people from outside the Island asking me, I was Chairman of the Consumer Council then: “Does Jersey have a bank protection scheme?” and the answer is: “No, we did not.” In the end, it was an international embarrassment that caused this to happen and Senator Ozouf mentioned something and I will just find out what he talked about. He talked about the States cannot have a fully

publicly-funded compensation scheme and he said about the bank deposit scheme. I would remind Members that the debate on this took place at 7.00 p.m. one Friday night on whether we should have this and nobody was going to say much because Members were generally exhausted after the fourth day of whatever we were debating at that time. The first £100 million of that comes from the Strategic Reserve. The first £100 million. That was the guarantee we put up of the public's money. So when people talk about regulation, that is where we come from. That was the carrot, if you like, and then the industry fell in behind that. Members have talked about investment, but some with perhaps longer memories but not that long ago, may remember the Northern Rock crisis when people were queuing in the street to get their money back out of a bank/building society. That is not that long ago. Now, if you had said to anybody: "People are going to be queuing outside the bank to get their money" they went: "You have lost the plot. That will never happen." These were legitimate and top 500 organisations and it was always said we do not need regulation because we have only got the top 500 banks. Well, that has not proved to be the case and banks and institutions were bailed out in a number of places by national governments and that really has been the last resort. One of the reasons I linked the proposition to the funds of the Financial Services Commission was exactly that. I do not believe their actions here are wholly appropriate. They have missed some.

[12:00]

Some of the things ... I had a discussion, I must say, I have the greatest respect for David Thomas who produced this report. I met him twice, the first time on 19th November. The conversation we had then, I had a suitcase full of papers and I said: "I do not want to bundle you with this but, whatever, we will discuss somewhere where I can feed any information to you." One of the things he said virtually straight away that where a person had a regulated investment and I mentioned this yesterday, some people had bonds with insurance companies for thousands of pounds and that is what we are talking about. Where they had a regulated investment and they were advised by a regulated financial adviser to cash that, to do something else, then the compensation scheme in the U.K. would step in. I knew that on 19th November last year when I met with him. He said: "Yes, this is definitely ... on initial look, they would qualify." Now, how many people that applies to, I do not know. I know it applies to some. They were told it would be the best thing for them to do to cash in those investments and that happened and that has been recognised in what the Chief Minister said and what is contained in the report. The other thing, I think that the Financial Services Commission have some sort of duty of care. When I spoke to Mr. Thomas last week and I am not saying anything here that infringes any of the articles, what he said was, when he looked at the conduct of Goldridge Stone, and that is the link ... I have a document there, court papers, there is extensive reference to them as being the conduit for this investment and that really was the source of it and I quote bits of it yesterday. The Commission in their own presentation, I think it was 23rd September, said: "Yes, we have them under the spotlight between 2001-2004." We gave them the benefit of the doubt, there were issues, there were no sanctions, nobody knew anything about it apart from them and that was it and it went on. Well, perhaps if things had been maybe more strident then, then we would not be having this debate at all. The other thing I discussed with Mr. Thomas ... what he said is, although he has put a cut-off date there, he said there were issues before but they were not necessarily red card issues, they were like yellow cards. That is my comparison for saying that there were issues that were rolling along. So, although that is there ... he did tell me that there were things before that for a number of years with Goldridge Stone, a regulated investment company with regulated financial advisers. The other thing Members have talked about, and it is mentioned in Mr. Thomas' report, is about other ways of sanction and whatever else. Well, there were some issues here and something I look back at and the International Monetary Fund, when they get a view of the Financial Services Commission, if you want to call it that, in 2009, did say that they should have within their toolbox, the ability to fine.

As Deputy Young mentioned this morning, it does raise significant amounts of money and we are not talking about back street operations, we are talking about High Street names who get hammered and it is not minor offences, it is things like rigging LIBOR, which is an international thing, and these things have happened and it has been things where there has been cross-regulator co-operation between the United States of America and the U.K. But when the International Monetary Fund made that recommendation, I did have a look to see where it was about having fines as a sanction because my line of thinking was, well, if you can raise money - and Deputy Young mentioned amounts - then that is a way of having maybe a link with a compensation fund, thinking in the round. But it has still not been done. In fact, on 19th October 2010, I lodged a proposition enabling or requesting this House to consider, enabling the Financial Services Commission to have that, the imposition of fines. The Minister for Economic Development at the time made a statement and more or less said: "Well, that is work in progress." That was in October 2010 and we are still talking about it and still not done it. So I think sometimes that there is the need, we are talking about the independence of the Financial Services Commission, and then somebody also needs, from time to time, to be looking over their shoulder, who regulates the regulator or who spurs them into action to doing something? The other thing which has been mentioned by a number of Members was the Financial Services Compensation Scheme and it seems to be in the Council of Ministers' comments and it is part of my paragraph (c) about whether we should do that. It is, under the 1998 Law under Article 7, there is a hanging clause there that allows us to do it and it is us, as government, through whoever's responsibility, and that has moved from Economic Development now to the Chief Minister's Department but I would remind Members of the judgment in the *Alternate investors* and this was the Royal Court of 26th January 2007 and from the Commissioner, and this was January 2007, and at paragraph 403 it said this: "For the future however, the court recommends that the issue whether a compensation scheme or schemes should be established should now be addressed [now being 2007]. We emphasise that for investors such as those to be left without compensation would not redound to the good reputation of Jersey and its investment community." Well, that was in 2007. It was 7 years ago and we are still no closer to doing that. There may well be a cost to doing that but there is also a Kitemark - a guarantee - if all else fails, then something is there to assist in cases like this. I know yesterday I used the comparison of the travel trade and using A.B.T.A. (Association of British Travel Agents) or A.T.O.L. (Air Travel Organisers' Licensing), or whatever it is, everybody pays their few pounds on a package holiday and when something goes wrong, they step in and sort it out. The other thing that I am grateful for is the contribution of the Dean, because there are some issues here, because it is not just about regulators and regulations and laws, there are some very real people involved here and this is, for me, the heart of it, because whatever we do will not put matters right. What I have sought to do is not to compensate people fully but hopefully we can, from this Assembly, restore some confidence in what we do, show people that we have listened. Yes, there are legal niceties and complexities and arguments. We can put all sorts of barriers in the way but of course you can ... I hope Members can understand through the legal complexities that we have had in the few hours we have been discussing this, is that the situation that people have suffered, if you like, themselves because of where they are, between a rock and a hard place. They have given evidence to various authorities; they have appeared in court, there was an 8-week trial. Did we get a result? Did they? I do not know if they did. For them, okay, there were convictions but that was not necessarily the end of the matter. Where do we go from here? There was really nowhere to go and that is the reason for my proposition. It is about trying to do something positive in difficult circumstances. It is not an ideal situation for us but I believe Members should make a choice. It is their choice and it is difficult but it has been even more difficult, as I say, for those affected. As I say, I do not know everybody's circumstances, Senator Le Gresley has hinted at stuff but sadly he probably picked the wrong case. The person who lost the lowest money passed away about 3 months ago and I would not consider her to have been a shrewd investor. She was ... there were house visits and all sorts. These were

difficult circumstances and other people's circumstances are difficult. My intention was not to use taxpayers' money, hence paragraph (b), but Members should vote, as the Dean said, with their conscience and I would ask that the vote be taken (a), (b) and (c) separately and I ask for the appel.

Senator P.F.C. Ozouf:

Sir, can I make a point of clarification? Senator Breckon said the depositor compensation scheme is a liability of the States. It is not a liability of the States in the sense that we would lose £100 million, it is simply a liquidity issue in order to have a holding position before recovering those monies from the banks themselves and I think that is a very important issue, which I just need to correct for the record.

Senator A. Breckon:

I did not say it was a liability of the States. I said the £100 million was a guarantee from the Strategic Reserve.

Deputy M.R. Higgins:

That point needs to be made even clearer. Yes, it is a liquidity issue, £100 million. It comes from the States before the banks will be asked to pay their share. But if whatever bank fails does not have sufficient money, it may well be that the £100 million will be lost.

The Bailiff:

Very well. Now we come back to the vote on this matter, the proposition by Senator Breckon. I invite Members to return to their seats, the appel having been called for, and the Greffier will open the voting. This is on paragraph (a). Thank you.

POUR: 10		CONTRE: 34		ABSTAIN: 0
Senator A. Breckon		Senator P.F.C. Ozouf		
Deputy R.C. Duhamel (S)		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 J.A.N. Le Fondré (L)		Senator F.du H. Le Gresley		
Deputy M. Tadier (B)		Senator I.J. Gorst		
Deputy G.C.L. Baudains (C)		Senator L.J. Farnham		
Deputy of St. Mary		Senator P.M. Bailhache		
Deputy N.B. Le Cornu (H)		Connétable of St. Helier		
Deputy S.Y. Mézec (H)		Connétable of Trinity		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Ouen		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. Saviour		
		Connétable of Grouville		
		Deputy R.G. Le Hérisier (S)		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		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 M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		
		Deputy of St. John		
		Deputy J.P.G. Baker (H)		
		Deputy J.H. Young (B)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		

The Bailiff:

Now, paragraph (b), I think, falls away in the light of that vote but paragraph (c) can still be voted on and therefore, I will ask the Greffier to reset the machine and now the vote will be on paragraph (c) and the Greffier will open the voting.

POUR: 19		CONTRE: 25		ABSTAIN: 0
Senator A. Breckon		Senator P.F.C. Ozouf		
Senator F. du H. Le Gresley		Senator S.C. Ferguson		
Connétable of St. Lawrence		Senator A.J.H. Maclean		
Deputy R.C. Duhamel (S)		Senator B.I. Le Marquand		
Deputy R.G. Le Hérisssier (S)		Senator I.J. Gorst		
Deputy J.A. Martin (H)		Senator L.J. Farnham		
Deputy G.P. Southern (H)		Senator P.M. Bailhache		
Deputy of Grouville		Connétable of St. Helier		
Deputy J.A. Hilton (H)		Connétable of Trinity		
Deputy K.C. Lewis (S)		Connétable of St. Clement		
Deputy M. Tadier (B)		Connétable of St. Peter		
Deputy T.A. Vallois (S)		Connétable of St. Ouen		
Deputy M.R. Higgins (H)		Connétable of St. Brelade		
Deputy J.M. Maçon (S)		Connétable of St. Martin		
Deputy G.C.L. Baudains (C)		Connétable of St. Saviour		
Deputy J.H. Young (B)		Connétable of Grouville		
Deputy of St. Mary		Deputy J.A.N. Le Fondré (L)		
Deputy N.B. Le Cornu (H)		Deputy of Trinity		
Deputy S.Y. Mézec (H)		Deputy S.S.P.A. Power (B)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		
		Deputy of St. John		
		Deputy J.P.G. Baker (H)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		

Senator A. Breckon:

I wonder if I could just thank the Chief Minister and the officers in the department and Mr. Thomas for their time and effort. Although it seems a long time, it was a considerable effort and a very informed one in the time it was done.

2. Channel Islands Lottery: allocation of profits for 2013 (P.22/2014)

The Bailiff:

Thank you, Senator. Very well, the next matter on the Order Paper is P.22/2014 - Channel Islands Lottery: allocation of profits for 2013, lodged by the Minister for Economic Development. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to agree, in accordance with the provisions of Regulation 4(5) of the Gambling (Channel Islands Lottery) (Jersey) Regulations 1975, that all monies standing to the credit of the Channel Islands Lottery (Jersey) Fund which have not already been set aside by the Minister (representing 100 per cent of the total Jersey portion of the profits of the Channel Islands Lottery for 2013) should be paid to the Association of Jersey Charities for the benefit of the community and the charitable needs of the Island.

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

I hope this will be a fairly straightforward matter for Members. As Members will be aware, the responsibility for the Channel Islands Lottery falls to Economic Development. This includes the establishment and maintenance of a reserve or contingency for the lottery.

[12:15]

This contingency ultimately belongs to the Association of Jersey Charities and is intended to smooth any years where revenues may fall as well as being used to guarantee the prize fund. In past years, a percentage of the annual profits have been added to the contingency but all relevant parties, in other words, Economic Development, Treasury and the Association of Jersey Charities, agree that the Contingency Fund is now sufficient for the purpose and so this year it is proposed that all profits from the lottery are distributed. The States are now asked, through this proposition, to agree that the total profits from the 2013 Channel Islands Lottery are allocated to the Association of Jersey Charities for the benefit of the community and charitable needs of the Island. The Public Lotteries Report 2013, presented to the States on 4th March 2014 reveals all-time record profits from the 2013 lottery; a sum of £684,555. The lottery was declining and facing an uncertain future a few years ago and I am delighted that with some bold steps and in some quarters, unpopular steps, we have managed to rejuvenate it. By any standards, it is a remarkable result to have increased the returns to good causes by £282,852 more than ever before and in a single year. We have set a benchmark for future years, which is the direct results of 3 years of hard work in developing a greatly improved lottery product and thus profits. We have set even higher targets to increase profits further next year and beyond. The potential certainly exists under the structure of the new lottery. Work is underway to update the terms of reference of the Public Lotteries Board, prior to the recruitment of a new board to commence shortly. The new terms of reference will task the board to bring forward recommendations for wider distribution of future increased lottery profits, beginning with profits generated in 2014. These are exciting times for the lottery and the many good causes who are dependent upon it. It should be noted that there are other beneficiaries as the lottery provides vital footfall and revenue to retailers, including ancillary spend in shops. If Members approve the proposition today, the £684,000 will be transferred to the Association of Jersey Charities as soon as the new S.L.A. (Service Level Agreement) has been agreed between them and my department. I would like to thank Islanders for their continued generosity in supporting the Channel Islands Lotteries. I would also like to publicly thank the members of the Public Lotteries Board for their valuable contribution over many years and also staff at Economic Development and shared services at Treasury and Resources who deserve thanks and recognition for their work on the lottery. I maintain the proposition.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition?
Yes, the Deputy of St. Martin.

2.1.1 The Deputy of St. Martin:

The Minister quoted some numbers but he was careful not to discriminate between the summer and the winter lotteries. I wonder if he could break down the 2 because while the winter lottery has been a phenomenal success, I am not sure that the same accolades could be aimed at the summer lottery.

2.1.2 Deputy R.G. Le Hérisssier:

As ever, slightly perhaps beyond the remit of the proposition. As the Minister knows, I have been involved with a case about an allocation and I do not wish to bring that case up obviously but what I would like to ask the Minister, could he, notwithstanding the excellent work of the Association of Jersey Charities ... is he confident that they should be the sole conduit, because there are some charities who apply and they may not necessarily be seen as mainstream, but they do have a legitimate case and they also need to have an assurance that having applied and perhaps having been rejected that there is an appeal process. I wonder if he could give some assurance also in that regard?

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

I would just like to pick up on Deputy Le Hérisssier's comments. If an application is rejected by a suitable charity, I have found that the Association give really good advice and allow for a resubmission if required. But, of course, there will always be some that do not meet the criteria, however they do to it. I would like to remind Members that the executive of the Association of Jersey Charities make their recommendation but it is a collective decision of all the charities that are represented at the meeting that make the decision. They are very flexible. I welcome this because it is a valuable source of funds for local charities and it does not have ridiculous criteria sometimes, as I believe the U.K. lottery has and I will not go into some of that. This is good news for Jersey charities.

2.1.4 Deputy J.H. Young:

I wonder if the Minister could just confirm the figure of the amount of money that he is talking about going into the Association here. I think he said £685,000. I rise to ask because when I just looked at the Charities Association's website and it looks to be way, way and above any amount of monies that has been paid in from this source going back right to 2005. At the moment, they are listing £401,000 in their website for 2013. So could he confirm that and also, I would be interested to know what, as it were, the percentage profit is compared with the turnover on the lottery.

2.1.5 Deputy M. Tadier of St. Brelade:

I have 3 points to make. One is the question that I ask the Minister for Economic Development every time when gambling comes up - which I have not yet got an answer to, which I would like to know - is that what is the expectation for a person participating in the lottery? What is the mathematical expectation? That means, what can they expect to get back for every pound that they spend? It usually could be anything from 40 to 80 per cent and it is imperative that if we are relying on the lottery fund to raise very valuable monies for other things, which we cannot necessarily afford to pay for through direct taxation, that those who participate on the lottery do so in a consensual fashion and they know exactly what odds that they are participating with. It is a concern of mine that a lottery ticket does not have those very basic things that a fruit machine would have, for example, which says 78 per cent pay out so that people who gamble know exactly what they do. One example of that, of course, is the Hospice lottery, which takes place very year for £1 million and people who participate in that know that for the £300 they pay for a ticket, the expectation, I believe, is roughly 40 per cent. So they know essentially they are making a 60 per cent donation to charity. In fact, they would be better off giving £150 to charity and not buying a

lottery ticket mathematically. Of course, that does not have the same draw for them. So I would like the Minister to address that. He will not necessarily be able to give that information now but it is imperative that he makes that kind of information available and I would appreciate that. But also to put those on the lottery ticket. That ties-in with the third point, which I will skip to, is that essentially for all the good that they do, and lottery funding does do a lot of good, they are essentially a stealth tax. They are a way of funding services which might be seen as a nice to have by government and often they are not simply nice to have, they are essential parts of our community which are funded through this stealth tax, which is largely participated in by those who can probably least afford to buy the tickets and those who buy them on the hope of some faint chance that they may become one day multimillionaires. That is why the rich do not gamble unless they own the casino themselves, as we have seen from the last debate perhaps. The third point I would like to make is, is there any scope for allocation of funds to be put towards museum entries. We have probably all been to the U.K. and other places and we cannot help but be impressed that the national treasures that they have got, particularly in the London and Kensington areas, *et cetera*, are all free access to both locals and tourists and they are very well attended and that is largely made available by national lottery funding. I am wondering if somewhere in the allocation something could be done for that because ultimately it is something that would benefit tourism and it has a multiplier effect. So I know that the money ultimately will go to a variety of good causes but we should definitely consider making our museums free and if we cannot do that by funding it ourselves, we should consider whether the lottery fund is a way to do that. We have some great gems in Jersey, whether it is Hamptonne, the museum in town, the variety of museums we have and I suspect that they are not being used to their full potential and this is one area which the money could go to.

2.1.6 Connétable L. Norman of St. Clement:

I would just like to support the comments of Deputy Le Hérissier about charities that do not always meet the criteria of the Association of Jersey Charities and challenge what Deputy Green said about the way the Association do their grants. He said that the entire membership make the decision. That used to be the case some 4 or 5 years ago but, unless they have gone back to that, for the last few years the full power has been vested in the committee of the association and appeals are to the committee of the association, which means that some members of the association, if they are prepared to accept certain charities as members, do not meet the criteria to gain a grant from the profits made from the lottery and given to the Association. Therefore, I would support Deputy Le Hérissier's call that some other avenue, another route, be available for charities, some of which are extremely deserving, do not meet the criteria but would be able to have access to the profits from the lottery.

The Bailiff:

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

2.1.7 Senator A.J.H. Maclean:

Yes, in all positive stories of course there are some elements that are not as positive and the Deputy of St. Martin has quite rightly highlighted that as we have gone through the modernisation of the lottery, we have looked at many different ways in which we can stimulate it to generate greater profits. One of those was the introduction of a summer lottery, which, as Members will be aware, we tried for the last 2 summers and both have been unsuccessful in capturing either the imagination of the public but more importantly the imagination and buy-in of retailers. To a certain extent, we have, as part of the modernisation, changed the distribution process. We now have in place a partner to distribute, who will have a far greater reach than was the case in the past. For that reason, I believe that there is potential - great potential - for a summer lottery in the future. But to

specifically answer the Deputy of St. Martin's question, in 2013 the summer element of the lottery made a loss of £52,000 but, as I have already pointed out, the overall lottery for the share showed a profit of £684,555. So all the measures put together, although I accept not all have been as successful as others, have dramatically increased the success and profitability of the Channel Islands Lottery and I believe it can move on from this particular point to make significantly higher profits under the structure that is now in place in the future. For my part, I certainly hope in the future that a summer lottery does find a place with a new distribution system in place. I think it can add further to the profits and enjoyment that both visitors and the public will get from the lottery. Deputy Hérissier and one or 2 other Members asked a very reasonable question about the Association of Jersey Charities. I do believe to date they have done an exceedingly good job. There are some issues around, as identified, the appeal process and the Connétable of St. Martin is quite correct with regard to the committee. Nothing negative about the committee at all. St. Clement, sorry. My apologies. **[Laughter]** He was busily pointing at himself, and I was not quite sure why and the penny suddenly dropped. But, nevertheless, he was right, whoever he is. **[Laughter]** I think the important point here is that, as I mentioned and alluded to in my opening comments, the Public Lotteries Board is going to be reconvened and the very first role they will have will be looking at the future distribution of funds for the lottery. Certainly now, as we are seeing increased profits and as I have already alluded to, in the future we will see, in my view, even greater profits. What we do not want to have is the Association being disadvantaged and we will be looking at measures around the average they have received in recent years, which was significantly below what it is now. I will come on in a second to Deputy Young and we will, for example, consider the measure used in the U.K., which is a percentage wheel for distribution purposes and that is a point that Deputy Tadier was asking about, as to whether other good causes could also be a beneficiary of the lottery.

[12:30]

I believe that in Jersey, yes there are far wider potential good causes that are not currently able to access the funds of the lottery that indeed should be able to in the future and that is heritage, arts, sport, as an example, and that is a matter that the Public Lotteries Board will look at in some detail and report back on as to how that might work from 2014 onwards. Deputy Young, just to clarify the point, I hope I have to him, the profits for this year of £684,000 are significantly above what are in the report of the Association of Jersey Charities, quite simply because in the past, the maximum they have received has been around about £400,000. That is the profits of the lottery were significantly less. As I mentioned, this year, 2013, we have generated £282,000 more than ever before for the benefit of the Association and clearly that is a very positive thing. So that leads me just on to Deputy Tadier. He indeed is right; he does pop up each time we have this particular debate and he does ask the same question. In fact, we did invite him to come to the department and talk about it but, unfortunately, he has not been able to fit that in his schedule but I can help him this year with regard to the ratios and payouts. He has in the past pointed out or suggested, I should say, that the lottery tickets do not, in fact, have ratios of wins or payout percentages. In fact, that is not correct, just for clarity. I have a lottery ticket with me. Members, I am sure, will admire this latest ticket. This is not a real one by the way. On the back is printed very clearly the win, which is one in 3.79, and also the payout percentages, which is 69.5 per cent. So the information is available. The only circumstance under which that information is not available, which Members will appreciate, is the Christmas lottery because, of course, there is an unknown number of tickets up for sale. The prize continues to rise, numbers of tickets sold continues to rise, so that, of course, is clearly a different matter altogether. I should say - Members might be interested - in terms of the modernisation of the lottery, I was quite fascinated when I first got involved that I had to sit around a table with colleagues from Guernsey and we were asked for the Christmas draw to design or approve the design of lottery tickets. We would have to choose whether it was Father Christmas or

a reindeer on the front, what the colours should be and all this sort of stuff. Members might imagine we are no experts in either marketing or lotteries and that seemed a very odd situation to me. We have now handed over to a professional organisation, Scientific Games, and we have given them an incentive on the basis that the more tickets that are sold the more revenue they make, the results of which I think are what Members have before them today in part, substantially increased profits. We have given it to the professionals to deal with rather than trying to do it ourselves. I maintain the proposition.

Deputy R.G. Le Hérissier:

Is that why there is a picture of the Minister for Economic Development on the new ticket?

The Bailiff:

All those in favour of adopting the proposition kindly show? The appel is called for in relation to the proposition. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 34	CONTRE: 0	ABSTAIN: 0
Senator P.F.C. Ozouf		
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 P.M. Bailhache		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. John		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérissier (S)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy N.B. Le Cornu (H)		

3. Draft States of Jersey (Amendment No. 7) Law 201- (P.31/2014)

The Bailiff:

The next matter then is Projet 31/2014, Draft States of Jersey (Amendment No. 7) Law lodged by the Chief Minister. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft States of Jersey (Amendment No. 7) Law. A Law to amend further the States of Jersey Law 2005. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

3.1 Senator I.J. Gorst (The Chief Minister):

It is a short draft law and will help with the service of documents on Ministers. The States of Jersey 2005 Law did not mention the proper address for service on Ministers. This law will allow or in actual fact require the Chief Minister by Order to specify the proper address in relation to each Minister. Of course, the proper address is a legal definition of what is required for the servicing of documents.

The Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting the principles kindly show? Those against? They are adopted. Senator Ferguson, do you wish this matter referred to your Scrutiny Panel?

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

No, thank you.

The Bailiff:

Very well, Chief Minister, do you wish to propose the 2 Articles together?

Senator I.J. Gorst:

If I may, thank you.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on either of the Articles? All those in favour of adopting Articles 1 and 2 kindly show? Those against? They are adopted. Do you propose the Bill in Third Reading, Chief Minister?

Senator I.J. Gorst:

If I may, Sir.

The Bailiff:

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

4. Draft Treason (Jersey) Law 201- (P.32/2014)

The Bailiff:

We come next to the Draft Treason (Jersey) Law, Projet 32/2014, lodged by the Chief Minister. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Treason (Jersey) Law. A Law to make provision for the Royal Court to have jurisdiction for the crime of treason. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

4.1 Senator I.J. Gorst (The Chief Minister):

The Legislation Advisory Panel has reviewed the rule that says any charge of treason cannot be heard in the Jersey court. The jurisdiction of the Royal Court to hear charges of criminal offences, of course, goes back to Orders in Council from 1494 and 1495. The Order in Council of 1495 specifically said that the trial of a person accused of treason was to be reserved exclusively to the King and Council. The purpose, therefore, of this law is to abolish that rule. The current position I believe, and the Legislation Advisory Panel believe, is unsatisfactory for several reasons. The investigatory process of any offences in Jersey is governed by Jersey law. In spite of this, the hearing of a charge of treason would have to take place ...

The Bailiff:

I am sorry, there is too much chat going on, please. Can we please have quiet? It is courteous to listen to other Members.

Senator I.J. Gorst:

... in a court in England where, quite apart from the logistical difficulties of having to bring a case to trial in a different jurisdiction, the law relating to investigative procedures and admissibility of evidence is different and this leaves the process in a state of uncertainty. Therefore, I have pleasure in recommending the law to the Assembly.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on the principles? Deputy Higgins.

4.1.1 Deputy M.R. Higgins:

I note the Chief Minister has decided to update the law and I can understand why in this particular case. Could he explain to Members whether the definition of treason is the same in Jersey as it is in the United Kingdom or are there differences? For example, I believe in Jersey it might come under the common law, whereas I believe in the United Kingdom it is under statute law. If our law differs, could he explain what those differences are because if we are updating part of the law, surely we should be updating all the law?

4.1.2 Senator P.M. Bailhache:

The Legislation Advisory Panel did have quite an interesting discussion about whether the law of treason in Jersey was different from the law of treason in England and, indeed, whether we should legislate to create a new offence of treason. I think the short answer to the Deputy's question is that there is no substantive difference between the law of treason in England and the law of treason in Jersey. The Legislation Advisory Panel, as I said, gave some consideration, and if I may say so, Sir, had some discussions with you as to whether it was desirable to create a new offence of treason. Treason is referred to in a number of statutes which have been passed by this Assembly and, as I say, I think the answer to the Deputy's question is that there is no substantive difference at all.

4.1.3 Deputy J.H. Young:

Just to echo Deputy Higgins' comments, I see there that under Article 3 it carries a mandatory sentence of imprisonment for life. I see that the only clue of what in the modern law is regarded as treason is, well, it comes out of the Terrorism Law and the P.A.C.E. (Police and Criminal

Evidence) Law. Can we have a little bit more guidance about what treason is, where we give our courts the mandatory right to send people to prison for life, before we approve this?

4.1.4 Deputy M. Tadier:

It is good to know that we have a Legislation Advisory Panel and that they are being kept very busy with this pressing kind of issue. I have a few questions perhaps for the body itself if one of the speakers can talk to us. First of all, why is this such an important change to come forward now? When was the last time that the Treason Law in Jersey was enacted so that it becomes such an important piece to bring forward in what is already a very busy schedule which we know already? Who has really been the proponent for this? Where is the move? How was it referred to the body for them to be asked to bring this forward in such an immediate way? Those are the immediate questions that I have about the need for this change. That said, I am sure somebody else will cover it in a moment, but it seems to me that there is already a process which is well established for dealing with treason, which I think is probably an outdated concept anyway. It would have been much better if this could have been brought back to see more holistically whether we need this law, whether the treason definitions are still relevant to today. If they are going to be applied in Jersey, should they be applied differently? Should we have a different definition of treason in Jersey? Should it be treason, for example, against Jersey? Should it be treason speaking out against our institutions? For example, if the Constable of St. Helier decides that he wants to abolish a longstanding traditional role in Jersey, should that be treasonable and, if so, should that person be sent to the U.K. to stand trial for treason or should it be done in Jersey? I am not sure that these overarching questions, which have necessarily been raised by the appearance of this proposition today, have been answered. This proposition seems to raise more questions than it seems to resolve. So I would like whoever the respondent is, which in this case is the Chief Minister but also perhaps a representative from the advisory group, to talk on that issue.

4.1.5 Senator B.I. Le Marquand:

I rise to allay fears of Deputy Young. Under Article 3, if the Deputy would care to look at the explanatory note on page 7, he will find that it is explained there that under Article 13(1) of the Interpretation (Jersey) Law for a person to be liable to do something does not mean it is a mandatory sentence but simply means that they can be imprisoned for any term up to that. The note, in fact, explains that. In relation to Deputy Tadier's last comments, this proposition is a modest proposition. It does not seek to redefine or change the law of treason but merely to say that any cases of treason can be dealt with in Jersey and people do not have to be shipped off to the U.K. for that purpose. So it is moderate. It has not attempted to redefine the law of treason in any way.

4.1.6 Deputy S.Y. Mézec of St. Helier:

On Sunday when I was at the pub with my mates and I said that we were debating the Treason Law this week, you can imagine what sort of puzzled faces they pulled at that. I want to echo what Deputy Tadier has said. I think in many ways the concept of treason is probably outdated. We have the offence of murder. We have the offence of terrorism. I think when you hear the word "treason" used it is often thrown about at the convenience of the accuser when really it should come under other offences instead. I think the thing that highlights that is that the irony should not be escaping us that we are talking about treason when there is a plaque up there to Sir Walter Raleigh, who was Governor of Jersey for several years and, of course, ended up being executed for treason. So it is a bit of a weird thing in my opinion. I think we should really be hearing from the Attorney General to find out exactly what treason means in Jersey. I tried Googling it before and I seemed to come across all sorts of different definitions of it. I could not find the specific Jersey statute that refers to treason so I would be grateful if there could be some sort of citation to that. Deputy

Higgins says there is not a Jersey statute on that. I do not know if that is right or not. Hopefully the Attorney General can tell us. Is treason in Jersey treason against the States or is it treason against the people? Is it treason against the Monarch? What is it? There are all sorts of different things it could constitute. On the overall principle of this, should the Royal Court in Jersey be dealing with treason? I do not think it should. I think it should be something that is reserved for the U.K. Because the Royal Court here has never dealt with treason cases means that it does not have any judicial precedent.

[12:45]

It does not have any past cases to look back on and does not have the wide pool of experience that they do have in the U.K., which is a long history of trialling people for treason. So I think it is better for that reason. I think it is also better in that because it is such a sensitive subject ... well, if it is treason against the States, for a start who is going to preside over the Royal Court? It cannot be you, Sir, because you are a Member of this Assembly by being its Speaker. **[Interruption]** Well, precisely. So I think there are too many conflicts here and I would much rather it was done by the U.K., who would be able to look at it impartially. It would not have people constituting that court who are regular readers of the local media, who may potentially hear biased opinions and have to look at what the people in the Island emotionally may feel rather than looking at it objectively. So I would urge Members to reject this. I think the situation we have at the moment is perfectly satisfactory and there is no reason why it should not continue.

4.1.7 The Deputy of St. Martin:

This is just a small change to confirm the jurisdiction of the Royal Court in Jersey to hear and determine any charge of the crime of treason. The courts in Scotland, Northern Ireland, Guernsey and the Isle of Man have this jurisdiction. There is no reason why we should not have it over here. I wish we could just get to the vote. **[Approbation]**

The Bailiff:

Mr. Attorney, would this be a convenient moment for you to give a definition of treason?

The Attorney General:

I think I am able to give some assistance. Obviously, nothing in the draft before the Assembly will change the law of treason or the substantive law of treason in any way. As the Assembly has heard, treason is referred to as an offence of seriousness in various legislation that has come past the Assembly in the past. Treason in Jersey, in my view, has 3 elements and I do not expect to be charging it very often going forward. But it has 3 elements. The first element is encompassing the death of the sovereign. The second element is insurrection, acting against the sovereign within the sovereign's realms; and the third element would be giving aid and comfort to the enemy in time of war. Those are the 3 elements which in Jersey law, in my view, treason can comprise. Precisely how it would be charged in any particular instance is, of course, a matter depending entirely on the facts of what has taken place. There is no statute in Jersey that defines treason. It derives, I think, from the customary law of Normandy and the obligations of the persons resident in the Duchy of Normandy towards the Duke. That was in England reflected, incidentally, in the Norman-French language in the Treason Act of 1351, but the essential elements of treason that I have just set out are the same between here and the United Kingdom, although there have been subsequent statutory changes. The essential elements of treason are, I believe, the same in both jurisdictions. In terms of precedent, of course, we would, if we lacked precedent in the Island, do what is often the case when we are dealing with analogous provisions. We would look to precedent from jurisdictions which can assist us, and that may well be the precedents from the courts of England and Wales.

Deputy M.R. Higgins:

Sir, may we ask some questions of the Attorney?

The Bailiff:

Yes.

Deputy M.R. Higgins:

In fact, if Members would like to adjourn, we can save them up for after lunch.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment is proposed. Very well, Mr. Attorney, you can look at the books over lunch. **[Laughter]** We will reconvene at 2.15 p.m.

[12:48]

LUNCHEON ADJOURNMENT

[14:15]

The Greffier of the States (in the Chair):

The Assembly was dealing with the principles of the Draft Treason Law. There were some questions to Her Majesty's Attorney General. Is there anything further you wish to add first, Mr. Attorney?

The Attorney General:

I was able to have some conversations as to what those questions might be during the course of the adjournment. There may well be other questions, I suppose, and if there are I will do my best to answer them. Could I thank the Assembly for a most interesting lunch hour? **[Laughter]** The essentials of the law of treason are, as I set out before the luncheon adjournment, encompassing the death of the sovereign, insurrection, levying, war against the sovereign and aiding and comforting the enemy in time of war. Treason can only be committed by those who owe an allegiance to the sovereign as a matter of law, so people who are British nationals or people who have been under the protection of Britain but nonetheless then turn against it even though they are not British nationals, things of that nature. There is no single definition or statement of the law of treason in the United Kingdom that I have been able to find over the lunch hour. The primary source of the law in the United Kingdom is the 1351 Act. There have been amending statutes. Some of them have been amended and repealed. Some of them have developed particular arguments, but a single document giving a statement as to where the law of treason is to be found, that has escaped me over the lunch hour. Essentially, though, the 1351 Act is still representative of the law of treason, although it does contain certainly some provisions which I would view as, in effect, dead letter and incapable of prosecution. The core of that Act is really the same as the principles that I have set out as the law of treason in Jersey. Treason is unlikely, as a matter of practice, to be charged. There are a number of other offences which can be charged in many cases instead of treason which are on the modern statute books and the modern way of looking at it is to charge those offences instead of the more general offence of treason. There has been no treason prosecution in the United Kingdom, so far as I can make out, since 1946 so consequently there is not a great deal of authority on which one can draw in the modern context to consider issues such as treason. If I were considering - and this, I imagine, is the important part from the point of view of the Assembly - acts that might be covered in theory by the law of treason, I would look to the principles that I have just set out, probably how those principles have been developed in English case law to identify what the modern law of treason might be and how it might be characterised, and I would take any decision based not only on that consideration but on other possible charges which have been considered in a

more modern context by a legislature and, therefore, would more appropriately be brought, and also in the context of things such as the Human Rights Law, which really has changed the complexion as to what might be acceptable. That is not to say things would have been prosecuted before the Human Rights Law, but the Human Rights Law has changed the way one analyses these kinds of offences. It is quite clear from English authority that things that might have been covered as treasonous before the Human Rights Act now simply would not be thought of as treasonous because you have the protections for the voicing of free speech, the right to property, things of that nature, which have to be taken into account in making any decision under the law. The draft that we have merely asserts that in common with Guernsey and the Isle of Man we would have a plenary jurisdiction in our Royal Court. So we could try such offences if they ever were to arise in Jersey. I think that is all I would wish to say at this point.

4.1.8 Deputy N.B. Le Cornu of St. Helier:

Were I an Ulster Unionist, I would, of course, be saying this is all potpourri because we know that Ulster Unionists have a particular nose for potpourri. What they know and what they really mean by that is, of course, that they know things that challenge their fundamental interests. This law, this revision, is not about potpourri, it is not about treason even, it is about sovereignty and independence. Why would we seek to revise a piece of arcane legislation like this? There is so much legislation that needs to be revised and modernised in Jersey, yet here we are considering, debating, something relating to a piece of legislation which the Attorney General has himself told us would never be interpreted in the way it was in the past. Not since 1946 was there a prosecution in the U.K. - presumably Lord Haw-Haw - yet I am sure there has been plenty of treason against the British state and people plotting against its interests. There are modern charges which would be more appropriate. We now have the Human Rights Law, which would alter the way in which charges would be brought. So what on earth is this all about? Why bother to deal with treason? Because it is about sovereignty ...

The Greffier of the States (in the Chair):

Can I just interrupt you, Deputy? You do not have a phone or something near you, do you?

Deputy N.B. Le Cornu:

I do, yes. I will hide it away.

The Greffier of the States (in the Chair):

If you could just move it, something is making the sound system to be interfered with. I think the listeners at home will be disappointed ... **[Interruption]** **[Laughter]**. That is better, thank you.

Deputy N.B. Le Cornu:

To get back on track, it is about sovereignty and it is about independence because sections of the elite dream of independence and this sort of legislation seems to be an attempt to achieving it. It would be an anomaly. So that is why you are being asked to address it today. I am going to vote against it on principle so at least it is there and this, my own speech, will be a record of why are we doing these strange, anomalous things. This does not have much relevance to the modern world, I am afraid, unless you are dreaming of independence.

4.1.9 Senator P.F.C. Ozouf:

I really think we are probably making quite a meal of this. I am not going to speak probably for more than 60 seconds, but just perhaps because the Chief Minister might not go as far as I would, just to respond, if I may, to the 2 speeches of Deputy Le Cornu and Deputy Mézec. Deputy Mézec seemed to be suggesting that we should not be autonomous in judicial matters because, effectively, he cast a number of aspersions potentially, I think, on the ability of our own judicial system to

make judicial judgments. I do not agree with that. I would wish to distance myself from that. Similarly, on the one side we had Deputy Mézec saying no, let us effectively be under the U.K. courts, and then we had Deputy Le Cornu effectively saying the other thing, that this was about independence completely. I am an independent Jerseyman hopefully, but I am British Jersey. That means I maintain our autonomous rights for judicial matters. I do not believe in independence. I do not want independence in a sovereign state matter, but I want our independence in terms of what we have within the system as set out and agreed in 1204 and beyond. So I am British Jersey, not independent Jersey, and there is really nothing very confusing or complicated about this. Let us go to the Chief Minister's summing-up and a vote.

Deputy M. Tadier:

A clarification: I think it may be for the Attorney General, but if Senator Ozouf wants the status that was in 1204, was it the case in 1204 that all treason was tried not in Jersey but probably somewhere in England?

The Attorney General:

I do not confess to being a legal historian but my assumption would be that in 1204 there was a unity between all of the parts of the sovereign's realm and that the offence would have been tried in any convenient court that was able to do so wherever that court might have been.

4.1.10 Deputy M.R. Higgins:

Coming after the Minister for Treasury and Resources, I have a query because I have been looking at the Treason Law of 1351 and I would like to know if it is still current. What the law basically said in English was you cannot kill, conspire against or wage war ...

The Greffier of the States (in the Chair):

Sorry, Deputy, you have already spoken before lunch.

Deputy M.R. Higgins:

No, it is a question for the Attorney General. I am just explaining the context. I will just start again. It is just explaining what the law is as I understand it. My question relates from the understanding of the law. You cannot kill, conspire against or wage war against the King and his family. You also cannot have sex with his wife, the heir's wife or his unmarried eldest daughter, but then the Act goes on to rule out actions against the Chancellor, Treasurer and categories of senior judge. Does the Jersey law have categories including judges, whether it be the Bailiff or others, of that sort of system? Are they included in the Jersey law as acts of treason against others than just the Crown?

The Attorney General:

Much as I might like to say otherwise, in my view, no, they are not.

4.1.11 Connétable P.J. Rondel of St. John:

When the Chief Minister is summing-up, can he tell us why on earth he has brought this at this time to the Chamber? Given all the other work we have on our plates between now and the end of the year, surely this was not necessary to come at this time.

The Greffier of the States (in the Chair):

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

4.1.12 Senator I.J. Gorst:

Once again, a matter which is extremely straightforward and narrow, the amount of time spent in this Assembly probably has far exceeded the amount of time spent getting us to this point. The Legislation Advisory Panel has a list of legislation and it works through them and invariably it takes many years to iron out issues and rectify them. This legislation panel, I believe, has worked extremely hard and there have been a number of improvements and changes to all pieces of law that they have brought forward and I think they are to be congratulated in the work that they have done. This just happens to have risen to the top of the list and they have dealt with it in a very careful and thorough manner. It is quite straightforward. If we take what Deputy Mézec said, he does not believe that this should come within the jurisdiction of the Royal Court. I must say that I disagree with that wholeheartedly. We have our own Judiciary here. They are independent. There is no reason whatsoever why this particular treason charge should not be dealt with through our own court system as it is in Guernsey, as it is in the Isle of Man. It is simply putting us in step with the other Crown Dependencies and it is a move for the good. I ask those Members that perhaps share Deputy Mézec's view and for some reason are elected to this Assembly but still wish for crimes to be tried in other jurisdictions, that cannot be right. I propose this change and I ask that Members give it their wholehearted support.

Deputy S.Y. Mézec:

Could I ask a point of clarification? The Chief Minister said we have an independent Judiciary. Could I ask him if that includes the Attorney General who is head of a prosecution service and the Bailiff who is the speaker of this Assembly? Is that the independence he is talking about?

Senator I.J. Gorst:

I am not sure that that was a question. I think it was a second speech making a political point.
[Approbation]

The Greffier of the States (in the Chair):

Very well, the appel is called for on the principles to the draft law. If Members are in their seats, the Greffier will open the voting.

POUR: 35		CONTRE: 5		ABSTAIN: 0
Senator P.F.C. Ozouf		Deputy R.G. Le Hérisssier (S)		
Senator A. Breckon		Deputy G.P. Southern (H)		
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator F.du H. Le Gresley		Deputy N.B. Le Cornu (H)		
Senator I.J. Gorst		Deputy S.Y. Mézec (H)		
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy S.S.P.A. Power (B)				

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 J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

The Greffier of the States (in the Chair):

Could we have some quiet, please? Senator Ferguson, this falls in the remit of your panel. Is it high on your agenda?

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

Yes, and perhaps we could redefine treason. It would be great fun. No, thank you.

The Greffier of the States (in the Chair):

Very well. Chief Minister, do you wish to propose Articles 1 to 5?

Senator I.J. Gorst:

If I may, thank you.

The Greffier of the States (in the Chair):

Are they seconded? [**Seconded**] Does any Member wish to speak on any of the Articles? All those in favour of adopting the Articles kindly show? Those against? The Articles are adopted. Do you propose the Bill in Third Reading, Chief Minister?

Senator I.J. Gorst:

If I may, thank you.

The Greffier of the States (in the Chair):

Is that seconded? [**Seconded**] Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading kindly show? The appel is called for in Third Reading. If Members are in their seats I will ask the Greffier to open the voting.

[14:30]

POUR: 34		CONTRE: 5		ABSTAIN: 0
Senator P.F.C. Ozouf		Deputy R.G. Le Hérisier (S)		
Senator A. Breckon		Deputy G.P. Southern (H)		
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator F. du H. Le Gresley		Deputy N.B. Le Cornu (H)		
Senator I.J. Gorst		Deputy S.Y. Mézec (H)		
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. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy S.S.P.A. Power (B)				
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 J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

5. Draft Financial Regulation (Miscellaneous Provisions No. 2) (Jersey) Law 201-(P.47/2014)

The Greffier of the States (in the Chair):

Very well, we come now to the Draft Financial Regulation (Miscellaneous Provisions No. 2) (Jersey) Law and I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Financial Regulation (Miscellaneous Provisions No. 2) (Jersey) Law 201-. A Law to amend further the Collective Investment Funds (Jersey) Law 1988, the Bankruptcy Désastre (Jersey) Law 1990, the Banking Business (Jersey) Law 1991, the Insurance Business (Jersey) Law 1996, the Financial Services (Jersey) Law 1998, the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, and the Community Provisions (Wire Transfers) (Jersey) Regulations 2007. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

Senator I.J. Gorst:

Could I ask my Assistant Minister with responsibility for financial services to act as rapporteur?

5.1 Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):

This draft law contains a number of proposed amendments to collective investment funds, banking business, insurance business, financial services law, proceeds of crime, community provisions and bankruptcy. Together they set out changes which consist really of routine maintenance of the legislation that is the basis of regulation by the Financial Services Commission of financial services and specifically of legislation that provides the Commission with powers to supervise financial

services firms and various other businesses. The amendments are designed to deal with compliance with obligations under all of those legislations, principally matters to do with money laundering and financing of terrorism. It is all part of the continuing objective to enhance the level of consistency across laws. To that end, the opportunity has been taken to do these amendments across all of the regulatory laws that I mentioned. Many of the changes are of a minor nature. They also correct omissions, unnecessary duplications and, in some cases, some minor errors. They clarify existing provisions and make obviously the consequential amendments. Other changes in the draft law are there to firstly enhance the Commission's powers to require the provision of information, documents and answers to questions, to enhance the Royal Court's powers to make orders for restitution, to enhance the ability of the Commission to co-operate with overseas regulators in the exercise of their statutory functions, and to give the Commission discretion in the application of solvency margins on certain categories of insurance business. The Commission has consulted, as it always does, a public consultation with industry in respect of the changes. I can advise respondents to the consultation were supportive of the proposed amendments. No substantive changes to the form of the draft law consulted upon have been considered necessary as a result of the comments that the consultation had. The Commission feedback paper was published and all the responses are there. The Law Officers' Department has looked to the law with the standard human rights certificate. The proposition has been referred to Economic Affairs who were given, I understand, a full briefing by the Financial Services Unit and the J.F.S.C. I propose what I hope are relatively uncontroversial matters and I propose the principles of the draft law.

The Greffier of the States (in the Chair):

Are the principles seconded? [**Seconded**] Does anyone wish to speak on the principles? Deputy Le Hérisssier.

5.1.1 Deputy R.G. Le Hérisssier:

Given the debate this morning, could the Minister tell us whether the powers of the Royal Court to make restitution orders would in any way have covered what was discussed this morning?

5.1.2 Deputy J.H. Young:

In the Minister's reply, could he please deal with the power of the Commission to require documents? It seems to empower the Commission to require documents from former employees, former contractors and so on who once had a former life working with a registered business. Obviously, the practical problem troubles me. People, of course, in that situation do not have access to documents, emails or whatever. Can I have an assurance that people are not going to end up prosecuted for failing to provide documents from firms or businesses that they no longer have any association or are working with?

The Greffier of the States (in the Chair):

Does any other Member wish to speak on the principles? I call on the Assistant Minister to reply.

5.1.3 Senator P.F.C. Ozouf:

The issues raised this morning in relation to the matters have nothing to do with this law. It is not appropriate to revisit the issue from this morning but effectively I think the Member that raised it is confusing the matters in relation to the court's powers in relation to a criminal prosecution and, effectively, somebody who is declared bankrupt and then the collection of assets afterwards. This has nothing to do with this whatsoever. This is completely outside the ambit. I am not a lawyer, but if the Attorney General wants to just confirm that that is the case, then I will move on.

The Attorney General:

No, this legislation in draft has nothing to do with the collection of assets following bankruptcy or anything like that. That would fall under the normal bankruptcy regime in the Island.

Senator P.F.C. Ozouf:

I think Deputy Young is an individual that, probably like a number of Members, might have discharged the function in a regulated financial services entity and he may be speaking for a wide category of people but also himself in relation to matters that he could be called upon to give information on. We did debate this last time. The fact is this is a draft law concerning regulated persons that were regulated, and where the regulator has been in a position where a regulated person then leaves the employment and is in possession of information or in respect of documentation, then the Commission needs the power in order to get that. Now, we answered all the Deputy's questions previously. These are practices that are in place, I am advised, in other jurisdictions. It is best practice. It would be quite wrong in a regulatory enforcement matter where information is required that somebody who resigns a position and is no longer company secretary or director, if they are in possession of information, could not be required to provide information. There is nothing to be feared by this. This is the normal proportionate arrangement. It is giving the regulator the power to do the job which this Assembly and the international community requires it to do. So I refer the Deputy back to comments that I made in the previous debate that we had on a similar matter and I move the principles.

The Greffier of the States (in the Chair):

All those in favour of adopting the principles kindly show? Those against? They are adopted. Deputy of St. Martin, do you wish to scrutinise?

The Deputy of St. Martin (Chairman, Economic Affairs Scrutiny Panel):

No, thank you.

The Greffier of the States (in the Chair):

How do you wish to propose the Articles?

5.2 Senator P.F.C. Ozouf:

I think *en bloc*. There are, as I said, a number of administrative arrangements. They have all been consulted upon. If Members have any questions then I will answer any particular questions on the individual parts and the individual Articles.

The Greffier of the States (in the Chair):

Articles 1 to 72 are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Articles? Those in favour of adopting the Articles kindly show? Those against? They are adopted. Do you propose the Bill in Third Reading, Assistant Minister?

5.3. Senator P.F.C. Ozouf:

Yes.

The Greffier of the States (in the Chair):

Is that seconded? **[Seconded]** Does any Member wish to speak? Deputy Young.

5.3.1 Deputy J.H. Young:

Just to follow up the Assistant Minister's comments about my own reasons for questioning it, certainly it is true that as a former employee I was not a principal person at a registered business but I certainly was a former employee and I was also a money-laundering compliance officer at a law firm. That is why I wanted it to be on the record why I have raised that question because I think

that issue does generally apply to all former employees of such businesses and they certainly may not have recollection or certainly will not have access to documents and so on. So I maintain my question. I do recall an earlier discussion but I regret to say I cannot recall the context of the previous discussion. What I have to say now is because of what is written on page 5 of the document we are being asked to debate now and there is not a clue as to where else I should look. So that is my reason for the question and I want to put that on the record.

The Greffier of the States (in the Chair):

Does any other Member wish to speak in Third Reading? Assistant Minister, are you able to reply?

5.3.2 Senator P.F.C. Ozouf:

No, I just thank Deputy Young for confirming that matter and just to point out that, of course, a number of investigations of the Commission will be matters historic and so it is important that the regulator has the powers in the event that that person has documents kept that can be obtained. That is the issue. If they do not, there is no issue. If they have, then that law now reaches into that requirement. I propose the Bill in Third Reading.

The Greffier of the States (in the Chair):

All those in favour of adopting the Bill in Third Reading kindly show? Any against? It is adopted in Third Reading.

6. Ratification of the Agreement on the exchange of information relating to tax matters between the Government of Jersey and the Kingdom of Belgium (P.52/2014)

The Greffier of the States (in the Chair):

We come now to the ratification of the agreement on the exchange of information relating to tax between Jersey and Belgium. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to ratify the agreement between the Government of Jersey and the Kingdom of Belgium on the exchange of information relating to tax matters as set out in appendix 1 to the report of the Minister for External Relations dated 1st April 2014.

6.1 Senator P.M. Bailhache (The Minister for External Relations):

This proposition follows a well-beaten path in relation to the programme of negotiating and signing tax information exchange agreements under the O.E.C.D. (Organisation for Economic Co-operation and Development) model agreement. The agreement with Belgium is the latest to be signed. To date, we have 35 tax information exchange agreements and 8 double-taxation agreements that have been signed. I move the adoption of this proposition.

The Greffier of the States (in the Chair):

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition? All those in favour of adopting the proposition kindly show? Those against? The proposition is adopted.

7. Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 11) (Jersey) Regulations 201- (P.53/2014)

The Greffier of the States (in the Chair):

We come now to the associated Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 11) (Jersey) Regulations. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 11) (Jersey) Regulations 201-. The States, in pursuance of Article 2(1) of the Taxation Implementation (Jersey) Law 2004 and following the decision of the States to adopt P.52/2014, have made the following Regulations.

7.1 Senator P.M. Bailhache (The Minister for External Relations):

As you have said, these are the Regulations to give effect to the decision that the Assembly has just made in relation to the ratification of the T.I.E.A. (Tax Information Exchange Agreement) with Belgium. The Regulations amend the schedule to the 2008 Regulations and I move the citation to the Regulations.

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting the principles ... the appel is called for on the principles to the Regulations. If Members are in their designated seats, the Greffier will open the voting.

POUR: 31	CONTRE: 0	ABSTAIN: 0
Senator P.F.C. Ozouf		
Senator A. Breckon		
Senator S.C. Ferguson		
Senator F.du H. Le Gresley		
Senator I.J. Gorst		
Senator P.M. Bailhache		
Connétable of Trinity		
Connétable of St. Lawrence		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisssier (S)		
Deputy of Grouville		
Deputy S.S.P.A. Power (B)		
Deputy M. Tadier (B)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy R.J. Rondel (H)		
Deputy N.B. Le Cornu (H)		
Deputy S.Y. Mézec (H)		

The Greffier of the States (in the Chair):

Senator Ferguson, this falls in the remit of your panel.

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

No, thank you.

The Greffier of the States (in the Chair):

Do you wish to propose the Regulations?

Senator P.M. Bailhache:

I propose Regulations 1 and 2.

The Greffier of the States (in the Chair):

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

Senator P.M. Bailhache:

I move the Regulations in Third Reading.

The Greffier of the States (in the Chair):

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

8. Draft Insurance Business (Amendment No. 7) (Jersey) Law 201- (P.55/2014)

The Greffier of the States (in the Chair):

We come now to the Draft Insurance Business (Amendment No. 7) (Jersey) Law. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Insurance Business (Amendment No. 7) (Jersey) Law 201-. A Law to amend further the Insurance Business (Jersey) Law 1996. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

Senator I.J. Gorst:

I ask the Minister responsible to act as rapporteur.

8.1 Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):

This draft law makes provision for the removal of the exemption from regulation of the Jersey Mutual Insurance Society. As Members will be aware, Jersey Mutual is one of Jersey's main providers of household insurance. The society was incorporated by Act of the States in 1908 and legal effect was given to its fundamental rules, which continue to be embodied by statute.

[14:45]

We made, of course, changes to those fundamental rules at what I think was the sitting before last. In 2009, the assessment of Jersey's laws by the I.M.F. (International Monetary Fund) found that it was not appropriate that Jersey Mutual be outside the regulatory envelope, accordingly Jersey

Mutual has been subject to voluntary regulation. This draft law simply removes the exemption which is currently set out in Article 5(5) of the Business (Jersey) Law. Given that Jersey Mutual is believed to be the only insurer relying upon the exemption, no public consultation on the draft law was necessary, as would be normal with financial services legislation. The Law Officers have advised there are no human rights issues and no resource implications for the States of Jersey, so I propose the principles.

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show. Against. The principles are adopted. I think this is one that falls possibly within the remit of the Economic Affairs Panel as a financial services matter.

The Deputy of St. Martin (Chairman, Economic Affairs Scrutiny Panel):

No, thank you, Sir.

The Greffier of the States (in the Chair):

Do you wish to propose the Articles 1 to 4?

Senator P.F.C. Ozouf:

En bloc, Sir.

The Greffier of the States (in the Chair):

Is that seconded? **[Seconded]** Does any Member wish to speak on any of the Articles? All those in favour of adopting Articles 1 to 4, kindly show, those against. The Articles are adopted. Do you propose the Bill in Third Reading, Assistant Minister?

Senator P.F.C. Ozouf:

Yes, please, Sir.

The Greffier of the States (in the Chair):

Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the draft law in Third Reading kindly show. Against. It is adopted in Third Reading.

9. Draft Food Costs Bonus (Jersey) Regulations 201- (P.56/2014)

The Greffier of the States (in the Chair):

We come now to the Draft Food Costs Bonus (Jersey) Regulations and I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Food Costs Bonus (Jersey) Regulations 201-. The States, in pursuance of the Order in Council dated 28th March 1771, have made the following Regulations.

Deputy A.K.F. Green:

Before we start, I am not sure if I should declare an interest. My son, who lives with us, is eligible to apply for this.

The Greffier of the States (in the Chair):

It is not an interest you are required to declare. It will be noted, thank you, Deputy. Minister.

9.1. Senator F. du H. Le Gresley (The Minister for Social Security):

Today I am proposing a further 3-year term for this bonus. Members will be aware that the Food Costs Bonus is a rather unusual benefit, as there is nothing similar in the U.K. It was created in 2008 in response to a specific set of circumstances surrounding the introduction of G.S.T. (Goods and Services Tax). The bonus was first known as the G.S.T. Bonus, I also think it was commonly known as the Le Fondré Bonus, and was introduced to compensate lower-income households not in receipt of income support benefit for the cost of G.S.T. on food. In May 2008, the G.S.T. bonus awarded *pro rata* was £50 to just over 2,000 people. The same year, it was replaced by the Food Costs Bonus Regulations. Those Regulations were renewed in 2011 and expire at the end of this month. The Regulations that I am proposing today are relatively unchanged from previous versions. However, we have taken the opportunity to clarify some aspects of eligibility and simplify the application process. As in previous years, the household must contain a member with at least 5 years' residence immediately preceding the date of the application. The bonus will be paid to households which are not liable to pay income tax but have an income above the level required to receive income support. In the expiring triennial regulations, there was provision to look at the tax liability in the previous year or the year before that, depending on when the application was made, so a change has been made to simplify the process and now tax liability will be assessed by looking at the previous year only. We have also clarified the position of the bonus in relation to residential care. The bonus may be claimed by a single person or a couple who live in residential care as long as they do not also receive a means-tested benefit through the new Long-Term Care Scheme, which comes into force on 1st July. This exclusion mirrors the exclusion applied to income support households. Finally, the value of the bonus has been increased to £226.95 and will be uprated again in 2015 and 2016 by the annual increase in the value of the food group of the Retail Price Index. I propose the Regulations.

The Greffier of the States (in the Chair):

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

9.1.1 Deputy J.H. Young:

The report, at the last page, on page 4, highlights the concerns about eligible households not claiming the bonus. I am not surprised. When this document arrived, I certainly had no idea we had such an arrangement to compensate low-income families for the G.S.T. on food. Could the Minister elaborate a bit, because obviously the qualification appears to be in here that people do not pay income tax and they do not receive income support. I have no idea whether or not Income Tax and Social Security have yet got to the point where they share information with all the data protection restrictions and so on. Has the Minister been able to make any estimate or compare the lists of people in those 2 categories to try and identify those groups and the number of people taking this up, because it does strike me as being an uptake of 1,500 in that situation is low, because we are constantly told so few people pay income tax, so I would like to hear some reassurance of what is being done.

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

Just very briefly, along very similar lines to Deputy Young, I picked that up on page 4. I would just like to ask how the Minister intends to inform people that this benefit is payable and also whether the renewed marketing materials will be in several different languages. I would be interested to know now whether translations are provided in Portuguese and Polish in particular.

9.1.3 Deputy M. Tadier:

Yes, I fully endorse those 2 previous comments about people not necessarily knowing about these, and also there are people who may be reluctant to claim but who should be encouraged if they know it is their right. It is just a related question: of course the Minister started by saying that this food bonus does not operate in the U.K. and that is of course because they have got a completely different system, where from the very beginning they had exemptions for basic foodstuffs and children's clothing and newspapers and books. The question to the Minister, although it may not be something which is immediately relevant, is that should consideration be given to those groups who are also hit by the ancillary costs of newspapers, *et cetera*? We know, for example, that our local newspaper has gone up by 20 per cent in cost, we know that children's clothing may be going up disproportionately in any one year, the same with students who are having to buy books perhaps for university, and at some point, all of those things we do tax with 5 per cent G.S.T., and should there even be any consideration of an increase from 5 per cent to 10 per cent in the next administration, then I seriously suggest that we need to look at those issues of widening what we are compensating here before, because if we had followed a U.K. model - and I am not saying one way or the other that would be the preferential thing to do - but clearly this arrangement was seen as a compromise rather than having exemptions and it should really be taking into account those other areas which we currently tax, but which are perhaps more morally questionable to tax in the first place.

The Greffier of the States (in the Chair):

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

9.1.4 Senator F. du H. Le Gresley:

Deputy Young surprised me, because I am going to quote his words in a debate on 3rd December 2013, when we were discussing the proposition of Deputy Southern to do with zero-rating or exempting Goods and Services Tax on foodstuffs, and Deputy Young said: "I was not aware in this House until coming today" that was 3rd December: "that there was such a thing called a G.S.T. Bonus" and I then explained in great detail what the G.S.T. Bonus was, so he was wrong to say he had not heard of it until he read the proposition.

Deputy J.H. Young:

To give way, Sir, I plead guilty to having a short memory [**Laughter**] in this House, but I think my point is still valid.

Senator F. du H. Le Gresley:

I just want the Deputy to know that I have read the Hansard. The issue around the number of households claiming, the numbers have gone up since we have carried out further marketing and publicity. It is a fact that of the 1,448 claims for the bonus for 2013 to date, 85 per cent of those are over the age of 65 and consequently we realised that we need to concentrate most of our marketing on the pensioner households in Jersey. We do that at the time that they first claim their pension. We give them a package of benefits that they are additionally possibly entitled to and we remind them on regular occasions of the benefits that are payable, so I do think we have got that covered, which I think also picks up on the point made by Deputy Hilton. With regard to publishing new materials in different languages, I cannot advise whether that is going to happen on this occasion and I will find out and let the Deputy know. With regard to the comments of Deputy Tadier relating to widening the scope of this bonus, for me it is a question of whether this bonus ... really, is this the last time we have these Regulations, and if it was to continue beyond the triennial period, then I suppose the question would be should it be widened in the areas that he is suggesting, i.e. newspapers, children's clothing, *et cetera*. This is not up for debate today, really. I maintain the principles.

The Greffier of the States (in the Chair):

All those in favour of adopting the principles, kindly show. Against. They are adopted. Deputy Hilton, is your Scrutiny Panel ...

Deputy J.A. Hilton (Vice-Chairman, Health, Social Security and Housing Scrutiny Panel):

No, thank you, Sir.

The Greffier of the States (in the Chair):

Do you wish to propose the Regulations together, Minister?

9.2 Senator F. du H. Le Gresley:

Yes, *en bloc*, Sir, if I could make a couple of observations.

The Greffier of the States (in the Chair):

Yes, certainly.

Senator F. du H. Le Gresley:

Yes, as I said earlier, these Regulations are very similar to the 2011 Regulations. We are taking the opportunity to change under Regulation 3 the use of the tax liability for the previous year only, which I mentioned before, and under Regulation 5, we are setting the method of calculation for the bonus into 2015 and 2016 using the R.P.I. (Retail Price Index) Food Index percentage increase in December, so with that I maintain the Regulations.

The Greffier of the States (in the Chair):

Are Regulations 1 to 8 ...

Deputy G.C.L. Baudains:

Could we have the appel?

The Greffier of the States (in the Chair):

I was going to ask if any Member wishes to speak on Regulations 1 to 8 in the schedule. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations or the schedule? If not, we will ask for the appel, as requested by Deputy Baudains. If Members are in their designated seats. The vote is on Regulations 1 to 8 and the schedule and the Greffier will open the voting.

POUR: 34		CONTRE: 0		ABSTAIN: 0
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 P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				

Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

The Greffier of the States (in the Chair):

Do you propose the regulations in Third Reading, Minister?

Senator F. du H. Le Gresley:

Yes, Sir.

The Greffier of the States (in the Chair):

Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading, kindly show, and against. They are adopted in Third Reading.

10. Draft Safeguarding of Workers (Machinery and Woodworking Machines) (Revocation) (Jersey) Regulations 201- (P.57/2014)

The Greffier of the States (in the Chair):

We come now to the Draft Safeguarding of Workers (Machinery and Woodworking Machines) (Revocation) (Jersey) Regulations. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Safeguarding of Workers (Machinery and Woodworking Machines) (Revocation) (Jersey) Regulations 201-. The States, in pursuance of Article 9 of the Health and Safety at Work (Jersey) Law 1989, have made the following Regulations.

10.1 Senator F. du H. Le Gresley (The Minister for Social Security):

These draft Regulations are intended to revoke outdated health and safety regulations, the Safeguarding of Workers (Machinery and Woodworking Machines) (Jersey) Regulations 1967, which were introduced in June of that year. The existing Regulations set out descriptive requirements for the safety of machinery in the workplace, but are now considered to be outdated and obsolete. It is considered that the legal requirements set out under part 2 of the Health and Safety at Work (Jersey) Law 1989, which places general duties on all those involved with working

activities, provide effective legal controls for the safe use of machinery in the workplace. In addition, in order to provide practical guidance on the application of these general duties for the same use of machinery, 2 approved codes of practice have been introduced under the law. The first approved code of practice, the Safe Use of Woodworking Machinery, came into force on 1st July 2011 and the second approved code of practice for Safety in the Use of Machinery came into force on 1st March of this year. The introduction of these approved codes of practice provide the opportunity for the States today to revoke the existing regulations. I propose the principles.

The Greffier of the States (in the Chair):

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

[15:00]

All those in favour of adopting the principles, kindly show. Against. The principles are adopted. Deputy Hilton, as Vice-Chairman, this falls to your panel if you wish to scrutinise it.

Deputy J.A. Hilton (Vice-Chairman, Health, Social Security and Housing Scrutiny Panel):

No, thank you, Sir.

The Greffier of the States (in the Chair):

Do you wish to propose Regulations 1 and 2, Minister?

Senator F. du H. Le Gresley:

Yes, Sir.

The Greffier of the States (in the Chair):

Are they seconded? **[Seconded]** Does any Member wish to speak on either of the Regulations? Those in favour of adopting the Regulations, kindly show. Any against? They are adopted. Do you propose the Regulations in Third Reading?

Senator F. du H. Le Gresley:

Yes, Sir.

The Greffier of the States (in the Chair):

Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading, kindly show. Any against? They are adopted in Third Reading.

11. Draft Social Housing (Transfer) (Jersey) Regulations 201- (P.58/2014) - as amended

The Greffier of the States (in the Chair):

We come now to the Draft Social Housing (Transfer) (Jersey) Regulations 201-. Minister, there is an amendment: I think a form of correction to the wording of the citation to change the word "Regulations" to "Articles." I presume you would like the Greffier to read that as amended?

Deputy A.K.F. Green

Yes, as amended, Sir. As you say, there are one or 2 corrections, and also of course when we drafted this we did not have the company number, so that has been put in and one property has since been sold, so that changes the boundaries as well.

The Greffier of the States (in the Chair):

We will first of all debate the principles and I ask the Greffier to read the citation as amended by the word “Regulations” to “Articles.”

The Deputy Greffier of the States:

Draft Social Housing (Transfer) (Jersey) Regulations 201-. The States, in pursuance of Articles 2, 3, 4, 5 and 11 of the Social Housing (Transfer) (Jersey) Law 2013 have made the following Regulations.

11.1 Deputy A.K.F. Green (The Minister for Housing):

These Regulations give effect to the Social Housing (Transfer) (Jersey) Law 2013 and represent one of the final pieces of detail in bringing about the Assembly’s agreement to see the current Housing Department incorporated into a wholly-owned States company, limited by guarantee, to which the States will transfer all the present social housing stock. I am sure Members will be pleased that I will not go through all of the reasons why we decided to transfer the stock to our new company. We debated this issue very well back on 16th May last year and we set in motion by that agreement a number of far-reaching reforms, which I am confident will lead to improvements to the existing homes, to more new homes, greater innovation, and above all, better housing solutions for those who need the assistance of social affordable homes. In my speech during that debate on P.33, I said that P.33 was the culmination of many years of work, and in my view represented the most significant and far-reaching social housing proposals ever brought to this Assembly, and that in the years ahead these changes will be seen as a defining moment for social housing. I maintain those views. Indeed, I am totally convinced that those reforms are absolutely necessary. P.33 was a defining moment, and on this day we have the opportunity of bringing the transformation to a conclusion by confirming the details of what will be transferred to our new company and on what terms. I think it is worth me pointing out that at this time, the Regulations before you do not specifically deal with the matters relating to the transfer of staff from being employed by the States to being employed by Andium Homes Limited - and that is quite deliberate, and Members will recall that these matters were dealt with in the transfer law itself - suffice to say that all staff transferring to Andium Homes will be on the existing terms and conditions and provisions have been made for Andium Homes to be an admitted body in the P.E.C.R.S. (Public Employees Contributory Retirement Scheme). While on the topic of staff, let me say, ensuring that staff have been engaged throughout the whole of this transformation programme has been really important to me. It is probably my last opportunity as directly the Minister for Housing for the department to thank many of them and to pay tribute to them. Many of you will have had the opportunity of working with staff at the department or had dealings with them directly or via Scrutiny or through your constituency work. You will know that they are a dedicated, driven team who are committed to change and to seeing tenants provided with the best possible service. I think sometimes we do not thank our staff enough. **[Approbation]** We are quick to point out the occasional shortfall, but we are not very good at praising and commending staff for work, so I want to use this opportunity to particularly thank those who have assisted me in planning the Housing Transformation Programme. I cannot emphasise enough the amount of work that has gone into it. You have only got to look at this one document and all the boundaries and everything else, the amount of work that has gone into getting this Housing Transformation Programme together. I also want to recognise the continued efforts of everyone at the department, who have had the confidence to trust and trust to come on the transformation journey. I have to say that I am so pleased that this is not being done to the staff, this has been with the staff, and they have worked with me really hard to make sure that we have it. I applaud them all, largely in the unrecognised work they do day in, day out, and as we have been working on the Housing Transformation Programme, the day job still got done and still got done to a high standard, and I know as they go on to Andium Homes, they will go on to greater things. I also want to thank our customers, once again the Tenants’ Forum. I could

not have done this without their support. They were another form of scrutiny, they came back with advice and guidance and acted as a communication channel directly with all our tenants. There are other residents' groups that I would like to thank as well in the way that they worked with us, challenged us, but welcomed the change that we were about to bring. I could go on, but I am sure Members do not want me to. I started out by saying that these Regulations, despite the size of document, really give effect to the Housing Social (Transfer) Law 2013. They confirm the registration details of Andium Homes Limited and its position as a wholly-owned States company limited by guarantee. They also set the Appointed Day Act for the transfer of assets to Andium Homes, that being 1st July 2014. They identify all the properties that will be transferred to Andium Homes and the rights by the States over those properties, where appropriate. They make provision for the transfer of movable assets presently held by the Housing Department to Andium Homes. I do not think I can say much more, Sir, other than with your leave, I will propose the principles.

The Bailiff:

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

11.1.1 Deputy J.A. Hilton:

I must admit, when this weighty tome came through my door, I was quite horrified because as Members will probably be aware, the Health, Social Security and Housing Scrutiny Panel have got an extremely heavy workload, but I was assured when I opened the document, I could see that it was a straightforward transfer of stock to Andium Homes. I just wanted to let Members know that myself and panel member - the Deputy of St. Ouen - met with the Minister for Housing and senior staff on 1st May for a briefing. We asked the Minister to go through every Regulation with us, to explain to us exactly what was involved and what the department hoped to achieve. We were obviously told that this had to happen for Andium Homes to come into effect on 1st July 2014. With that, we were comfortable that no further Scrutiny work needed to be undertaken on proposed Regulations and although my colleague is not here this afternoon - the Deputy of St. Ouen - he has emailed in the last 24 hours just to say, and I quote: "I have no problem with the proposition, and am grateful to the Housing Minister and his department for taking the time to brief the Health, Social Security and Housing Panel on P.58, P.60 and P.72 well in advance of the debate."

11.1.2 Senator A. Breckon:

For some of this is an emotive issue, because over the years many of us have received approaches from prospective tenants or existing tenants with various problems, whether it is allocation or the quality of the accommodation or just generally seeking information. What I hope the Minister can do is perhaps give me and some other Members some comfort that this will not disappear, and I say that because it is very important to those people who are seeking that. I hope it does not become an issue, a bit like Jersey Telecom, where now we have got a board, somebody else is doing it and it is none of our business. I hope that does not happen, because we will feel a bit ineffective if people do feel they have a genuine grievance and there is no political access, as it were, because over the years I can say - and I echo what the Minister has said - some of the officers have given excellent service, over and above. I have seen them going out of the office at 7.00 a.m. or just after some mornings, so they do put time in and effort for the quality of the lives of many people. But I would like to get that assurance that this line is not being cut, because sometimes it is not just interference, it is a way of assisting people in our community perhaps where they are frustrated with information they can get or what they have been told and I think it is a check and a balance and I hope it is not lost by putting this at arm's length.

11.1.3 Deputy R.C. Duhamel of St. Saviour:

Just a general question, maybe for the Attorney General to give me some legal advice. We all know in this Chamber that there are important amendments coming forward with respect to the Island Plan and in particular to provide affordable homes. Within the wording of those amendments, there is a suggestion that direction will be given in order to encourage the building of affordable homes mainly on States-owned land. In passing over all of the States land assets and housing assets to a new company, albeit directed to a certain extent - and we will have a debate on that when we get to the Memorandum and Articles of Association - the general question is will the asset, having been transferred to the new company, still be able to be described as States-owned assets or not, and if not, will that give rise to further amendments that may have to be considered in order to continue to have the same level of control in particular with respect to bringing forward the affordable homes project with directions given from either the shareholder representative of the new housing transfer company, the Minister for Housing, the Minister for Planning and Environment or indeed, any other Ministers that are involved with the Strategic Housing Group and Treasury and Planning and Housing?

The Bailiff:

I am sure the Attorney will answer that, Minister. If I may say so from the Chair though, you are a Minister. Is it not possible for Ministers to take advice from the Law Officers on matters like this outside the Chamber? [Approbation]

Deputy R.C. Duhamel:

I think it is possible, Sir, and I have been labouring to get that advice from our Law Officers through my department, but on checking the department, the advice has not been made available to me in due time for this debate, so I need to ask the question direct of the Attorney to get it, so to speak, from the horse's mouth.

The Attorney General:

Can I start by saying that I am not aware of any requests for advice, but I would not necessarily be aware of all requests for advice from my department. If we have failed in providing timely advice, then I apologise to Minister and I will make inquiries as soon as I get back. The short position, it seems to me, is that the transfer of assets into the company is the transfer out of States ownership into a company owned by a shareholder, a sole guarantor shareholder, which is the States Assembly. I do not think therefore there will be States-owned property after that. As to the consequences of that, I think the consequences are that one is now dealing with privately-owned property, the main difference being of course that Minister for Treasury and Resources has the ability to give directions in the public interest to the board of the property-owning company.

[15:15]

It seems to me that it is therefore within the power of the Minister for Treasury and Resources to give directions to facilitate in the public interest the general policies of this Assembly.

Deputy R.C. Duhamel:

If I can continue then with my speech. Under those circumstances, then I think I am generally happy with the transfer of assets, albeit there will be further questions when we come to discuss the Memorandum and Articles of Association in terms of the ability of this House or indeed other Ministers to direct the States shareholder representative, who will be the Minister for Treasury and Resources - in effect the new Minister for Housing, if you like - to the extent of guiding the company in delivering the States centrally-agreed proposals for affordable housing and housing in general. I will have further comments to make when we get to that debate.

11.1.4 Deputy J.H. Young:

I always had reservations when we took the substantive decision to the Housing Transformation and I struggled with it. When I saw this document, those concerns have become heightened, which I now need to air. Throughout my experience of working for the public sector as a civil servant, certainly I recall that the Island has owned, as its Government and its public of the Island, a very large proportion of assets of the Island, which have been very important not only for people's homes, for people to live, but also in terms of the various benefits and so on, which we as an Island could put those premises and land to for all sorts of different purposes, not just housing: so land assets are more than just an accounting asset, they are much more than that. They have got the capability of being able to achieve public good, and here we are today obviously making a decision to part company with a huge swathe of public assets. I do not know what the valuation must be, but it must be £1 billion probably of open market value if they were vacant possession, which of course they are not. I do remember at some stage it being spoken of: "Well, even with their sitting tenants value, they are potentially £0.5 billion." So it is massively important and of course my reading, I have not been able to read every word of this, but going through it in outline, yes, the 90 per cent of it sets out the individual sites and the conveyancing details, the boundaries, the U.P.R.N. (Unique Property Reference Numbers), all of the digital map references and all that sort of thing that one would expect, and most of those sites are what you might call traditional housing estate sites, where over the course of the post-war years mostly Jersey has built up its public housing infrastructure and many estates are fairly densely developed but nicely looked after, and I want here to pay ... because I think it should be recognised in making this transfer the outstanding job that has been done over the years by the Housing Department, their officers and committees and their members in providing that public asset and working and providing a service to the public and dealing with all the sort of issues about tenant disputes, neighbour issues and all those sort of property management issues that go with the territory, and I think it would remiss... and I am sure if it was not mentioned, other Members would do that. But when I look at the list, I spoke of my concerns. I see a number of sites which are plain noted what I would call the traditional housing estates. I see Woodlands, St. Brelade, here on page 13, which I think has got one property on it, but it is a large area of open land in St. Brelade. It is adjacent to Winston Churchill Park. [Aside] Thank you very much, a large open area of open land to the north of it, and I bow to other Members' particular knowledge, but plainly it does not look like a dense housing estate to me, it is an area with open land to it. I also see the keepers' cottages at Corbiere and I also see a single property, Harbour Lights at Gorey, and then I see 3 properties on the edge of the Bellozanne Valley, Pine Ridge, Narkunda and Chantemerle, which I remember were acquired not because we wanted to put housing there, because there were problems in that day with pollution issues, noise, disruption coming from the sewage treatment work and the adjacent plant and so it was necessary to buy those properties to deal with the problem. So those are just a few examples of properties which are not called run-of-the-mill housing sites, which obviously have been put to use by the Minister for Housing now and the department, full marks for that, but of course what we are also doing is we are empowering the new companies, I believe, to make onward sales and disposals as they please. Of course I ask myself, let us take those examples of those properties, Pine Ridge, Narkunda and Chantemerle. They were bought to deal with what was a plain nuisance issue. Okay, we put them back into the private sector again, sell them. Are we going to have the same problem again? I think this is a case where in the past property was used as a means of solving wider problems. I am a little bit surprised that those sort of things were not weeded-out and that what we ended up with is what I might call traditional housing land, because obviously if I was a new company and I saw there are some prize assets in here, I would be seeking to say: "Oh, let us dispose of those. Let us see what we can get for them." That worries me, because it does not stop there. Tucked away in the back - there are just a couple of pages - I think it is schedule 2, there is a long list, if I read it correctly, of loans and bonds and I think this means that we are going to transfer people's mortgages to this company. I will wait and see if I am wrong, but there is a long schedule there of

bonds and so on, which I read that as being that the asset, which is what people owe, their loans on their properties, which will now be owned by a company. My worry is are those people likely to find those loans sold-off or factored-out to private banks and other facilities? I see the Minister for Housing sighing, but I did raise these points and I asked for that in a Memorandum of Undertaking. Now, I have not had a chance to read that, it arrived last night. I did send an email to the Minister for Housing to say: "Can I see the M.O.U. (Memorandum of Understanding) that will go with this?" but now I see the Minister for Treasury and Resources sent one last night or yesterday and I have not had a chance to read it yet. Last night, was it? Thank you very much. Of course when I start to look at the list of bonds, I find La Providence here. Now, unless I am mistaken, I think La Providence was the estate that Deputy Power masterminded very successfully, full marks for that, in St. Lawrence, where there are second charges. I assume those second charges are going to go over to the new business. I worry, because there are some decisions there to be taken by the owner of those charges as to whether to enforce those onward sales in respect of all the sort of situations that can occur or resale for different reasons, death in the family or inheritance or divorces and so on in those properties, and I think dealing with the States Minister for Housing, the Minister for Housing has been an outstanding, benign landlord for many years. People are used to this culturally in Jersey and now we are going to hand over, transfer to a private company which the Attorney General has told us is definitely not the States, it is not publicly-owned, and we will be entirely dependent on the directions given by the Minister for Treasury and Resources. There is a lot of work in here. I think there could be a lot of issues. I think the Minister for Treasury and Resources will be very, very busy and I would like to feel more confident that the machinery is there to resolve all those sort of property-related issues that are going to come up in doing this property management, the kind of landlord/tenant issues, the neighbour issues, all the sorts of property issues, because there are all these things, there are rights of accesses, fences, drainages, all the million and one things that go with owning property, the rights and obligations of both parties, decisions there which our public infrastructure has done outstandingly well through this. So while I am hoping the Minister for Housing will tell us - he will give us assurances which will tell us, I think - how this transfer will work and so that those concerns that I have can be assured... so I am going to listen to what the Minister says and also to see if any other Members have concerns too or maybe it is just me. I will wait and see.

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

The previous speaker will not have to wait long. I too have several concerns. The Minister, in introducing this particular piece of work, said it was a memorable day when we accepted P.33. It was indeed memorable, and the commemoration is for the end of social housing in Jersey, because that is the reality. We will not have a Minister in charge of social housing any more. He will be in charge of all housing. He will be in charge of policy for all housing. He will not be in charge ... he will not be accountable for any of the day-to-day running of the organisation of that housing, and we will end up in the same old, same old, where we have a query about J.T. (Jersey Telecom) who is not behaving themselves, and the sole shareholder will say: "I am not responsible for what they do on a day-to-day basis, I am only responsible for policy." Ditto, Jersey Post, ditto Andium Homes. That is what we are going to end up with. So we are giving away that control and we are allowing Andium Homes... but we are policy. It says Andium Homes can put up its rents as soon as somebody moves in or out of housing, up to 90 per cent of the private sector rent. If you pick a mark like 90 per cent of the private sector rents, you abandon social housing because, quite frankly, that is not affordable. That is not affordable housing, it is not social housing. You then say that our rents will go up by the cost of living index plus 0.75 per cent, so steadily accumulating more and more. Rents going up again. Not really social housing. We also continue the return to Treasury, which caused so much problem in the past, because the return to Treasury gobbled-up rental income, which was then not available to repair our housing stock, and we are still coping, dealing,

with that. So, return to Treasury, I think in one of these documents, I think it was coming, in the first full year at £28 million, out of rents, which should be going into housing in some form or other and into the Treasury. That is the net result. So, a very memorable day, but your last chance - our last chance - to save social housing by voting against these measures, because I believe they are wrong. Now, the Minister also said, and rightly gave praise to the Housing staff, who have done a wonderful job over the past 2 years while being among the lowest staffed housing authorities in the U.K. So, doing a great deal with very efficient and small number of staff, and we said all those staff will be transferring over to the new company and we have protection for those jobs. For how long? Because the agreement, the transfer of those jobs, is in fact not protected. There is no T.U.P.E. (Transfer of Undertakings (Protection of Employment)) legislation to protect the terms and conditions of these workers in the Island, and the T.O.P.S.E. (Transfer of Public Sector Employees) agreement, the replacement for T.U.P.E. in legislation, which is merely a code of practice - code of practice, ha ha, how often do we hear those words; that is really binding, a code of practice - has not been signed by the unions, has not been agreed by the employees in any way, shape or form. It contains no protection period involved in the transfer to the new body, and is, I believe, a very dangerous thing to do. What will happen to those terms and conditions? What will happen to the quality of that staff, 3 years down the line, 5 years down the line? What will the terms and conditions be then?

[15:30]

Will we be working with the same quality, calibre, of staff as we are now? Perhaps not. And then, and, as was mentioned previously, we talked about the onward sales. Again, another brilliant move in organising our social housing. We have a chronic shortage. We have 700-plus on the waiting list with priority 1 - urgent priority 1 - that we cannot house, and here we are, again, a policy to sell-off housing as we go along. Is it 30 a year, 20 a year? I do not know. It does not take long, over 30 years, to run your stock down completely. So, yes, a memorable day, but a very sad day, I think, because what we are seeing here, the last opportunity to vote against what will be a serious mistake, in terms of providing housing. One of the top aims in the last Strategic Plan was to house our population properly; 700-plus in urgent need of social housing, and we are giving it away. Is that housing our population? I do not believe so. This is an abandonment of our duties as a body. We are giving away something that we have control of that we could use effectively, and we are giving it away to a private organisation which will be ... I will not say it will have no accountability, there will be some accountability. It will have far, far less accountability to this body, and I think that is a shameful day, when we give that away.

11.1.6 Senator S.C. Ferguson:

If I could just refer back to the Attorney General, am I correct in my understanding that the ownership by the public through a wholly-owned company is not the same thing as direct ownership by the States?

The Attorney General:

Yes. That is obviously correct. If it is owned by a company, it is not the same as it being owned by the States. The company itself will be owned by the States, but the property would not be owned by the States. It would be owned by Andium Limited.

Senator S.C. Ferguson:

So, carrying on with my question - and I apologise for not sitting down while the Attorney General was speaking - when we talk about the property in the company being owned by the public, that is perhaps a loose use of English?

The Attorney General:

I am not sure that I should give advice on the use of English, but the position is that the company is owned by the public of the Island through its sole guarantor or shareholder, in the body of the Minister for Treasury and Resources. It is probably worth mentioning that the purpose of the company, as set out in the memorandum, is to discharge the policy objectives of the Assembly and the Minister for Housing, in connection with social housing. But it is correct, as a matter of law, of course, that the property is owned by the company and is not owned directly by the public of the Island, as is presently the case.

Senator S.C. Ferguson:

Thank you. I have a few questions about this. The Deputy for St. Brelade No. 1 mentioned Woodlands. I do know that site, because a previous Minister had it down for sale and wanted to transplant the more mature tenants, who had been there for ages, and in the end that got stopped. But it is a very good site, just next door to the ... there is a hotel and there is the bungalow and the Winston Churchill Gardens. It is a prime site. Why are we transferring these? I do not understand it. Then, what value are the assets being transferred? Will it be at the value as per the recent valuation of all States property? What is the consideration of it going to be, or are we going to ... I know that at one stage it was talking about transferring it for nothing or a value of £1 or something? So I would like the confirmation of the value of the assets being transferred. Then I worry about the position of the Minister for Housing, because the way it looks as though it is developing, we are going to have a Minister for Housing, and it is going to put private housing within the ambit, within the control, of a public bureaucrat and a Minister. Why should I, effectively, be regulated by a Minister for Housing? Is this a precursor to backdoor nationalisation? Interesting; think about it. Or should I call it stealth nationalisation? Not only are we killing off social housing, we are also putting the Minister for Housing in a position where he can start regulating private housing under the policy. Now, I do not mind being regulated by the Minister for Planning and Environment, who says I cannot put up a 16-foot chimney on the top of my house, or something like that, but I am not going to be regulated by a Minister for Housing dictating to me what I can do with my house. I am not sure that I agree with this, and I am probably going to vote against it all.

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

Just a very brief question regarding Victoria Cottage Homes, St. Saviour. Victoria Cottage Homes were intended for people of limited means. Prior to the takeover of the homes by Housing, the then tenants were assured that their rights and privileges regarding rents, *et cetera*, would be honoured. Can the Minister assure the Assembly that after the transfer of the homes to Andium Limited, that the self-same rights and privileges will be maintained; and likewise George V?

11.1.8 Senator P.F.C. Ozouf:

I do not know whether or not it is with advancing hour that one gets more extreme remarks in the Assembly. We have a number of propositions with effect to the proposition, as the Minister for Housing has already said, which gives effect to P.33, which was overwhelmingly supported by Members - 32 votes in favour, 8 against, and a number of Members not here - we had a very comprehensive debate. We rehearsed many of these fundamental issues at that time, so I think the convention of this Assembly is that we make forward steps. If a Minister has been charged with doing something, then they are expected to get on with it, and that is exactly what the Minister for Housing and the other Ministers contained in P.33 are doing and have done so. I think we are not only going backwards, we appear to be going forwards and backwards and sideways and into a parallel universe. We heard at the same time, this proposition is killing off social housing, backdoor nationalisation, it is the end of social housing and we are giving away property, and there is no more Minister for Housing, or at least, the Minister for Treasury and Resources is becoming the Minister for Housing. We have heard the Minister for Planning and Environment, as you

rightly point out, Sir, raising questions which, if I may respectfully say, should have been and have been raised on numerous occasions at the Council of Ministers. I do hope, as a fellow Minister, he will apologise to the Attorney General if he has said something that is unfair, which is asking for legal advice on something when indeed that has not been explicitly made. I think that is just a bit unfair. But if it is the case, I am sure that is the case. But I think we are all incumbent upon each other to maintain certain standards of the comments that we make, certainly, about the Law Officers' Department, which has been at the heart of working extremely hard, and officials within the Attorney General's office even were last night helping me late and responding to emails in respect of dealing with the last minute matters in relation to the Memorandum of Understanding, for which I am very grateful. I do say that Members ... I do not think they really mean what they meant was that this is the end of social housing, the end of accountability, giving away, all the rest of it. We are going on to discuss and debate, and hopefully approve, the detailed modalities, the detailed mechanisms, that are being put in place for what are new, strengthened, improved arrangements. Segregation of responsibility, where the Minister for Housing is going to, not nationalise, if I may say to Senator Ferguson, but properly regulate social housing and all of it; be able to put in place policies. Deputy Southern starts raising the spectre of supply; supply. So he sounds like a centre right politician today. He is talking about supply-side. That is exactly... and I point out the Kate Barker review of housing supply. Supply is needed in all tenures of the accommodation, not rent control and price control. You need supply in order to deal with it, and this transfer and the attendant other consequential amendments are going to put significant ability for us to put more supply in. The Minister for Housing is quite right when he congratulates his department. There was one Member who spoke and raised some questions, Deputy Young, who voted in favour - I notice - of P.33, and I hope that Deputy Young, who does raise questions during debates, and I hope he gets the right answers and then he considers those answers, and then votes accordingly. We have had complimentary remarks about the discharging of their responsibilities in terms of the Housing Department, but the reality is that the Housing Department has not had the right financial tools and the financial capital, until a few years ago, and certainly until I hope next Monday, in order to deal with its proper maintenance of our housing stock. That is ending. We are sorting this issue out. We are putting in place strengthened arrangements. We are putting the subsidy in the single gateway of income support and social security; single assessment; proper evaluation; a proper, joined-up approach in government, across all the position; not doing subsidised rents to people that might not be the right recipients of discounted rates. Putting subsidy in the Minister for Social Security's budget; putting the ownership of property into, not private, but a publicly-owned company by guarantee; and, lest the Minister for Planning and Environment forgets, he is a member of the Strategic Housing Unit, together with other Ministers. He is going to be responsible for policy. A business plan is going to be signed by the guarantor, in consultation with the Minister for Housing, and where there are going to be estates and other sites within this transfer agreement, where a new development of, a regeneration, a rebuilding of a site is being envisaged, Andium is going to consult the Strategic Housing Unit, the Minister for Housing, and a planning application will be made. A tenure: in the event of us giving alternative forms of affordable housing tenure, that is going to be delivered. So all the checks and balances are going to be there, the right checks and balances in the right place, with people focusing on the job that they should be... not blended responsibilities, all in one place, without knowing what their roles are. Also, from the Treasury point of view, Members will know, an announcement will be made on Monday. We have been charged with securing the funding, and it has been public that we have been successful in getting the funding, which we will be lending to Andium at effectively what are some of the most historic low rates ever achieved for 40 years, which will mean that this is not a short-term solution for Andium, but is in fact going to give Andium and other social renting providers - although I think in future it is important to perhaps remove some of the negative stigma of that label of being a social renter - in future there will be renters that will be supported.

[15:45]

We will have more availability of rented accommodation with Andium and others, and we are going to have the financial resources, and some of the lowest interest rates that we could possibly have ever hoped for. Now, that is all, in my world, a significant step, an improved step, in virtually every single respect that I could ever imagine. We will go on. I am not going to repeat a lot of these things in the later propositions, because we will not want to say it. The Minister will no doubt follow up, but there were a number of Treasury matters, because it is transferring to Andium, and Treasury has only operational responsibility or to hold to account, as guarantor member, the board to account for operational matters. Policy issues. Where Members are unhappy with standards of social housing, that is not going to be for the Minister for Treasury and Resources to answer, it is going to be for the Minister for Housing. Where there are going to be a mix of tenures and increased supply on sites, it is going to be a matter for the Minister for Planning and Environment, or the Minister for Housing in future, to do. So, decisions, responsibilities, in the right place and, just for the avoidance of any doubt, in respect of sell-offs, Andium is not going to be permitted, as is clear from the subsequent documents, to dispose of assets as if they were a non-publicly owned body. There is a schedule and a business plan which is going to be agreed, and again, not agreed by the Minister for Treasury and Resources or the Assistant Minister for Treasury. We are going to go and get agreement of that plan by the Minister for Housing, who is going to look at that business plan, who is going to look at it with his officers to make sure it is the right business plan to ensure that it delivers the right amount of redevelopment, improvement, extensions of numbers of rented units. Deputy Young referred to earlier some of the loans. All of those loans are the deferred payment properties. They are loans which are in the benefit of, currently, the public, and are going to be moved to Andium, which means that Andium is going to continue to provide that wonderful opportunity of home ownership at La Providence or otherwise, that would not have been the case. There is nothing problematic about that. I cannot imagine for one moment that Andium would ask, but they cannot do it without seeking the guarantor member's permission of selling that loan book. I cannot imagine that that would happen. If they did, there are going to be compelling reasons in the public interest to deliver more units of accommodation or something, or funding, but I cannot see it. All of these things are going to be tightly controlled in the business plan, I take it, Deputy Young, in respect of these matters. It is not in this proposition, it is in the Memorandum of Understanding. It is in the Memorandum of Understanding that sits beneath future propositions. A lot of the questions that Deputy Young asked are more relevant to the later propositions, which I will endeavour to answer and properly, no doubt, with the support of the Minister for Housing. I hope that Members are not going to start reopening P.33. If they were against P.33, I suppose they are going to vote in favour of all of these. I hope not, because they do not have any solution to deliver better quality housing, more of it, better value and all the rest of it. I hope they are going to unanimously support these proposals, because they are another example of this Assembly tackling problems of the past, making a better job of them and delivering a better result for tenants, taxpayers and everybody else.

Deputy J.H. Young:

Clarification, Sir, if I may. Could the Minister for Treasury and Resources point me to which document includes the answers he was referring to, the points I raised in my item on P.58? Could he point me to where those agreements are, about onwards sales, in the papers on today's agenda, please?

Senator P.F.C. Ozouf:

I will bring a copy of it to him. The next proposition is the proposition after that. We have 3 other propositions before the Assembly in respect of the Memorandum and Articles of Association and, while it is not subject to that proposition, I sent Members last night - which again is of no surprise;

there is nothing that will be surprising in any of that - there is the standard M.O.U. which sits beneath the Memorandum and Articles of the incorporation of Andium. All that is in there, and all the matters, I can assure the Deputy, are covered and will continue to be covered, in the M.O.U. which is going to be signed between the guarantor member, which is the States Assembly guarantor member, which is the Minister for Treasury and Resources, but in consultation with the Minister for Housing. All the issues which he raised are covered in those documents.

Deputy J.H. Young:

I am sorry. Just to clarify these documents that we are asked to approve today, the Memorandum of Understanding. Am I correct that that is not in the papers that we are being asked to vote on and the States agree today? Is that right?

Senator P.F.C. Ozouf:

It has been very clear from the start that the M.O.U. for any of the incorporated bodies is not part of the approval. Those are delegated to the Minister for Treasury and Resources and, on this occasion, in consultation with the Minister for Housing. But there is clarity. All those matters that the Deputy raised are covered and will be covered.

11.1.9 Deputy S. Power:

The first thing I would like to do is, for the sake of transparency, confirm and clarify to colleagues and to you, Sir, that I am a trustee of a charity that rents a property at 63 New Street, which is listed on pages 111 and 112, and pays full market rent, or full housing rent, to that. So I just want to start by saying I do not think that conflicts me as a trustee. I had the privilege of working with the Housing Department, as did former Senator Le Main and Deputy Hilton, and I can say that, in my previous responsibility there, it was quite clear that the senior management team at Housing, to be honest, could not wait to get out from under the yoke that they were stuck under. That is not political. That is the relationship that it had at times with Treasury, and indeed, the approvals that were needed. After Ministerial decisions, everything had to go through Treasury. Part of the massive problem that that yoke was, was funding for the Housing Department, and cash flow. The fact that the Housing Department was and is paying £23 million a year in its rent back to Treasury was an issue. But as Professor Whitehead has identified, and as the Housing Department - soon to be Andium, I hope - transforms itself, this is in my view not the demise of a social housing department. This is the setting up of our stock of social housing into a company, into a structure, that is fit and proper for the 21st century, and I believe that this is the correct path. I did have reservations at times. I had reservations about some of the aspects of this, but I do believe that this is the correct procedure for the way we handle a stock of 4,600 houses and flats on this Island worth, as Deputy Young alluded to, somewhere between £600 million and £900 million, maybe even £1 billion. But to be honest with you, what we are debating today is one of the final steps in the chapter, to achieve this transfer today. I said earlier that it was a privilege to work with the housing team, and it was. I do not know whether States Members realise this, but 5 of the 6 senior management positions in the Housing Department are all local, and I think it is the only States Department - and we are about to lose them - that have a senior management team that is almost uniquely born and brought up in Jersey. So we have a senior management team that is local, and we are sending them off into the great world of corporate property ownership. I have had, over a period of time, I suppose, I would say misgivings about the relationship between the Housing Department and Treasury. It has held it back, it has retarded it. There were times during the comprehensive spending review a few years ago when capital funds were pulled almost overnight, and it was incredibly frustrating to be a political part of the Housing team. But things evolved. The Housing Transformation is the culmination, I think, of almost 4 years work, and as Deputy Green eloquently said, it was a huge amount of work by the senior management team on top of what they

do on a day-to-day basis. For those of you that have not visited the Housing Department, the synergy and the energy, and the positivity down there is, in my view, amazing. So I congratulate them, I think it is the correct way forward and I am sure that they cannot wait for 1st July so they can get out and they will have a degree of independence and direction to run a company that manages these very important 4,600 items of stock. Again, there are parts of the property portfolio that simply will need to be realigned, I am sure, as has happened over the last 4 or 5 years. It was unfortunate that some stock was sold to pay for essential maintenance and repairs but what Senator Ozouf is doing and the Council of Ministers are doing, that will be a situation for any disposal of stock will probably be to realign. There are certainly, as Deputy Young correctly identified, elements of houses and stock in this list that probably do not lend themselves ... they are probably not in the correct place, they are old or they are difficult to maintain or whatever. I would make one comment on Woodlands in St. Brelade, Senator Ferguson referred to it and Deputy Young referred to it. There was a fight - I think it was 2008 or 2009 - because there was a flat development next door, which was the redevelopment of the Chateau Valeuse Hotel and there was a proposal at the time to buy Woodlands so that they could make that development a bigger development. It was fought by Senator Le Main and Deputy Hilton, I think, and I came in afterwards when it was done. But that is essential housing or Andium stock, as it will be called, in the west of the Island and I hope that we will see an increase and an investment in the further Andium stock in the western Parishes, St. Brelade, St. Peter, St. Ouen and so on. So that was a site, part 13 on page 62, which was fought for and not disposed of. I do not have an awful lot more to say except that it will be important that Andium is cut free, is established, is able to trade, is able to run itself as a corporate entity and I do not believe ... I am not a prophet of doom and gloom, I am an optimist by nature and I do believe that this new structure will work. We have other States utilities that work; some of them show a degree of aggression that I am not comfortable with at the moment but I am sure, knowing the people in the Housing Department, knowing that the same people will be in Andium, that the company will be good shape. I will be 100 per cent and wholeheartedly supporting this.

The Bailiff:

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

11.1.10 Deputy A.K.F. Green:

Thank you. I will try and deal with the points raised by Members, some of which have been answered by the Minister for Treasury and Resources, and I am grateful for that. But before so doing, I made some thanks to the staff and the officers for their hard work and it occurred to me that I had not thanked the Scrutiny Panel because their support, their work, their challenge, their encouragement has resulted in a better project than we would otherwise have had. It has also resulted in the retaining of the Minister for Housing, so I am grateful for that. **[Laughter]** Picking up on some of the points. Senator Breckon, I would like to say to him that when Andium moves it will be business as usual. Deputy Power covered this. It will be business as usual. The team will work and respond as they usually do except that, as part of this move, we are giving them the resources to do the job so they will not spend hours explaining to people why they have been on the waiting list 2 or 3 years, they will be spending time with people explaining that we will be able to house them fairly soon and that they can see a change.

[16:00]

I always think of Einstein... I think it was, but he put it much more eloquently than I can put it. If you always do what you have always done you will always get what you have always got. We do not want what we have got. We want something different. It is not surprising that if you do the same thing you get the same outcome. Many of us seem to struggle with that. We are going to do

something different, we are going to do something really exciting here. We are going to do something for the Island and the community, and meet the Strategic Plan aims to house our community. The Minister for Planning and Environment asked a question about States-owned land. I wish he had asked me. I might not have known the legal detail but we could have had that discussion and then spoken to the Attorney General's Department and got that advice. This is not something that has been rushed, this is 4 years' work. This is debate after debate at the Council of Ministers and I think here I should thank the Council of Ministers for the tremendous support that I have had in putting this together. It would not have been possible without that support, particularly of the Minister for Treasury and Resources and the Chief Minister. Deputy Young: some of the land that is being transferred could be used for other purposes other than housing. Well, the aim of this company, this business, this social housing provider or affordable housing provider is to provide homes. But he particularly made comment about places like the Keeper's Cottages and the like. Some of these properties may - and I say "may" - when they become vacant be sold off, but the reason I say "may" is something... we need stock that will enable us to help tenants that may be more difficult to place in high density estates, be it medical reasons or whatever. But there will always need to be some realignment of stock. Deputy Young asks about the value. I am advised that the value of the stock is about £1 billion. Oh dear, Deputy Southern, the end of social housing. No, it is the beginning of an exciting era. It is not the end of social housing. He is concerned about the levels of rent but, again, I say to him if we always do what we have always done we will get the same outcome. If we charge people a reduced rent and we end up with not being able to maintain our stock, we end up with not being able to develop our stock, we end up with not being able to fulfil the requirements of our community. It is right that the Minister for Social Security gives people the support that they need and even if it was the Housing Department I would be arguing this today, that the Housing Department or Andium Homes has the right income. That is right for so many different reasons. One, the Social Security Department will pay 100 per cent rent if the person is so vulnerable and has such low income that they need it. We would not have done that. It is right that the company has the right income in order, as I have already explained, to invest. But it is also right that when people's circumstances change that they do not continue to receive the hidden subsidy: part of my role, part of my duty in the future will be to give those people the opportunity to move into affordable home ownership. I always think of my parents when I think of this situation. My parents, when they were housed by the Housing Department in 1976, with that cottage with the loo down the lane that I am always talking about, was bought by the Housing Department and demolished. They thought they had died and gone to heaven. They needed support financially as well. They both worked hard, they got good jobs and they could have afforded, if some help was given them, to leave social housing and buy a home but they could not afford a traditional mortgage at 50. We need to give people the opportunity to jump out of situations better. Senator Ferguson, I have to say, Senator, I would not dare regulate you. Seriously there is no intention of regulating private homes. This Assembly, at the last sitting, agreed that I should look at minimum standards for all rental homes. That is what I am going to do. Do not forget there will be a regulator, which was initially agreed as part of P.33 - the regulator for social housing. The reason I have not yet made that appointment is the more I looked at it the more convinced I became that we needed a regulator for rental housing, be it private or social. I was very happy to support the proposition from Deputy Tadier. This is not some stealth privatisation, nothing like it. Victoria Cottage Homes, good question from Deputy Lewis. Victoria Cottage Homes, King George V Homes, the tenants there will continue to receive the existing conditions, rights and agreement that they already have. That is considerably lower rents than market value. However, as they become vacant then because of the support that Social Security gives all people that need help, they will go into the normal ... they will still remain for over-55s, but they will go into the normal rental arrangement. We wax lyrical about Victoria Cottage Homes, about King George V, they are needing significant investment, significant investment, and we will be in a

position to do that. But the tenants there need no fear, whatever arrangement/agreement they have remains. I thank Deputy Power for his comments. I think the one thing I have not mentioned - the Minister for Treasury and Resources did cover it for me - but Deputy Young was worried about us taking on other people's mortgages. It is exactly what the Minister for Treasury and Resources said, there is some deferred payment which is an asset to be recovered at a later date. Do not forget we are having the regulator, as well as the Minister for Housing and the S.H.U. (Strategic Housing Unit), those deferred will remain with whatever agreement we already have. So I think I have covered all of the comments. I would like to thank those that have spoken and maintain the Regulations.

Senator S.C. Ferguson:

The Minister has not replied to my question about the transfer value and if he would like to confirm that he will be looking at private property where, for instance, people rent out granny flats and so on. Presumably his inspectors will be going in there as well, will they?

Deputy A.K.F. Green:

I can see I am never going to convince Senator Ferguson. I mentioned the market value of the properties which is £1 billion, probably unoccupied but £1 billion. As I said at the last sitting, this Assembly asks that we look at minimum standards for all rental accommodation so if somebody living in their private home rents off part of that then probably, because we have not devised the Regulations yet, that part of that home will fall under that. But if you choose to live in the private part, without toilet facilities, without heating, with whatever you want to do, then as long as you have capacity to make that decision, that is a matter entirely for the homeowner. We will be regulating, and it is work underway, all rental, minimum standards.

Deputy G.P. Southern:

Clarification, Sir? Can the Minister just clarify whether the T.O.P.S.E. agreement is yet to be signed-off concerning protection for terms and conditions of the employees of the new Andium Housing?

Deputy A.K.F. Green:

I think Deputy Southern knows the answer to that. It is yet to be signed but I will not allow anything to treat the staff in an unfair way. We would not even be debating this today, for example, had Andium Homes not become committed to the P.E.C.R.S. scheme. We have to look after our staff in the transfer.

Senator S.C. Ferguson:

Sorry, if we can just clear this up, are you going to ... I am afraid, due to a previous engagement, I was not at the last sitting so I did not hear all your comments. Are the properties to be transferred at the proper market value that was done over the last year or are they going to go over it at a nominal £1?

Deputy A.K.F. Green:

They are not being transferred at the proper market value but I think that makes all the more legitimate the payment we will be making on an annual basis to the Treasury.

The Bailiff:

Very well, the matter before the Assembly is the principles. Has the appel been asked for? Yes, the appel is asked for in relation to the principles of Projet 58. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 31		CONTRE: 11		ABSTAIN: 1
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Senator P.F.C. Ozouf		Senator S.C. Ferguson		Senator A. Breckon
Senator A.J.H. Maclean		Connétable of St. John		
Senator B.I. Le Marquand		Deputy J.A. Martin (H)		
Senator F. du H. Le Gresley		Deputy G.P. Southern (H)		
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator P.M. Bailhache		Deputy T.A. Vallois (S)		
Connétable of St. Helier		Deputy M.R. Higgins (H)		
Connétable of Trinity		Deputy G.C.L. Baudains (C)		
Connétable of St. Clement		Deputy J.H. Young (B)		
Connétable of St. Peter		Deputy N.B. Le Cornu (H)		
Connétable of St. Lawrence		Deputy S.Y. Mézec (H)		
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

Senator I.J. Gorst:

Sir, before we move to the Articles, could I just offer an apology to the Attorney General and the Law Officers' Department, a Member of the Council of Ministers during the previous debate indicated that perhaps the Law Officers had been somewhat tardy in providing advice. That is not the case. They have only extremely recently, during the course of this day, been asked for that advice and therefore they have my apology and it should not be seen to have done anything inappropriate.

Deputy R.C. Duhamel:

If there is an allegation that I was the one who was accusing the Law Officers to be tardy, I think that should be taken back because that was not, as playing out of the Hansard will show, what I said.

The Bailiff:

Very well, first of all do you wish to have this matter referred to your Scrutiny Panel?

Deputy J.A. Hilton (Vice-Chairman, Health, Social Security and Housing Security Panel):

No, thank you, Sir.

The Bailiff:

So how do you wish to take the individual Regulations, there are amendments to 3 of them, I think.

The Connétable of St. John:

Before we go forward, Sir, do we play Hansard and see what was said?

The Bailiff:

No. The Hansard will show which way around it was when Members get it. It will show whether the Minister is correct to his recollection or incorrect and Members can take it from there. It is not possible to rule on it now. Very well, how do you wish to take it, Minister? Do you wish to propose ...

Deputy A.K.F. Green:

The proposition is accepted now as amended, I do not think there are any other amendments.

The Bailiff:

Yes, there are. You have amendments to Regulation 2, 5 and part one of the schedule.

Deputy A.K.F. Green:

Right, well let us take one first then ...

The Bailiff:

We will take them as amended, no doubt, but nevertheless they ought just to be taken separately. So shall we take Regulation 1 and then we move to on to Regulation 2.

11.2 Deputy A.K.F. Green:

I really do not think I can say much more than I have already said so I will answer any queries.

The Bailiff:

Very well, you propose Regulation 1? Is that seconded? **[Seconded]** Does any Member wish to speak on Regulation 1 which is interpretation? All those in favour of adopting Regulation 1, please show? Those against? It is adopted. Now, Regulation 2 there is an amendment. I think for sake of good order we should read the amendment but then you can propose Regulation 2 as amended.

The Greffier of the States:

Page 20, Regulation 2. In Regulation 2, for the words “registered on XXX under registration number XXX” substitute the words “registered on 13th May 2014 under registration number 115713”.

11.3 Deputy A.K.F. Green:

This is quite a simple amendment because at the time, because of the lodging times and I was keen to maintain momentum and deliver the Andium Homes starting on 1st July, we lodged without the company number. Then we went to register, we got the company name and number and all that does is put in the number that we now know.

The Bailiff:

Very well, is Regulation 2 seconded? **[Seconded]** Does any Member wish to speak on Regulation 2 as amended? All those in favour of adopting Regulation 2, please show? Those against? It is adopted. Now, Regulations 3 and 4 I do not think have any amendments.

[16:15]

The schedule depends on 4 so will you read the amendments to the schedule, Greffier. All right, Regulation 3, do you want to propose that, Minister?

Deputy A.K.F. Green:

Yes, please, Sir.

The Bailiff:

Does any Member wish to speak on Regulation 3? All those in favour of adopting Regulation 3, please show? Those against? It is adopted. Now, Regulation 4 itself is not being amended but the schedule to which it refers is being, therefore we probably should deal with it here. Greffier, would you read the amendment to the schedule. The Greffier has pointed out it is not just the one paragraph I thought, it is about 6 pages long. **[Laughter]** If Members agree to take that amendment as read? Very well, so if you want to propose Regulation 4 and the schedule in its amended form.

11.4 Deputy A.K.F. Green:

Yes, please, and as you say, the amendments are really just tidying up typos and the like.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on Regulation 4 or the schedules? Deputy Young.

11.4.1 Deputy J.H. Young:

I would just like to follow up the point I made earlier about loans. I think in both the reply given by the Minister for Housing and the Minister for Treasury and Resources it was said that we were not transferring the loans that people have had advanced on purchase of the properties scheduled in schedule 2 but it was the second charges. Could that be cleared up because obviously the States has loaned money to people and the security is against those assets. So I would just like that confirmed whether the loans, the whole loans, of the people that own those homes are now going to be owned by Andium Limited under this Regulation 4.

The Bailiff:

Does any other Member wish to speak? Yes, Minister.

11.4.2 Deputy A.K.F. Green:

There seems to be a clear misunderstanding here. This is a deferred payment so somebody buys a house at perhaps 75 per cent of market rate and the deferred payment is for the other 25 per cent. So it is an asset of the company's. When the house is next sold, be it when the owners choose to sell it or it is left to somebody in their Will, then that deferred payment becomes payable. It is not a loan, not in the true sense of the word.

Deputy J.H. Young:

I must ask for clarification, the loan that the person had to buy the property then, that stays with the States, does it? Does that remain a States asset or is that going to Andium?

Deputy A.K.F. Green:

The loan that the people had to buy the property would be a matter between them and their bank. We just hold on to that 25 per cent to be paid as a deferred payment, exactly what it says, to be paid at some time, usually on the sale of the home or on the transfer of the ownership of the home to family or whoever the owner leaves it to.

Senator S.C. Ferguson:

Sorry, Sir, if I can just check that? My understanding ...

The Bailiff:

I am sorry, Senator, I do not think you spoke on this.

Senator S.C. Ferguson:

I was just wanting clarification, Sir.

The Bailiff:

The tradition is that Members who have not spoken cannot then suddenly pop up and ask questions.

Senator S.C. Ferguson:

I missed that paragraph.

Deputy J.H. Young:

At the risk of incurring your wrath, Sir, can I just make sure I get it exactly right? The Minister I think is saying that there are no States loans on any of the properties being transferred and that therefore the only charges that fall under schedule 2 are already liabilities which are, if you like, held through the people's existing private borrowers, their banks and so on? Is that right?

Deputy A.K.F. Green:

That is exactly what I am saying.

The Bailiff:

Deputy Duhamel, I do not think you spoke either. You have your light on.

Deputy R.C. Duhamel:

I just wanted to read out under 4(6) ...

The Bailiff:

No, I am sorry the Minister has replied.

Deputy R.C. Duhamel:

Sorry.

The Bailiff:

The Minister has replied and so the debate on this Regulation has now come to an end.

Deputy R.C. Duhamel:

It was to help answer a question.

The Bailiff:

Very well, now the matter before the Assembly is Regulation 4 and the schedules. All those in favour, please show? The appel is asked for then in relation to Regulation 4 and the schedules. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 31		CONTRE: 8		ABSTAIN: 2
Senator P.F.C. Ozouf		Senator S.C. Ferguson		Senator A. Breckon
Senator A.J.H. Maclean		Deputy J.A. Martin (H)		Deputy N.B. Le Cornu (H)
Senator B.I. Le Marquand		Deputy M. Tadier (B)		
Senator F.du H. Le Gresley		Deputy T.A. Vallois (S)		
Senator I.J. Gorst		Deputy M.R. Higgins (H)		
Senator P.M. Bailhache		Deputy G.C.L. Baudains (C)		
Connétable of St. Helier		Deputy J.H. Young (B)		

Connétable of Trinity		Deputy S.Y. Mézec (H)		
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

The Bailiff:

Then we come next to Regulation 5 where there is also an amendment. I think on this occasion it is not too long so the Greffier will read the amendment.

The Greffier of the States:

Page 23, Regulation 5. In Regulation 5, (a) in paragraph (10) for the words “this Schedule” substitute the words “Schedule 1”; (b) in paragraph (12)(b) for the words “Schedule 1” substitute the words “this Article”; (c) in paragraph (13) for the words “paragraph (12) (a)” substitute the words “paragraph (12)”; (d) in paragraph (17) after the words “right under” insert the words “this Article or”.

The Bailiff:

Yes, Minister.

11.5 Deputy A.K.F. Green:

Thank you. Again it is just straightforward tidying up. I do not really think I need to say any more than that.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on Regulation 5? All those in favour of adopting Regulation 5, please show? Those against? Regulation 5 is adopted. Then that leaves only Regulation 6.

11.6 Deputy A.K.F. Green:

Yes, I propose Regulation 6.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak on Regulation 6? All those in favour of adopting Regulation 6, please show? Those against? It is adopted. Do you move the Regulations in Third Reading, Minister?

Deputy A.K.F. Green:

Yes, Sir.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading, please show? The appel is called for in relation to the Regulations in Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 31		CONTRE: 9		ABSTAIN: 2
Senator P.F.C. Ozouf		Senator S.C. Ferguson		Senator A. Breckon
Senator A.J.H. Maclean		Connétable of St. John		Deputy N.B. Le Cornu (H)
Senator B.I. Le Marquand		Deputy J.A. Martin (H)		
Senator F.du H. Le Gresley		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy T.A. Vallois (S)		
Senator P.M. Bailhache		Deputy M.R. Higgins (H)		
Connétable of St. Helier		Deputy G.C.L. Baudains (C)		
Connétable of Trinity		Deputy J.H. Young (B)		
Connétable of St. Clement		Deputy S.Y. Mézec (H)		
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

The Connétable of St. John:

Excuse me, Sir. I had voted against, it is not marked up.

The Bailiff:

You are apparently not recorded as having voted at all.

The Connétable of St. John:

Can we get these systems sorted out, because I have got the [Laughter] ... because I have got these binders and you push them forward and you lose your votes?

The Bailiff:

I will certainly ask the system be checked. Very well, the next matter is Projet 59, Housing Transformation Programme: amendment to the Medium Term Financial Plan 2013-2015, lodged by the Council of Ministers. The Greffier advised me you did vote on that one, he was looking at the previous vote but apparently you did vote on that one so your vote has been counted.

The Connétable of St. John:

Can we have what the vote is then, please?

The Greffier of the States:

Contre.

The Connétable of St. John:

No, could we have the numbers that voted because the numbers would be different.

The Bailiff:

Right, the Regulations were adopted in Third Reading: 31 votes pour, 9 votes contre and 2 abstentions.

12. Housing Transformation Programme: amendment to the Medium-Term Financial Plan 2013-2015 (P.59/2014)

The Bailiff:

Yes, now the Greffier was going to read out the proposition but again it is quite long, are Members willing to take this proposition as read? Yes? Who is going to speak to it? The Minister for Treasury and Resources.

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

These are proposals which effectively are a consequence of the decisions that I am sure the Minister for Housing is very pleased that we have made. They effectively give effect to the transfer and put in place the financial arrangements. I would like to thank the Assembly for the reduced lodging period for this proposition. As Members will know, there is a 12-week normal lodging period for the M.T.F.P. (Medium-Term Financial Plan) reflecting normally an M.T.F.P. period of time. Normal propositions, other propositions have a reduced period. The test in the Public Finances Law is not that of other propositions, and I hope that, since that request has been made, that Members will agree that it is urgent that we do consider it now, and I am grateful for that permission to do it. Officers from the Treasury and the Housing Department have met with a member of the Corporate Services Panel, the Deputy of St. Ouen, and I know that last Friday the officials met the whole of the Corporate Services Scrutiny Panel to brief them on the amendment, and I do hope that that provided the comfort necessary, and there have been a number of emails to do that. I do want to stress that this is simply not a stand-alone decision. It is not anything that is in isolation or independent. It is required because we have established now Andium Homes, transferred assets to it, and now we now need to make the financial arrangements of net income to reflect the fact that the Housing Department income and expenditure that was previously proved in

the M.T.F.P. needs to be changed. From 1st July, net income and - confusingly perhaps - will be better reflected in the future. Previously, the Housing Department showed effectively a ... or the Minister for Housing showed as a positive negative, which was always quite confusing. The M.T.F.P. now puts all of the right budgets in the right place. It proposes amounts deducted from the Housing Department now reflected in Andium, which will pay across an annual amount. The income for the Minister for Social Security is increased, because there have been certain consequential amendments as a result of that, and, indeed, this is not just a Medium-Term Financial Plan for 1st July this year, but is in subsequent years. I do hope it is clear that it is implementation simply of putting the right numbers in the right places in the right departments, and I will endeavour to answer any questions that Members may have.

The Bailiff:

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

12.1.1 Deputy A.K.F. Green:

I think the Minister for Treasury and Resources has already explained the reasons why it is essential to amend the Medium-Term Financial Plan. I will be brief. I just wanted though to assure Members that, in effect, this proposition is, as the Minister for Treasury and Resources said, an accounting adjustment. Increasing the States income through the contractual payments received from Andium Homes, and also to increase States expenditure through the removal of the annual return from the Housing Department, so it just moves columns. The transfer agreement for which the Minister for Treasury Resources circulated to Members this week will ensure that contractual payments are at the level required continue to be received from Andium Homes.

12.1.2 Deputy J.H. Young:

I just wanted to say that I find it ... it may be an accounting adjustment, but I find - I do not regard myself as thick - but I think it is pretty difficult for me to make an informed decision on such a set of numbers, and obviously when the whole thing relies on the Memorandum of Understanding, which is key to it to it was only delivered last night, I have not had a chance to read it.

[16:30]

So I think, frankly, long-term financial plans are supposed to be about long-term decisions, not short-term rubber-stamping of immediate decisions in this kind of process, so I am going to abstain on this. I really do not think I can reach an informed decision at all.

12.1.3 Senator S.C. Ferguson:

It has been a matter of concern to my panel and I, that we got the information about: "Please bring this forward" within such a short time before the debate, and, in fact, it came while I was away, and my Deputy Chairman, who unhappily cannot be here today because he is ill, took it up with the Minister for Treasury and Resources. There are a number of questions still that have cropped-up from the various discussions that have been going on during my absence, and the biggest question I suppose is, and I quote here, from the email: "I would be grateful if you would provide details why you, as Minister for the Treasury and Resources Department, require States approval for P.59 before allowing Andium to start trading, as I am struggling to see the link between minor changes to the M.T.F.P. and the establishment of Andium Homes." Obviously, the Minister for Treasury and Resources will explain in his summing up why there was such a rush and everything was dropped on the States at the last minute when these things are important, and, as the Deputy of St. Brelade No. 1 has said, these are all basically affecting long-term decisions, and we cannot just have them dropped on us 10 days before they are going to be debated, particularly when there is a busy week because an extra week has been put in for the States, so I look forward to the Minister for Treasury and Resources explanation.

The Bailiff:

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

12.1.4 Senator P.F.C. Ozouf:

I am going to remain smiling, because it is sometimes a little frustrating to have comments that Deputy Young and Senator Ferguson make, because effectively this is not anything that Members should be concerned about. It is not short-term, as in ... I cannot help but say to Members that we would be criticised if we did and criticised if we did not. If we lodged a Medium-Term Financial Plan amendment prior to having proposed the change for Andium, we would be told that: "Oh, you are proposing financial changes without having given us the transfer agreement." If we had done it the other way around - which is what we did - we are still criticised, and, with the greatest of respect, while still smiling, I do say to you, Senator Ferguson, that this has been flagged originally in the M.T.F.P. It was flagged in last year's budget and has been entirely pre-warned in terms of its consequences. There is nothing additional. There are no additional allocations being made in any different way apart from that which we have already debated, flagged and discussed. And to Deputy Young, he is an accountant, I think, and I think if he does not understand the numbers in the proposition, perhaps he just flicked the pages and he can see a reconciliation, which shows ... and I am sure he has done some double-entry bookkeeping and some reconciliations in his part-time. **[Members: Oh!]** I can get out my calculator and add them up, because I think it is as clear as the day. There is net expenditure. There are 4 schedules, which says "Before" and "After" with the differences set out. It is as clear as daylight, and if Members do not understand the schedules then please tell me what more the Treasury can do to serve Members in terms of clear information. I move the proposition.

The Bailiff:

All those in favour of adopting the proposition?

Senator S.C. Ferguson:

Just a small comment, Sir. Why is the Minister for Treasury and Resources asking the States to approve changes to the M.T.F.P. based on estimates rather than the accurate information that will be available following the production?

The Bailiff:

That is a comment, which you are not allowed to make at this stage of the debate, as you well know.

Deputy J.H. Young:

Am I allowed to say to the Minister for Treasury and Resources, you are quite welcome to have fun at my expense, but I think this is an important matter. These are complex documents and ...

The Bailiff:

Yes, you are not allowed another bash either. **[Laughter]** Very well. The matter before the Assembly is the vote on Projet 59. All those in favour, please show. The appel is called for in relation to Projet 59. I invite Members to return to their seats, and the Greffier will open the voting.

POUR: 30		CONTRE: 6		ABSTAIN: 5
Senator P.F.C. Ozouf		Senator S.C. Ferguson		Senator A. Breckon
Senator A.J.H. Maclean		Connétable of St. John		Deputy M. Tadier (B)
Senator B.I. Le Marquand		Deputy J.A. Martin (H)		Deputy T.A. Vallois (S)
Senator F.du H. Le Gresley		Deputy G.P. Southern (H)		Deputy J.H. Young (B)
Senator I.J. Gorst		Deputy M.R. Higgins (H)		Deputy S.Y. Mézec (H)

Senator P.M. Bailhache		Deputy G.C.L. Baudains (C)		
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

13. Housing Transformation Programme: Memorandum and Articles of Andium Homes Limited (P.60/2014) - proposition of Senator P.F.C. Ozouf under S.O. 26(7) to allow lodging period to be reduced

The Bailiff:

Very well. The next matter is Projet 60, Housing Transformation Programme: Memorandum and Articles of Andium Homes Limited lodged by the Council of Ministers. I am going to ask the Greffier to read the proposition if it is a short one. Yes, it is. Then there is a preliminary request, which the Minister for Treasury and Resources or Chief Minister will need to make to allow this to be debated, because it was lodged on 24th April so it cannot be debated until tomorrow unless the States agrees to reduce the lodging period, so, first of all, can we read it out please, Greffier?

The Greffier of the States:

The States are asked to decide whether they are of opinion - in accordance with paragraph (a)(iv) of P.33/2013: "The Reform of Social Housing" and section 3.39 of the accompany report of the Council of Ministers dated 4th March 2013 approved by the States on 16th May 2013, to approve the Articles of Association and the Memorandum of Association for Andium Homes Limited, as set out in the attached appendices.

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

I think we were expecting for this to be a much longer sitting than planned, and, in view of the approval of the Assembly of the other arrangements for Andium, this would need to also stand alongside it. I would not want to leave the Andium without the Memorandum of Articles of Andium being approved, and so I ask Members if they would be willing to bring it forward so that we can discharge this matter today.

The Bailiff:

If I can just remind Members, the Standing Order has been changed as a result of a recent decision. It now reads: "The States may reduce a minimum lodging period for a proposition if they are of the opinion it is in the public interest to do so."

13.1.1 Deputy G.P. Southern:

I have deep reservations about rushing this through at this stage. It seems to me that this document has to be read in conjunction with the 2 documents that were sent out last night, and I am afraid that, even with my large brain, I cannot take in 2 quite heavyweight documents within a few hours of having to debate them. **[Laughter]** I would suggest not only that we either put this off until tomorrow, but we could put it off until the 17th and we have time to look at all 3 documents. Two of them do not require absolutely our blessing, but nonetheless this one does, and I think it needs to be read in conjunction with the other 2, and I do not think less than 24 hours' notice of the other 2 documents is a sensible way to proceed, so I would be looking to put it off until we have time to understand the whole of these 3 documents and what they mean, because otherwise we may as well just not read them at all. Just keep them closed, and we will just vote on it. I exaggerate a little, but I think we need time to visit the entire package.

13.1.2 Deputy A.K.F. Green

I consider this to be not only in the public interest but in the interest of getting work done in this Assembly. We have a simple choice before us. We agree to debate it now so that we can get on, in the public interest, with the work to set Andium Homes up and allow the staff to get on with that, or we can come back tomorrow and debate it then, but I think I would prefer to do that now, debate it now, discuss it now, and take away the uncertainty from the staff.

13.1.3 Deputy T.A. Vallois:

As you stated, the Standing Order requires the public interest, and I would ask what is the difference if we were to debate it today or 17th June - in 2 weeks. It is still before 1st July of which the States Assembly has just agreed is when the incorporation of the company will happen, and I am quite shocked by the Minister for Housing saying: "Let us get on and do the work." If it was that urgent, then why was it not lodged earlier for us to debate it in an appropriate manner and appropriate time, and with the supporting information provided in an appropriate manner, and not the night before the debate? I think there needs to be more sufficient argument in terms of the public interest test, and sufficient reasoning as to why 2 weeks. It is such bad timing for us to go ahead and debate this. I am sorry, but I do not think there has been sufficient argument so far to agree to raise the Standing Order.

13.1.4 Deputy J.H. Young:

I think, from my point of view, it would give us all a chance to digest the Memorandum of Understanding, which was only sent around last night, which seems to be fundamental to the whole arrangement on which nearly all the answers coming from the Ministers have said: "Do not worry. It all will be all right, it is in the Memorandum of Understanding." I do think we should have a chance to reflect on that, and I am hoping that document goes in the public domain as well.

13.1.5 Deputy M.R. Higgins:

I am also going to urge delay. (1) I have not received that document, because I have trouble getting States emails; and, (2) the Strategic Business Plan for the housing development has not yet come to Members and, I believe, mentions - so I have been told - in the Memorandum. If you have not got that document, and have not even sent it out yet, what hope have we got to understand the whole? I would strongly urge Members, let us put it off to the 17th. It is not going to delay, as Deputy

Vallois has said, and it will be done before the incorporation of this company. Let us do things properly. Instead of being the rubberstamp that this Assembly is reputed to be, let us do our research and vote accordingly.

13.1.6 Deputy G.C.L. Baudains:

As the information other Members are referring to, I believe, only went out at about 10.00 p.m. last night, I just wonder how many Members have seen it.

13.1.7 Deputy M. Tadier:

I think the Chief Minister is holding off. The default position as it remains is that this is not eligible to be debated. Standing Orders are there for a reason, and it is quite interesting that there were only 30 Members in the Assembly at the end of the last sitting when P.P.C. (Privileges and Procedures Committee) brought these through, and there was a big debate of course about whether or not even the Standing Order should be amended, and it was decided not universally that it should be the case, because the definition of “public interest” of course is subjective, so, as things stand, it is not for us, as an Assembly, it is not for us here to make the case as to why this is not in the public interest. It is for the proponents of this proposition now to tell us why the overriding public interest is in favour of moving away from the normal lodging period, away from giving States Members an adequate time to look at the document, and to make an informed decision why that is in the public interest, and not the other way round. That has to be countered by what I believe is the overriding public interest. It is the presumption in which Standing Orders and the spirit in which Standing Orders are written are also in the public interest, and it is that every Member of this Assembly is given adequate and sufficient time, first of all, to make correct decisions, but also for general decorum, so that you cannot simply come along, lay documents which people have not had the time to read. That is the public interest. That is the presumptive public interest position. That is the default position, and, from what I can see, the other argument does not override that default position of the public interest test, so we should not accept that, and it does set a dangerous precedent, which I suggest will not be necessarily applied evenly, and if it means that we can come back (a) either tomorrow, or preferably in 2 weeks’ time when Members do feel satisfied that they can act in the public interest with a clear conscience, that is the correct decision to make. It should not simply be about convenience, and we tamper with Standing Orders at our peril.

13.1.8 Senator I.J. Gorst:

It is unfortunate that this has not been lodged sooner, because then we would not be having this difficult debate now.

[16:45]

The Council of Ministers are asking whether Members would prefer to take this particular item this afternoon or to come back tomorrow morning. There are a number of public interest arguments that could be run about the work that Members of this Assembly could be doing in the public interest tomorrow, or they could continue their work in the public interest in this Assembly tomorrow. These are the difficult arguments that we had when we were trying to amend Standing Orders. They are always difficult. It is right that the Assembly makes the final decision. The choices, as I see it, are these. We either take this item now or we come back in the morning and take it, because the Housing ... the Senator is shaking her head. That is the decision that we are taking.

The Bailiff:

The position, I think, that we need to take is, depending on the outcome of this vote, it would be open to any Member to then bring a proposition about notice that this matter be deferred until the next sitting, so it is not necessarily a choice between tomorrow and today.

Senator I.J. Gorst:

That, of course, is what may happen after this vote has taken place, but surely this vote is about today or tomorrow, and then we may have another vote about whether it is tomorrow or the 17th.

The Bailiff:

Yes, I suppose Members were thinking they might be interested to hear from you as to whether it could be put off for 2 weeks because that might not ...

Senator I.J. Gorst:

Members will have heard from the Minister for Housing that this is an important piece of delivering on the Strategic Plan, and the department need to have certainty about what is happening and whether their start date can be confirmed in July, and they need as much certainty as possible, and that was the argument that I made in asking Members to deal with the previous item outside of the normal M.T.F.P. lodging period, and I think we have made the generality of the decision. These are important decisions, and it would be far preferable for Members to continue to make those decisions at this sitting, be it today or tomorrow, to allow the department to move forward into actual transfer and operational mode in the way that we have already indicated that we want them to do. Thank you.

Deputy M.R. Higgins:

A point of clarification from the Chief Minister. Will we have the Strategic Business Plan in time for tomorrow? No? In which case why are we debating it?

13.1.9 Deputy J.A. Hilton:

Can I just remind Members that it has always been agreed that the House was always going to sit for 3 days this week [**Approbation**] and this item was scheduled to be debated tomorrow, and there has always been an agreement, within the Assembly, that if we are sitting for 2 or 3 days, that we normally adjourn at 5.30 p.m. anyway, because we know we are coming back the next day, and, even if we started; even if Members agreed to lift Standing Orders, which I do not think they probably will, we would never have finished the debate anyway, so why does not everybody agree to conduct the business, adjourn, and come back tomorrow? [**Approbation**]

The Bailiff:

Very well. Is there anything else that can be said on this matter before calling on the Minister to reply?

13.1.10 The Connétable of St. John:

Yes, Sir [**Laughter**] there definitely is. The Council of Ministers do not help themselves. In a lot of these items, we have it, time and time again, they give us information at the last, 11th hour and the 59th minute, as has happened here. We got through the agenda that much earlier. They had anticipated maybe we are going to be here tomorrow. Will you learn, Chief Minister and the Council of Ministers; will the Chief Minister learn, and the Council of Ministers learn, let us have the paperwork, all of the paperwork, in good time, not, as we often see reports coming in the night before and so on. That is all I have to say, but I hope the Chief Minister will learn from this, but I doubt if he will.

The Bailiff:

Very well. I invite the Minister for Treasury and Resources to reply if he wishes.

13.1.11 Senator P.F.C. Ozouf:

I think Deputy Hilton has made some helpful observations, and if it is the will of the Assembly, provided we are going to come back tomorrow if this debate is going to last more than 40 minutes on what is effectively the Memorandum and Articles. Members have had them for 6 weeks less one day, and, yes, there was some information that was sent which is not the subject of States approval, and it is being worked on, but certainly it is up to Members. Members perhaps do not have to read emails, and look at emails and work, as we all have to do, in order to look at last-minute information. We have to do this sometimes. That is the business of work. This is a one-day lifting. I am just looking at the Chief Minister. Does he wish us to maintain, or shall we come back tomorrow morning? What I will do is I will maintain the proposition, and see how Members wish to start. We can start this today. If we are not going to finish it, then we will come back tomorrow. The Members have had further information. I can answer any questions. Nothing that has been sent overnight is going to change the Memorandum and Articles. Those are subsequently sent for information, and we are perfectly capable of answering questions on these issues. It is difficult to criticise Ministers, but this is Ministers doing their job and meeting deadlines. I politely suggest, if the debate goes on until tomorrow, that is fine, but I maintain the proposition to lift Standing Orders one day short of 6 weeks in order to allow us to carry on with the implementation, and, no, this cannot be put off for 2 weeks, because otherwise we will not have a board. What the proposition is effectively doing is appointing the board members, the directors, and I am afraid 2 weeks' time is not sufficient for that. We need to deal with these matters, and we need to deal with proper incorporation matters, and I ask Members to please allow a one-day reduced lodging period for these matters so that the debate can commence.

Deputy M. Tadier:

Sir, may I ask for clarification? Will the Minister give an assurance that if a Back-Bencher in future is in the same position ...

The Bailiff:

That is not for clarification, Deputy. Thank you very much. **[Laughter]** It has nothing to do with the speech that has just been made whatsoever. The matter before the Assembly then is whether to shorten the minimum lodging period to allow the debate to begin today. Is the appel called for? Yes, the appel is called for then, so if you want to shorten it, you vote pour. If you do not, you vote contre, and the Greffier will open the voting.

POUR: 22		CONTRE: 19		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator A. Breckon		
Senator A.J.H. Maclean		Senator S.C. Ferguson		
Senator B.I. Le Marquand		Connétable of St. Lawrence		
Senator F.du H. Le Gresley		Connétable of St. Saviour		
Senator I.J. Gorst		Deputy R.C. Duhamel (S)		
Senator P.M. Bailhache		Deputy R.G. Le Hérisssier (S)		
Connétable of St. Helier		Deputy G.P. Southern (H)		
Connétable of Trinity		Deputy of Grouville		
Connétable of St. Clement		Deputy J.A. Hilton (H)		
Connétable of St. Peter		Deputy M. Tadier (B)		
Connétable of St. John		Deputy T.A. Vallois (S)		
Connétable of St. Brelade		Deputy M.R. Higgins (H)		
Connétable of St. Martin		Deputy J.M. Maçon (S)		
Deputy J.A. Martin (H)		Deputy J.H. Young (B)		
Deputy of Trinity		Deputy of St. Mary		
Deputy S.S.P.A. Power (B)		Deputy of St. Martin		
Deputy K.C. Lewis (S)		Deputy R.J. Rondel (H)		
Deputy E.J. Noel (L)		Deputy N.B. Le Cornu (H)		

Deputy A.K.F. Green (H)		Deputy S.Y. Mézec (H)		
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy R.G. Bryans (H)				

The Bailiff:

Very well. The Greffier has read the proposition, so I invite the Minister to propose it.

13.2 Housing Transformation Programme: Memorandum and Articles of Andium Homes Limited (P.60/2014)

13.2.1 Senator P.F.C. Ozouf:

This is the proposition to approve the Articles of Association and Memorandum of Association of Andium Homes Limited. These are needed to formally establish the company, and, if approved, will then be signed by the Minister for Treasury and Resources on behalf of the States as the guarantor. In simple terms, the Memorandum of Association sets out the powers of Andium, as well as its objectives. The Articles of Association are essentially the rules of the running of the company that the directors and its officers have to agree to. Both documents have been based on those that have been in place for other States incorporated businesses, such as Jersey Post. These have been tried and tested, and provided a firm basis for developing the documents that Members have before them today. I am grateful for the one-day reduced lodging period. These documents are perhaps somewhat different in some respects, because Andium Homes is not a postal provider or a telecoms provider, but a provider of affordable homes. Members, quite rightly, will have wanted to see safeguards in place because of this very important element in the States policy objectives and its service deliveries, so I would point out perhaps particularly 2 matters. First, I would refer Members, if I may, to Articles 16 and 17 of the Articles of Association, which permit the guarantor to give directions if a matter material to public interest has arisen and it is appropriate to do so. This means that the guarantor shall be entitled to give the directors of Andium Homes Limited directions to refrain from doing a particular thing, or to do a particular thing which directors have the power to do. The directors of Andium Homes shall be bound to comply with such a direction. The second thing I would draw Members' attention to is that the guarantor will be able to nominate a guarantor appointee on the board of directors, which means the Minister for Treasury and Resources acting on behalf of the States as guarantor will maintain a positive overview of the activities of the board and the company, and I do not imagine that there is going to be any difference. This is a similar issue, for example, that there is another director on S.o.J.D.C. (States of Jersey Development Company). I do not regard that director as any different because of the excellent relationship between companies such as S.o.J.D.C. and the Treasury, and I have no doubt we have already had the benefit, I am pleased to say, of meeting the board, and I am quite sure that the board and the Treasury are going to, with the Minister for Housing, enjoy a good and positive relationship. The overall documents provide the suite of governance and contractual arrangements that allow appropriate oversight and ongoing management of Andium Homes. They recognise the ongoing relationship and particularly the responsibilities. A Member said in one of the earlier debates that there is no longer going to be a Minister for Housing. The memorandum before Members clearly sets out the role of the Minister for Housing and the framework for ongoing co-ordination and co-operation of Andium Homes through the Treasury, with the Minister for Housing's policy objectives. In establishing Andium Homes, and managing the ongoing relationship, we have got the benefit of experience and lessons that we have learnt with the oversight arrangements for other States entities, and that is why I believe that the memorandums themselves are robust and fit for purpose, and I am pleased to commend them to the Assembly. Also, of course, the individual members of the new entity, which have been previously brought to

the Assembly by the Minister for Housing, they are set out in terms of their length of service in terms of the amendment. It is important that the new entity does have now no longer shadow board members, but directors that are going to discharge those functions. I also, for Members' information, have sent Members the Memorandum of Understanding that is also going to be signed subsequently to this decision. This has been sent out for Members' information. I have not had any questions from the original proposition from any Members and I do not know whether the Minister for Housing has either, so clearly the Memorandum and Articles, I have had no questions at all from any Members about that. So I am pleased that that is the case. If there are questions in relation to the Memorandum of Understanding that Members want after this formalisation of the Articles, then of course the Minister for Housing and I will answer them. The Memorandum of Understanding and the transfer agreement is not approved by the Assembly. It is there for information and similarly there is no approval of the business plan, but it is going to of course be the subject of discussion with the Minister for Housing and the Board. Of course there is going to be nothing surprising in any of that because the business plan is going to effectively implement the will of the Assembly in relation to the delivery of all social housing. It is a mechanical document. I know Members like perhaps to deal with some detail but a business plan and an operational plan is effectively not policy but operational matters. It is operational matters in respect of Andium that is going to be required to put in place all of the regeneration and the upgrading of standards of all of the estates that have been previously set out. More than happy to answer any questions Members may have. I move the proposition.

The Bailiff:

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

13.2.2 Deputy C.F. Labey of Grouville:

I have kept my questions and wishes for clarification on this document to now - for this Assembly - that is why the Minister has not heard from me before. I am broadly happy with it but there are a few issues that I would like him to clarify. They are the 2 Articles that he brought attention to, which was Article 16, and I was reassured this afternoon to hear the Attorney General say that the Minister for Treasury and Resources can give direction to the company.

[17:00]

But I notice from Article 16 it is only in "material public interest" and I would like the Minister to explain why it is just "material public interest" and if that has got to be qualified before any direction can be given to the company. I would also like the Minister to explain exactly how the company is going to be accountable to the Minister and accountable to the States of Jersey, and what mechanism we are going to have to see how they are being accountable to us. I am disappointed that we have no business plan before us, and I would like the Minister to set out a timeframe as to when we might see it and when it can be brought to this Assembly so Members can consider the document. Could the Minister also in his summing up please explain the process that is going to be gone through to appoint the Minister's appointee, and if that will be a proper process through the States Employment Board or how that person is going to be chosen for his duties? That is all, thank you.

13.2.3 Deputy G.P. Southern:

Yet again the Assembly does not cease to amaze me. We have now invented a new way of doing things, which is to vote on something and then find out about it afterwards, investigate it afterwards, and will answer any questions afterwards. That is a wonderful way to do things. It is back to the old days of: "Trust me." We were given about 17 hours to read about 250 kilobytes of information that came last night, which are intrinsically linked into the document we are supposed to have read and understood and asked questions about today. I will be asked to vote upon that. In

addition to that 250 kilobytes of information that we received with 17 hours' notice, which dips into what we are voting on, is a third document, the Strategic Business Plan, which we are told: "Despite the Strategic Business Plan elements", "strategic", get it? We are told that is purely operational. It is just detail. "Trust me, I know what I am doing, I am a Minister." Good grief. Then the Minister for Treasury and Resources suggested that because he had received no questions on the documents he circulated with 17 hours' notice that means everybody must have completely understood it. It might mean that people have not had time to understand it and asked the questions. That could be possible. But that is what we are doing. I do not know about other Members but in those circumstances I have absolutely no option not to vote for this, not to abstain, but to vote against this because it is a completely dangerous, fanatical way of doing business. Vote first, and get the information later. Understand later. That is an absolute nonsense and it is very, very dangerous. The only way we can signal to these Ministers that what they are doing is wrong, wrong, wrong, is to vote against it and leave them without the document safely through and see what they do then.

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

I too had some concerns about the Articles of Association but at the end of the last sitting I spoke to the Minister for Housing and he referred me to one of the officers that was working on it, so I went and had a private meeting with the officer, because I did have questions about property disposal, how that was going to be tackled, because I did have a concern that when we did have those unique cases where sometimes we do get tenants being the landlord of last resort, we do need those special properties which perhaps might be away from everywhere else, I was very much concerned that those types of properties would not soon be disposed of because then we just find ourselves in a mess. Speaking to the officer, he took me through the paperwork and I am content that there is a decent mechanism in order for that protection. I was also concerned about the right of access for Members to information and again, with the officer going through the Articles, I was happy that that was retained. We spoke through other various aspects about how the relationship was going to work, and I was content with what I was told. I do have just 2 further issues and it might be that this will now fall out of the Articles of Association, but they are operational and they are something which I do hope that there is an answer for. It might appear to be a bit obscure but it is in the realms of human resources, how is that going to work? Because it does reflect on what the Deputy of Grouville said, about being able to hold individuals to account. Is this body still going to be linked-in with the States of Jersey human resources function or are they going to have to suddenly come and develop their own? There is going to be a cost to that. How is that going to be worked out? Again, on a similar thing, it is about I.T. (Information Technology). Simply, doing my own bits with the vote.je experience there is an issue about moving services away from the gov.je website, which members of the public go to in order to research things, and again has that been thought about and how is that relationship going to work going forward? Again operationally it is for access for the public being able to track what this body is doing, and I would very much like the Ministerial team to respond to those 2 points in particular.

13.2.5 Deputy J.H. Young:

I want to raise a couple of points on appendix 2, the Memorandum of Association. Obviously what it seems to do is allow the company to do anything which a natural person or corporate person can lawfully do to pursue the objects of the business unless it is prohibited by the Memorandum of Association, i.e. that document. When I look through what things are prohibited, i.e. subject to the guarantor's consent, that is the Minister for Treasury and Resources, clearly item 4(v) makes it plain. The borrowing of money, the issue of loan stock, raising money and anything which alters the security or pledges the assets of the company for security for loans clearly requires the guarantor's prior agreement. But I could not see such provision under 4(b)(i): "To take or grant or

otherwise dispose or deal with any interest in land” which I assume deals to acquire property and to sell it. “(ii) to carry out works to buildings and land; (iii) contract with the States ...” and so on. I could not see any restriction there. Of course that puzzles me because in the earlier items on this subject we heard: “Do not worry there are safeguards about. Yes, of course the company is not going to be free to be able to do acquisitions and disposals without any checks and controls on it.” I am struggling to see where they appear in the Memorandum of Association, which is the legal document which we are asked to agree. Of course, incidentally, by the by here, I do notice that the company is entitled to set up subsidiaries or any other bodies for its purposes, including grants, donations and loans. There seems to be quite a lot of powers there and in the opening it says obviously the policy objectives are for the Minister for Housing and States Strategic Housing Unit but, as I say, those powers are there for the company. The only ones that I can see are reserved are the borrowing powers. It is clear, in the time I have had to read and understand this, I suppose I am going to be told I have misread this and I have missed something. I will wait and see.

13.2.6 Deputy A.K.F. Green:

I will deal with a couple of the questions first about the business ... we will be bringing forward a business plan and we will publish it, but can I remind Members that when we debated P.33 last year, there was R.15, the business plan, that accompanied this. It was a very comprehensive business plan. It was 118 pages from memory which made the case for Andium Homes. So we do need to update it but there are no surprises in the business plan that will finally be approved by myself, as the Minister for Housing, and the Minister for Treasury and Resources in his role as the guarantor shareholder. So there are no surprises there. Of course it will be an organic document. It will change from time to time as circumstances change. We are establishing a company that can be more nimble than the current arrangements. The Memorandum of Association is to provide affordable housing, which meets with the policy objectives of both myself as Minister for Housing, and the States Strategic Housing Unit. I might remind Members that the States Strategic Housing Unit is chaired by myself or chaired by the Minister for Housing, whoever that may be, and has good Ministerial representation: the Minister for Treasury and Resources, the Minister for Planning and Environment and the Minister for Health and Social Services. I see an ongoing relationship between the States and Andium Homes. I see this very much as a partnership with the States setting the overall policy and objectives and Andium Homes delivering, effectively, those outcomes. Of course, as we mentioned, the Minister for Treasury and Resources acting as guarantor does have powers of direction and that is right. It is set out in Article 16 but I fully expect and hope that they will never be used or used incredibly rarely. The majority of the Articles deal with the directors of the board, who they are, how they were appointed, how they can be disqualified or removed, their powers and any conflicts of interest. We have an excellent mix of talent in the members of that board. I played a full role in the recruitment of the Chair and the non-executive members - we have talked about this before when we brought forward proposals for the shadow board - using and working with the Appointments Commission. The tenant directors and the executive directors of course I have worked with for a number of years, so I am well placed to know that this is a good board, a strong board, a board that will deliver affordable housing; a term we must get used to. But the important work of providing decent homes for Islanders for years to come, meeting that Council of Ministers, endorsed by this Assembly, housing our community.

13.2.7 Deputy R.G. Le Hérisier:

Very quickly, one of the phenomena that occurred with boards elsewhere is they become self-serving in the sense that the establishment of salaries and so forth has been undertaken by the board. We have seen extreme examples, for example, with the BBC Trust. All I would ask the Minister under 48 of the Articles, can he confirm that the non-executive directors will set their own remuneration. I have no problem with good talented people being recruited, as I think the Minister

for Housing said, that is excellent. But I think there is a careful balance to be achieved and there have been too many instances of these boards basically running out of control and becoming self-serving. Secondly, under 51(d) and I am perhaps getting into the detail, what does he regard as a “significant or material interest”. This is where the declaration of interests have to be made. Would, for example, being a property owner be such a matter?

13.2.8 Senator F. du H. Le Gresley:

I am going to incur the wrath of my Ministerial colleagues but I am going to propose the adjournment and the reason for that is I am a member of the Council of Ministers and I have not had a chance to read the Memorandum of Understanding, *et cetera*. My name is on this paper. The speed with which we are going we could be voting on this tonight and I do not think that is right, so I would like to propose the adjournment.

The Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on whether we should adjourn or not? Very well, then the appel is called for on whether to adjourn at this stage until tomorrow, Senator, as I understand it. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 20		CONTRE: 14		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator P.M. Bailhache		
Senator A. Breckon		Connétable of St. Clement		
Senator S.C. Ferguson		Connétable of St. Peter		
Senator A.J.H. Maclean		Connétable of St. Brelade		
Senator B.I. Le Marquand		Connétable of St. Martin		
Senator F. du H. Le Gresley		Deputy J.A. Martin (H)		
Senator I.J. Gorst		Deputy of Trinity		
Connétable of Trinity		Deputy S.S.P.A. Power (B)		
Connétable of St. Lawrence		Deputy K.C. Lewis (S)		
Connétable of Grouville		Deputy E.J. Noel (L)		
Deputy R.C. Duhamel (S)		Deputy A.K.F. Green (H)		
Deputy G.P. Southern (H)		Deputy J.M. Maçon (S)		
Deputy of Grouville		Deputy G.C.L. Baudains (C)		
Deputy J.A. Hilton (H)		Deputy of St. John		
Deputy J.H. Young (B)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				

Senator P.F.C. Ozouf:

If I may just say, I voted in favour of that and the Minister for Housing and I will be available I am sure. We are both early risers. I will be in my office at 7.10 a.m. tomorrow morning. If any Members have any questions about the Memorandum of Understanding overnight, if they want any questions answered whatsoever, I apologise for the fact that it was circulated last night. I have said to Members that it was because of the bond issue matters which have been commanding attention, so I apologise but we will be ready and able now and tomorrow morning to answer questions.

The Bailiff:

Can I just inform Members of 2 lodgings, Projet 113, Draft Criminal Justice (Life Sentences) (Jersey) Law, lodged by the Chief Minister, and R.74, Land Transactions under Standing Order 168(3) - Parq du Pont Marquet, St. Brelade - cession and transfer of verges, lodged by the Minister for Treasury and Resources. The Assembly will adjourn and reconvene at 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:16]