

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 15th JULY 2009

PUBLIC BUSINESS – RESUMPTION..... 4

1. Draft Banking Business (Depositors Compensation) (Jersey) Regulations 200- (P.86/2009)..... 4

1.1	Senator P.F. Routier:.....	4
1.2	Connétable S.A. Yates of St. Martin:	4
1.3	Connétable D.J. Murphy of Grouville:	5
1.4	Deputy T.M. Pitman of St. Helier:.....	5
1.5	Deputy G.P. Southern of St. Helier:	5
1.6	Deputy M. Tadier of St. Brelade:.....	6
1.7	Deputy A.T. Dupre of St. Clement:	7
1.8	Connétable J.M. Refault of St. Peter:	7
1.9	Deputy M.R. Higgins:.....	8
1.10	Senator P.F.C. Ozouf:	14
1.11	The Connétable of St. Peter:	16
1.11.1	Deputy G.P. Southern:	17
1.11.2	Deputy J.A.N. Le Fondré:	17
1.11.3	Senator P.F.C. Ozouf:	18
1.11.4	Senator P.F. Routier:	20
1.11.5	Deputy J.A. Martin of St. Helier:	21
1.11.6	Connétable A.S. Crowcroft of St. Helier:	21
1.11.7	The Deputy of St. Mary:	22
1.11.8	Deputy M. Tadier:	22
1.11.9	Senator A.J.H. Maclean:	24
1.11.10	Deputy T.A. Vallois of St. Saviour:	25
1.11.11	Deputy I.J. Gorst:.....	25
1.11.12	Deputy M.R. Higgins:.....	26
1.11.13	Deputy J.B. Fox of St. Helier:	28
1.11.14	Deputy P.J. Rondel of St. John:.....	29
1.11.15	Deputy A.E. Jeune of St. Brelade:.....	29
1.11.16	Deputy P.V.F. Le Claire of St. Helier:	29
1.11.17	Deputy F.J. Hill of St. Martin:.....	32
1.11.18	Deputy E.J. Noel of St. Lawrence:	32
1.11.19	Deputy T.M. Pitman:	32
1.11.20	Connétable J. Gallichan of St. Mary:.....	33
1.11.21	The Connétable of St. Peter:	33
1.12	Deputy J.M. Maçon of St. Saviour:	35
1.13	Senator A. Breckon:.....	36
1.14	Senator P.F.C. Ozouf:.....	39
1.15	Deputy A.E. Jeune:	41

1.16 Deputy S. Pitman of St. Helier:	41
1.17 Connétable K.P. Vibert of St. Ouen:.....	42
LUNCHEON ADJOURNMENT PROPOSED.....	42
Senator P.F. Routier:	42
LUNCHEON ADJOURNMENT.....	42
1.18 Senator A.J.H. Maclean:	42
Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):.....	45
STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY	48
2. Statement by the Minister for Treasury and Resources regarding Waterfront Enterprise Board:	48
2.1 Senator P.F.C. Ozouf (Minister for Treasury and Resources):.....	48
2.1.1 Deputy R.G. Le Hérisssier of St. Saviour:	49
2.1.2 The Deputy of St. Mary:	49
2.1.3 Senator S.C. Ferguson:	50
2.1.4 Deputy J.A. Martin:	50
2.1.5 Deputy M.R. Higgins:.....	51
2.1.6 Deputy G.P. Southern:	51
2.1.7 Deputy M. Tadier:.....	51
2.1.8 Senator P.F. Routier:.....	52
3. Statement by The Attorney General regarding historic child abuse prosecutions	52
3.1 Mr. W.J. Bailhache Q.C., H.M. Attorney General:	52
3.1.1 Deputy S. Pitman:	53
3.1.2 The Deputy of St. Martin:	54
3.1.3 Senator B.I. Le Marquand:.....	54
3.1.4 Deputy M. Tadier:.....	54
3.1.5 Deputy R.G. Le Hérisssier:	54
3.1.6 Deputy P.V.F. Le Claire:	55
3.1.7 Deputy M. Tadier:.....	55
3.1.8 Deputy R.G. Le Hérisssier:	55
PUBLIC BUSINESS.....	56
4. Esplanade Quarter and Waterfront development: deferral (P.77/2009).	56
4.1 The Deputy of St. John:	56
4.1.1 Deputy P.V.F. Le Claire:	60
4.1.2 Senator T.A. Le Sueur:	61
4.1.3 The Deputy of St. Mary:	63
4.1.4 Deputy A.F.K. Green of St. Helier:	64
4.1.5 Deputy J.M. Maçon:	64
4.1.6 Senator P.F.C. Ozouf:	64
4.1.7 Deputy P.V.F. Le Claire:	66
4.1.8 The Attorney General:	66
4.1.9 Deputy R.G. Le Hérisssier:	66
4.1.10 Senator P.F. Routier:	66
4.1.11 Deputy S. Power of St. Brelade:	67
4.1.12 The Deputy of St. John:.....	67
5. Draft Foundations (Amendment) (Jersey) Regulations 200- (P.88/2009)	69

6. Draft Foundations (Continuance) (Jersey) Regulations 200- (P.89/2009).....	71
6.1 Senator A.J.H. Maclean (Minister for Economic Development):	71
6.1.1 Deputy J.M. Maçon:	71
6.1.2 Deputy R.G. Le Hérisier:	71
6.1.3 Deputy G.P. Southern:	72
6.1.4 Senator A. Breckon:	72
6.1.5 Senator S.C. Ferguson:	72
6.1.6 The Deputy of St. Mary:	72
6.1.7 Senator P.F.C. Ozouf:	72
6.1.8 Deputy I.J. Gorst:	73
6.1.9 Deputy M. Tadier:	73
6.1.10 Deputy T.A. Vallois:	74
6.1.11 Senator A.J.H. Maclean:	74
7. Draft Companies (Takeovers and Mergers Panel) (Amendment of Law) (Jersey) Regulations 200- (P.91/2009)	76
7.1 Senator A.J.H. Maclean (Minister for Economic Development):	76
7.1.1 The Deputy of St. Martin:	77
7.1.2 Senator A.J.H. Maclean:	77
8. Draft Income Support (Amendment No. 4) (Jersey) Regulations 200- (P.93/2009)	78
8.1 Deputy I.J. Gorst (The Minister for Social Security):	78
8.1.1 Deputy G.P. Southern:	78
8.1.2 Senator P.F. Routier:	79
8.1.3 Senator A. Breckon:	79
8.1.4 Deputy R.G. Le Hérisier:	79
8.1.5 Deputy A.K.F. Green:	79
8.1.6 Deputy J.A. Martin:	80
8.1.7 Deputy I.J. Gorst:	80
8.1.8 Senator A. Breckon (Chairman, Health, Social Security and Housing Security Panel) ..	83
8.2 Deputy I.J. Gorst:	83
8.2.1 Deputy G.P. Southern:	83
8.3 Deputy I.J. Gorst:	83
9. Jersey Financial Services Commission: appointment of Chairman (P.101/2009)	84
[Debate proceeded in camera]	84
ADJOURNMENT.....	85

The Roll was called and the Deputy Greffier led the Assembly in Prayer.

PUBLIC BUSINESS – RESUMPTION

1. Draft Banking Business (Depositors Compensation) (Jersey) Regulations 200- (P.86/2009)

The Bailiff:

We return then to Projet 86, the debate on the principles. Does any other Member wish to speak?

1.1 Senator P.F. Routier:

My understanding is that every Member in this House would like to see a depositor compensation scheme put in place as soon as possible because I generally believe that people would want to be able to give the protection that people require to have their deposits protected. With that in mind, I do wonder what it is that any Member would want to do to perhaps not allow that to happen, to put in danger the reputation of our Island because we want our banking industry to be able to grow and to have the confidence that people require to be able to have the confidence in placing any funds within any Jersey bank. I would perhaps just like to make the point that we are all aware that the Scrutiny Panel do want to scrutinise this, and quite rightly so. The door is wide open for that to happen. The Scrutiny Panel is able to scrutinise the Regulations and they could do that once we have approved the Regulations today. That does not stop them from scrutinising it, especially when we look at the Regulations in detail and compare them to other jurisdictions. They do mirror a lot of what other jurisdictions already have in place and those other jurisdictions are our competitors. For us not to be able to have similar Regulations in place, which our competitors have, does put Jersey at a disadvantage. We did hear an example yesterday which was derided to a certain extent. I think it was Senator Le Main who mentioned that there was some wealthy person who was thinking about moving funds to Jersey and decided not to and the point was made, well, that would not affect that wealthy person because it is only £50,000. But the issue was that they did not have the confidence in the Jersey banking system and that was the issue for them. It was not that the £50,000 was the matter for them. They wanted to have the confidence that Jersey was continuing along with a well regulated finance industry, which it has. I think what I would ask is that Members do support these Regulations and I would ask that Scrutiny take that into consideration, that the Island does need to have this in place and that they will be able to scrutinise and bring forward amendments once the Regulations are in place, so I hope all Members will recognise that there is a need for this. Our local residents, our international investors who want to place money in Jersey, do require the necessary protection which this will put in place and I urge Members to support these Regulations.

1.2 Connétable S.A. Yates of St. Martin:

I would like to say a couple of words about a depositor compensation scheme and I listened to the Deputy of St. Mary yesterday who has a silver tongue and can talk interminably about nothing. **[Laughter]** He is also remarkably naïve. I was really surprised when he said that a depositor compensation scheme that had a limited indemnity of £50,000 would not serve a person or a corporate entity who was going to invest £100 million. Well, of course it would not. It is not intended to. It is intended to show investors that this jurisdiction is well regulated and it has the nuts and bolts in place to compensate small investors but without it, it would give the impression that the finance industry over here has not done its homework, so it is about confidence. Deputy Le Hérisser yesterday spoke about confidence. It is having confidence in a system and I think this is one of the struts in the system that we must put in place. I wait with bated breath to hear Deputy Higgins who has issues about the Scrutiny, and I would follow with interest what the previous speaker was talking about; confidence. This is not about seeking to indemnify corporations or individuals who invest hundreds of millions of pounds. This is basically a strut in the structure of

the roof truss of the finance industry over here and we must put it in place. So I must ask Members, please, to support this, get it done. We will sort out the issues with the Scrutiny Panel when it is in place.

1.3 Connétable D.J. Murphy of Grouville:

If I can bring this down to a more human basis. I once worked for a small bank that went into liquidation so I know about the problems. I know about the people coming into see us and I have heard all the stories, all the hard luck stories, and all the genuinely serious repercussions arising from that. It goes well beyond having something in place to suit the G10 or the G8 or the G59. This goes down to humanity, to ordinary people in the street putting their savings into a bank and trusting that bank with their money. At the time, I obviously had wished that there was a depositor protection scheme but at the same time, I was asked by the liquidators to stay on to help them sort out the mess and it was a mess. The staff were not involved in it. It was done at a much higher level and we were affected, obviously, by it very heavily. So, as I say, down to the human level, that is very, very important. Forget G10, G8, et cetera. It is most important for the people who are putting their savings into banks, the small people, the people out in the street like us who are saving their money and buying a house or doing something like that, so think of them when you are thinking of this. The other point I would like to make is that I have read this thoroughly. I have been through it. I can see absolutely no problem with it whatsoever. It is an excellent scheme and I shall be most certainly backing it.

1.4 Deputy T.M. Pitman of St. Helier:

I can keep this short as it is mainly to ask one or 2 questions. Like one or 2 other Members, I would have thought that this subject is one of those rarities that all Members can and do, I think, agree on. However, I would like some answers in the light of what I heard yesterday. I must say that I was very disturbed and, indeed, a little incredulous to hear the Chief Minister state effectively that Jersey's whole reputation could almost vanish in the space of a few weeks and I really would like it if perhaps the Minister for Economic Development or perhaps the Chairman of the Scrutiny Panel would throw some more light on that, certainly for me, because I am not an expert in the field. I do have to say that I am a bit surprised, given certainly the different attitude to this at the senatorial hustings, certainly from some of the Ministers, so I would like that highlighted for a few of us because - I hope it is not - it does sound like a certain degree of scaremongering. The second point comes on from this. I would like to hear about Scrutiny and what seems to be, frankly, a shocking lack of co-operation from the Minister for Economic Development so I would hope that either he or the Scrutiny Panel Chairman can highlight this because I think we have to view this in a slightly wider context. Most of the public think we are all trotting off on our holidays, our very extended holidays next week, and I know I am just an ordinary member of Scrutiny but I am on one panel and 2 sub panels. I am about to start chairing another one next week. I will be giving up my lunch hour like several colleagues today to make sure another report is finished. To hear yesterday what really appeared to be just railroading someone into a position I think is not acceptable. It is certainly not good government. I want to know the truth about this. Is Jersey just going to collapse and be blown away in a month because, quite frankly, if that is true, it is quite frightening. I just cannot believe it and I would have to ask what the Council of Ministers has been doing because their attitude has changed so dramatically. Those are the questions I really want asked and I really do hope we are going to hear the Chairman speak soon. I hope that the Minister will stand up and give us some answers because I cannot believe that an Island with Jersey's reputation, as we are constantly referred to, is going to shrivel up and vanish in the space of a few weeks.

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

Until recently, confidence in banking in Jersey could be absolutely and rock solidly assured because of the simple reason that we only deal with the top 500 banks. All of a sudden we have to have depositor protection in place using money from the strategic reserve which had previously

been untouchable. It belongs to a different cast of money. No one else is allowed to touch it but here is a whizz of an idea, we can use some of it as some sort of insurance fund to protect our banks, to protect our reputation. At the same time, along come Ministers with a completely new version of Scrutiny. I had a quick look. I looked at Article 79 in the Standing Orders and Article 72 and 74 in Standing Orders and nowhere does it say it is advisable for the States to pass any legislation or regulations it wishes and then, having agreed it, refer it to Scrutiny to scrutinise to their full extent. That sort of co-operation is the sort of scrutiny we want. What a load of childish nonsense. We have a system. We know in this Chamber that an issue like this needs proper scrutiny. You do not take £100 million out of what was previously something untouchable, put it into a pot and say: "This is for you, Minister, so that you can rest assured and guarantee our reputation." Come on, pull the other one, and you might hear some music. We know that this must be scrutinised and scrutinised properly. We know we have got the space to do it because we are just going to take a break. We know that the Scrutiny Chairman, if he has got any sense at all, will say: "I wish to scrutinise this and I wish to scrutinise it properly. We must proceed in a proper manner." I look forward to hearing from the said Chairman soon so that we can agree on the principles because that is the way the system works and then accept that it will be scrutinised properly, fully, and will come back early in the next term, in September ... before the end of the month, September probably. All right, early October, October 4th, right, fine, so that we can get on with things. I look forward to hearing from the Chairman. Can we get on with it, please?

1.6 Deputy M. Tadier of St. Brelade:

I thought that the Deputy of St. Mary came under some unfair criticism and obviously because he has spoken already he is not able to answer that. I will simply say on his behalf that it is better to speak with a silver tongue than with a forked tongue. **[Laughter]** I am very disturbed and I imagine that the public and the international community would be as well by what the Council of Ministers have been coming out with. They have effectively told us, from what we have heard today and yesterday, that Jersey is in such a precarious position in terms of its finance industry that it cannot do for a couple of months without a depositor protection scheme because that is how shaky and sketchy our whole coveted financial sector is, that it will collapse overnight if that is not the case. We also heard a story, which I am sure is quite true, by Senator Le Main - even though it was ultimately unverifiable when he would not provide any of the facts to anyone other than the Minister for Treasury and Resources if he was pushed on it which does not seem to be much help to the rest of us - that a big investment was lost to the Island simply because we did not have a depositor protection scheme. I am sure that tale is quite true. I have a similar story from an American investor whom I know through a friend, who wanted to invest 238 million dollars in Jersey, put it on deposit, and he was told: "You realise that Jersey does not have a depositors compensation scheme yet" and he said: "That is fine, I do not mind, because I know that Jersey is a well regulated jurisdiction. Also I believe that we have a political guarantee so that does not bother me either. I know that Jersey has a long-standing history of banking excellence. Also Jersey has the top 500 banks so I know that my 238 million dollars, which I am saving in Jersey, will be safe. I also believe that they do have a plan to bring in a depositor compensation scheme." Unfortunately, I cannot reveal any of the details of this individual investor because it would be wrong for me to give out private information but I will certainly make it available to the ...

Senator T.J. Le Main:

He wanted me to disclose my information.

Deputy M. Tadier:

If he wants to make an interruption or point of order, that is fine. I am willing to take a ruling from the Chair on that, but I will be quite happy to give the information to Deputy Higgins if he would like it. The next point, I think, is that the complete duplicity that we are being faced with here from the Council of Ministers that suddenly overnight, or at one given point in time, a depositor

investment scheme is absolutely imperative for safeguarding of the financial position of Jersey seems to beggar belief because we know that for the past several years ... I believe Deputy Higgins has himself, in his capacity outside of the States before he was elected, been lobbying strongly for this, as have other people. So simply to overnight come back and say that we need this, it seems to smack of political manoeuvring of the worst order. Lastly, rather than debating the actual proposition itself, which I think in principle nobody seems to have a problem with, we seem to be debating the Deputy's right to call this for scrutiny. Now, I believe that this would be a more dangerous situation for the Island rather than not simply adopting straight away a depositor compensation scheme which we have done quite well without for now which certainly we do need to put in place but not without the correct scrutiny. I would suggest that it is a dangerous precedent to undermine Scrutiny in this way. **[Approbation]** Now, Deputy Higgins may choose to make a speech, no doubt he will, but presumably he does not have to because it is his absolute prerogative, under the rules that this House has set up, to call this for Scrutiny so that it can have the relevant eyes cast over it and to make sure that he and his panel are absolutely satisfied before this gets set in stone. That is what this House has decided to do in the past. This is the process and I think it would absolutely be a dangerous precedent if we did anything else. So Deputy Higgins - while he might make a speech, he does not have to - is quite within his rights just to call this and that is entirely a decision for him.

1.7 Deputy A.T. Dupre of St. Clement:

I do not know if the Chief Minister, the Minister for Treasury and Resources and Deputy Higgins did get together around the table in a darkened room last night but many people have chipped in, folded and left these 3 people holding the cards. I would suggest the time has now come for Deputy Higgins to be seen to show his hand and put his cards on the table, as he does seem to be holding the aces in this very high stake and important matter.

1.8 Connétable J.M. Refault of St. Peter:

I am really just sitting back here and waiting to see how the debate was flowing and unfortunately, although we all agreed on Proposition 105 in 2008, that there was a need for the States to bring forward a depositor compensation scheme, and the general tone of the debate has been that we should. However, the debate seems to have moved on now into a different quarter altogether and we seem to be arguing now whether it should go to Scrutiny or not. Therefore, what I would like to do, if I possibly could, is inquire of Deputy Higgins whether he took up the offer to meet with the Chief Minister last night to discuss the problem or whether he did not. In either event, if I do not get an answer, I would like to suggest that we look at Standing Order 79 and test the mood of the House by the appel to see whether we do want this to go to Scrutiny or not.

The Bailiff:

Well, Connétable, are you formally making a proposition under 79, that is, that any Member of the States may propose without notice that the debate on any proposition be suspended and the States request the relevant Scrutiny Panel to consider having the proposition referred to it? I have to just remind Members that whatever the outcome of that, it would still be open to the Scrutiny Panel to call it in if they wish.

The Connétable of St. Peter:

I make the proposition.

Deputy M. Tadier:

May I make a point? It seems very strange that when we have not heard everybody speak that we should be making a decision whether it should be referred to Scrutiny or not. **[Approbation]**

Deputy M.R. Higgins of St. Helier:

I am prepared to speak if the Deputy would like to listen to what I have got to say.

The Bailiff:

Connétable, it is a matter for you. You have asked whether Deputy Higgins is willing to speak but, on the other hand, if you wish to propose Standing Order 79, now is your opportunity.

The Connétable of St. Peter:

I am quite happy to give way to Deputy Higgins to respond. I think that would be very useful at this point. However, at the end of that, I would still like to refer back to Standing Order 79, please.

The Bailiff:

Very well, so that is your speech. Deputy Higgins, do you wish to speak now?

1.9 Deputy M.R. Higgins:

I will speak on the principles, yes. The reason why I have waited is that I wanted to hear what Members had to say so that I could try to address their points. I do not think there is anyone in this House who can criticise me for my position on depositor protection schemes. I have been campaigning for a depositor protection scheme for probably 10 years. I have been intimately involved in devising the scheme in 2000 to 2002 which involved consultations with the Bank of International Settlements and other bodies, massive consultation in the Island, and a scheme was produced by the Financial Services Commission which, contrary to what was being alleged yesterday, was passed by the Financial Services Commission and I have got a copy of the minutes of it. **[Approbation]** I know he is shaking his head. They do. The point is, though, that the scheme was approved by the Commissioners. It did go to politicians. Whatever happened after that is up to them.

Senator P.F.C. Ozouf:

Would the Deputy give way?

Deputy M.R. Higgins:

No, I am not going to give way. I am committed to depositors' protection schemes and I stood for election to the States very much on a platform of a need for a depositor's protection scheme. The last thing that I want to do in one sense is to hold it up but I also want to make sure that we have a scheme that will work and that is fit for the Island. Now, I was castigated throughout the elections for scaremongering essentially: "The Island is absolutely secure, our banks are safe, there is absolutely no need for a depositor protection scheme" and so on. Constantly being ridiculed by many of the Ministers sitting across the benches from me and they have done a complete role reversal. Now that they are coming forward with a scheme, all of a sudden, it is now essential that we have got to rush it through. Absolutely dangerous. Well, I might add that we had a Scrutiny hearing on 2nd July and we asked the Minister for Economic Development and his advisers to run through some of the points that have been raised. I will go through them when I am dealing with Senator Le Sueur's points. For example, he raised the Michael Foot Review. Now, Michael Foot has been commissioned by the U.K. (United Kingdom) Government to review designated territories and offshore centres in terms of their financial stability among other things. He is reviewing the finance industry and the systems that we have in place here. He produced an interim report not too long ago and in his report he did not state explicitly that the Island had to have a depositor protection scheme. It is a public document. It does not say explicitly that we need to have it. He said on the other hand that if we do go for one, we should bear in mind certain considerations. I also phoned H.M. (Her Majesty's) Treasury the other week before the hearing to speak to a member of the Michael Foot team to find out what the position was and, again, I was told that it was not an explicit requirement. In fact, when I was discussing it with him, I said: "The States are going to be debating this. It is going to go to the States. It goes through a particular process. We will be debating the principles of the scheme" and I said: "Everybody in the House will support it. I will support it. Every member of my Scrutiny Panel will support the principles of having a depositor protection scheme. Then, as is the way of the Jersey system, the Scrutiny Panel then have

the opportunity to scrutinise the actual proposals and to see if it is the best possible scheme.” I then said: “Would we be thought of any less if that was happening because there is a commitment on the Island to get a good scheme” and the comments that I received back assured me that there was no problem. Now, I can only go by the person I spoke to and so on but that is the understanding that I got at the end of that conversation. Now, Senator Le Sueur also mentions the Group of 20. Well, the Group of 20 is discussing all sorts of matters to do with the financial system, the crisis that has happened, the cause of it, and we do know, yes, there is a political view of some such as Angela Merkel or President Sarkozy, and even some in the United States, that are anti offshore finance centres and it is not a question about depositor compensation schemes, it is the mere fact we exist. So it is not a question that whether we have a scheme or not that it is going to make a difference. It is going to be the fact that we are here, they see us as a problem, especially when they have been bailing out their own banking systems and are putting tremendous amounts of public money to secure the system and they believe that the offshore centres have had a role in the problems that we have had. I am not in that camp but, at the same time, these are the sorts of perceptions that are coming over. It is not specifically about depositor compensation. They will have a go at us whether we have one or not, rest assured. It was not mentioned by Senator Le Sueur but when we had the hearing, we were told: “Oh, the I.M.F. (International Monetary Fund) was interested in a depositor protection scheme.” Well, the I.M.F. review was about money laundering. It was looking at our other types of regulation in that area. It was not looking at depositor protection. In fact, we asked at the hearing whether there was a particular requirement in the I.M.F. for a depositor scheme. No, there is not. So all I can say is we have gone through an awful lot of scaremongering and many Members have been taken in by it and it is scaremongering. Now, there is also the comment that the banks are looking at rationalisation. The banks are always looking at rationalisation and I can tell you, no matter what we may think, we do not control the banking system in this Island. It is determined by the head offices, wherever they may be, and they will take into account any factors they choose to consider and where depositor protection is one of them, it would be a minor one. They are looking at the costs of operation. Also there is almost a race for the bottom. They play off one financial centre against another to try to get the best deal. We have seen it in the past and it will happen again in the future. **[Approbation]** So it is not just depositor compensation that will be a factor in the decision whether to locate here or elsewhere. We have been told that depositors are placing their deposits elsewhere. Well, it is funny, I have raised this very point. I have asked questions in this House of the Chief Minister or the Minister for Treasury and Resources in the past and mentioned this and I have been rubbished: “Oh, our financial system is fine.” All of a sudden, they are departing from this. Also mentioning something else going back to the Chief Minister and, in fact, it was also a point that Senator Le Main mentioned about all these people with their very large sums and the fact that they were thinking of depositing their money in Jersey. Well, when the political guarantee came in last year, it was restricted purely and simply to Jersey residents. It did not cover any money that was being held by an overseas resident. Now, since that happened, I have brought it up that we could lose depositors. I was told: “No, we have not been losing depositors.” I would also make a point going back to the point that was made yesterday that very wealthy investors do not necessarily look upon depositor protection schemes as being important. After all, they are entitled to £50,000 in any account that they have with any group so if there are 5 banks in the group and they have got 5 deposits in excess of £50,000, it does not mean to say they are going to get £250,000 back and lose the rest. They will get £50,000, no matter how much money they have got in the account. What they do is they look at jurisdictions and the people, the bank, and the performance of the bank, and they will decide whether they are going to deposit their money with them. There is a lot of scaremongering about these wealthy people and whether they are going to put their money here. I have spoken to international bankers in the past and they have stated that their customers, who are putting in minimum deposits of £1 million, let us say, do not look at a depositor protection scheme when they are trying to decide where to put their money. I hope from the few comments that I have made here with regard to Senator Le Sueur’s comments and the comments of others that there is a tremendous amount of

scaremongering and that is exactly what it is. Just going back to some of the other points that have been made. Deputy Martin thought that there might be a personality clash between myself and the Minister for Economic Development. I can say that is far from the truth. I happen to like the Minister for Economic Development. We even have coffee together on occasion and discuss matters outside the process just to try and have a dialogue and to see what is going on. We get on quite well. There is absolutely no personality clash whatsoever in my stance and the stance of the members of my committee. That is the first thing; on a personal level, fine. Deputy Le Claire mentioned at one point that it is not a question of one in the eye for them and one in the foot for us or whatever. The point was again, I think, was there a personal animosity? Is it point scoring was another point that was submitted, I think, by the Chief Minister. It is not point scoring at all. I want to see a depositor compensation scheme in this Island and I want to see a good one and I do believe, and I will come to it shortly, that there are possibly some problems with the one that we are proposing and it is not quite, as you might think from some of the comments that have been made, comparable necessarily to our competitors. As I say, it is not trying to score points, not trying to get one in the eye for anyone else. I genuinely want to see a scheme but I want to see the best scheme possible. Deputy Le Hérisier was, I think, feeling for me yesterday when I was coming under constant attack. I have very broad shoulders. I am quite happy to take the criticism. I am sorry, I happen to believe that what we are doing is correct by examining this thing. We are trying to do it in the best interests of the Island and for everyone in the Island and, therefore, they can say what they like. I am quite certain why we are doing it. We are doing it for the right reasons and we will make sure that we have a first-class scheme. Let me just run through some of the points. Deputy Martin also asked what is wrong with it, or whatever, I forget what she said, but let me mention a few points. One of the biggest problems was raised by Senator Ferguson yesterday and that is the £100 million liability to the States of Jersey, the money that would have to come from the strategic reserve. Looking at it, I thought: "Yes, why are we, the States, putting this money in? Why do we have the liability?" especially when the Oxera report, which was commissioned by the department which we have been seeking to get from February of this year, which we received on 1st June, does not explicitly state in there that it should be a government-funded scheme. It is an option. There are other ways of funding these schemes. They also say in this document that it is primarily funded by the banks themselves. As I say, other schemes have provision. Our scheme does not have provision, for example, for the fund manager to go out and borrow money from the money markets or capital markets or whatever. He can borrow some money from the Treasury but I do not see an interest element in that. Also this document; this is produced by 2 bodies, a combined document, the Basel Committee on Banking Supervision, part of the Bank of International Services and the other body is the International Association of Deposit Insurance. Now, this body was created shortly after I did my work on our scheme in Jersey in 2002 and, in fact, I might add, the people who helped me with my scheme at the Bank of International Settlements were the leading figures in this body and created it, and they went through my drafts of the law and said: "This will work, this will work, this is good, this is good. We have a problem here, watch out for this" and we modified our scheme accordingly. They were a tremendous help to us here in Jersey and these are the people that we will be relying on for the expert support of the committee as it scrutinises this legislation. This document, by the way, also states that the scheme should really be funded by the banks. Also an article recently, it is a speech of Paul Tucker, the Deputy Governor of the Bank of England on financial stability and he spoke to the British Bankers' Conference on 30th June and he is proposing they change their depositor compensation scheme away from what we are proposing, believe it or not, to a different form because an element of what they call "moral hazard" has come into the system. Now, what do we mean by "moral hazard"? What we are saying is we are proposing a scheme where every depositor is entitled to £50,000 if a bank goes down, okay? Now, if you are a bank, you think: "Oh, great, okay, we are going to pay out some money" but in our scheme, in particular, the government ... we are going to back this, we may be putting in money ... and we have caps, by the way, in our system. A bank is limited to, I think, £2 million in one year. It has got a cap of £5 million and £10 million, depending on the size

of the bank. There is a difference between criteria within the law. We are limiting their commitment to this scheme so in any 5 years, £100 million in the scheme; any one bank, £5 million or £10 million, and so on, so we are limiting their liability. We are underwriting this scheme. Now, what does that mean? If you are a banker, and bear in mind, the banks are the ones who are doing all the lending and, of course, they know this scheme exists and that we are there behind it. People have confidence in it and they are going to make money out of the lending that they do. We have absolutely no control whatsoever on the nature of the risk and the nature of the loans they are making. Look at the system, the way the world financial system has collapsed. Why? Because the banks were reckless. They were giving money to the sub prime mortgage people. **[Approbation]** They were lending it on credit cards and companies to people who could not repay. Who has picked up the tab? The public. Now, under this scheme, we are basically underwriting it to £100 million and my concern here is that if the banks are having this underwriting, there could be more risky lending. We have no control over them. We do not even know what their deposits are. To a certain extent, we do not even know how much they have lent. What I am trying to say here is there is this “moral hazard” argument. What is the U.K. talking about doing? What is Paul Tucker talking about doing? They are talking about going away from the ex-post scheme that we are talking about which is a scheme where if a bank fails, then all the other banks chip into the fund to pay out the depositors of the failed institution. They are talking about setting up an ex-ante system. They are talking about having a standing fund of money where the banks pay in before and why? Because if the banks are going to engage in risky activities, they pay a higher premium into the fund because remember, with our scheme, if a bank fails, the bank that fails is not going to pay anything. It is going to be in liquidation. It is going to be whatever they can get from the fire sale afterwards. It is all the other banks that are picking up the pieces of the reckless one. Under the scheme that the Bank of England are now looking at, it is putting the money up front and all the banks engaging in risky activities will be putting in a higher proportion. Now, I have never been an advocate of that type of scheme but, reading some of the arguments, maybe we should be considering it. The other thing about government funding, we are told that our scheme is very similar to the Isle of Man or Guernsey. The Isle of Man does have a government element. Their scheme is capped at £200 million; £150 million is coming from the government but what you have not been told is at the moment, it is only for one year. It was brought in in October of last year and it is due to expire in October 2009. Our scheme is a permanent scheme; no provision for rolling it over or changing it. Theirs specifically dealt with the crisis for a period. The other thing too was their scheme originally was for £20,000 limit on a deposit and the government money would be coming into top it up to £50,000. That is going to be reviewed as well. The Guernsey scheme is done differently. They are using a captive insurance product. They have got a fixed element of £20 million up front and they are also insuring it, so there are different models that we could adopt. Now, many people here have heard all the scaremongering, we have got to have it and all the rest of it, we have got to rush in. You are committing States money, £100 million, and you want it to go through on the nod and so on. I am not prepared to do that. I thought that the incinerator was a fiasco. **[Approbation]** I still think it was badly done and I do not want to see another £100 million committed in any way. As far as I am concerned, there are compelling reasons for calling this in and I shall do that. What I will also say too is the schemes are not comparable. Under this scheme, we are proposing that individuals, you and me, your wives, your deposits will be guaranteed up to £50,000. If you happen to be in partnership with someone, not a joint account because joint accounts are covered - you each get half of the sum in it up to £100,000 - but if you are in partnership with each other running a business, you are not covered. If you are a small and medium enterprise, you are not covered. If you are a charity, up to £50,000. If you have got a trust fund for your children for education, yes, you are covered. If you have got a trust fund for any other purpose, you are not covered. If you have client accounts where you have money from your clients in your business; not covered. In the other jurisdictions ... What we will be doing, by the way, in Scrutiny, is comparing what is being given by our competitors and I have had a look at some of them. They are offering some of these products or these protections that we are not offering under

our scheme so our scheme is comparable. It is not, it is true, all the same. Not backed by government money in many cases, the vast majority of schemes not backed by government money. So, as I say, a lot of scaremongering is going on. I am not going to spend time going through the details of everything else. I know the Constable may try and change that but I hope States Members will agree to Scrutiny because we will scrutinise it properly and we will give you the evidence from what is going on in the different centres and we will give you our recommendations and we will do that as fast as we can. Now, what I would say is, I think going back to some of the comments that have been made about Scrutiny, I think we have been treated pretty badly to be perfectly honest. It has not been a personality thing. My committee offered the department way back in February, very early on ... they knew I had a particular interest in this topic, they knew that we wanted to scrutinise it. We put some time aside for it early on so that we could be consulted. Now, we know that policy information changes and we were not asking to get involved and we did not want to interfere with what they were coming up with. What we did want, however, was to be informed of what Oxera was saying, or some of the others, so that we could have the background knowledge so that when this matter did come before the States, we were far better equipped to be able to scrutinise it quickly and to decide whether the scheme was appropriate. We felt we were misled. In fact, personally, I would go as strongly and say we felt we were lied to. We asked about the Oxera report. We were told ...

The Bailiff:

Deputy, I am sorry, you cannot really allege that you were lied to.

Deputy M.R. Higgins:

Okay, it was a feeling, but I will say that we were misled. We are very sensitive people. I felt anyway personally lied to. The point about this is the Oxera report was produced in February. The difference between the February draft and the May draft is largely cosmetic and, in fact, it also contains some cosmetic amendments to try to minimise any comments about government funding. Downplay the government funding essentially is what has happened in the documents. Now, the only other thing that was taken out of it, and I fully agreed with it being taken out, was some information about bank deposits in the Island. They were all anonymised. Each bank was given a number and certain deposits and certain calculations were done but when they were grouped together, it might have been possible to identify which institution they were referring to. We have no intention of hurting any bank or disclosing any confidential information and therefore had it even been given to us, we would not have revealed that so there were only minor tweaks to the actual document. While I mention confidentiality, I will mention something else. I think it was at the last session that the Minister for Treasury and Resources asked me a question about whether we were going to call it, whether it would be ready for the 14th and so on and I produced one volume of documents. Well, there were 4 of them. It is about that thick, the paperwork that came. It came with a confidentiality clause. The whole thing was confidential. How the heck can you scrutinise something effectively if everything is confidential? Now, what I did was I agreed personally to sign the confidentiality clause. Why? So I could go through it for the benefit of the rest of the panel to see what was genuinely confidential. If there are 6 pages in there that are confidential, I will be surprised and, again, it is only those figures that relate to the bank deposits. As I say, there is not one single member of my committee that wants to damage the finance industry and any of those banks. Now, at the present time, we have not got the rest of the documents free of the confidentiality clause. Now, they have sent some response, I think it came yesterday, and we are going to try and negotiate to whittle it down so that we can do the job but it is a crazy situation in the first instance that the Scrutiny Panel can ask to be involved in an early way, not even as a critical friend, just keeping themselves informed so that when they come up with their final proposals, we are knowledgeable and can deal with it. That is one thing. Then to be tied up with confidentiality clauses so you cannot ask questions and probe. I know that people in the States have learned to get around confidentiality clauses. We are new to the States, it is a hindrance for us

because we have not learned the techniques yet. So the bottom line is, I think I have tried to give you a message that it is not personal. If we do scrutinise, it is for the best interests of the Island and I think there are some serious potential flaws in the document. We will have international expertise assisting us. We will be moving as quickly as possible and as far as the international community is concerned, they can take the message away from this House that if it passes the principles, and I will be voting for it as well, that we will have a depositor protection scheme in this Island shortly but the scheme will be one that we can all, I think, believe in and trust. I will leave it at that point.

The Bailiff:

Deputy Higgins, for the sake of assisting the Assembly procedurally, could I just clarify, given what the Connétable of St. Peter has said. He has indicated that he may be bringing a proposition to refer the matter to Scrutiny. You, in fact, are not bound by that vote if it were to be against it going to Scrutiny. You have the right to call it in. I think it might assist Members, if you are able, to tell Members whether you would still be calling it in even if the vote went against you, so at least that will help Members in deciding whether that is worth bringing such a proposition.

Deputy M.R. Higgins:

Yes, I can say that I believe there has been a lot of misinformation and scaremongering. I believe this has to be scrutinised in the interests of the Island and yes, I will call it in when you ask me.

The Bailiff:

Regardless?

Deputy M.R. Higgins:

Yes.

Deputy I.J. Gorst of St. Clement:

Could I ask the Chairman for a point of clarification? I wonder if he would be good enough to provide Members with a copy of the letter or documentation that he referred to from the Foot Review confirming that it is not necessary at this point to pass this piece of legislation today.

Deputy M.R. Higgins:

I am not in a position to do that because it was a telephone conversation I had with Her Majesty's Treasury. I will also state as well that when Ministers were asked on each of the points by G20, I.M.F. and everything else to produce evidence, they produced not one scrap of evidence either.

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

While the Deputy is on his feet, may I ask a further point of clarification? He has referred to 3 things. One, he has referred to doing a review and coming back shortly. What is the time scale? The second one is he has referred to a telephone conversation with H.M. Treasury. What is the position of the person he spoke to and what is their seniority, et cetera? Thirdly, I am not sure it is appropriate to ask this point but I will. My understanding was that the panel met last week and at that point, they were minded not to call it in and could he explain what has changed since, as I understand, their meeting last week and presumably after the weekend.

Deputy M.R. Higgins:

I may need the assistance of the Deputy to go through and answer all the questions. First of all, dealing with the Michael Foot person, I do not have the details here so I cannot give you the name or the title and so on of the individual concerned. It was the office at H.M. Treasury with the team dealing with it because I have their card and I phoned them. Also, sorry, your second point?

Deputy J.A.N. Le Fondré:

The second point was define "shortly", time scale, please.

Deputy M.R. Higgins:

Well, the time scale for Scrutiny is laid down in the Standing Orders and we are looking at a maximum of 4 States sittings. We are looking at 20th October. It has to be that because to do it any less is almost impossible. We are going to work through the summer recess and we are going to even have a sub-committee and bring in additional members to assist us to get through it. In terms of the meeting last week, Members have been very, very concerned about the position they have been put in. They believe we have been suckered into this if you want to know the truth, suckered into it in the sense that we have been trying to co-operate with the department and with the Council of Ministers all the way through on this and ... let us just go back through some of the time scale. I gave you a sheet a while back. First of all, we were approaching mid February and wanted to know about the Oxera report and everything else. I think they got the Oxera report in February. It may have been just after our meeting, I do not know, but they certainly did not share it with us. The department were consulting on a draft law with the industry without telling us and we have been asking on a 2-weekly basis. **[Interruption]** I am sorry, I am trying to answer the question.

The Bailiff:

It is up to the Chair to consider whether it is a second speech. He is giving clarification of a point asked by the Deputy.

Deputy M.R. Higgins:

Thank you. What I am trying to say is that we have been trying to work with them and it could have been done very, very quickly had the co-operation been there. As I say, we have had all these constant things. The Oxera report we get on 1st June. We get a final draft on 1st June. We get documents which are confidential by 30th June. How can we review it in any less time? Does that answer all your questions?

Deputy J.A.N. Le Fondré:

I was wondering what was different between whatever happened last week and what happened after the weekend.

Deputy M.R. Higgins:

The consideration was that Members were concerned whether we could do it in the time and bear in mind that the vast majority of the members of the committee - I was absent, by the way, I was out of the Island when this meeting took place - they have no knowledge of depositor compensation schemes and remember, because of the confidentiality clause, they have not had a chance to look at the 4 volumes yet. **[Laughter]** So, as a consequence, they were really wondering whether they would be able to review it in the time. Now, when I came back, we had a meeting. I reassured them with the expertise that we will get from the International Association of Deposit Insurers plus my own knowledge, not every part of the scheme has to be gone through in detail. There are certain key areas we need to focus on and what we will do is address those and we believe that we can do it within the time scale. The point is we are going to go as far as we can. It may not be a complete report but we will focus on the key issues and we will come back and report to this Assembly.

The Bailiff:

Very well. Does any other Member wish to speak?

1.10 Senator P.F.C. Ozouf:

I just seek guidance from the Chair. I do know whether or not the Constable of St. Peter has addressed the Assembly, whether or not he has lost his chance in order to move the proposition for a referral to Scrutiny.

The Bailiff:

Well, no, he has not because, in fact, the Standing Order does not say a Member who has not yet spoken so, in fact, any Member may, at any time, make the proposal.

Senator P.F.C. Ozouf:

The Constable of St. Peter because I am perfectly willing to make that proposition immediately.

The Bailiff:

Well, it is obviously a matter for any Member to make the proposition but the Chairman of the Scrutiny Panel has made his position clear.

Senator P.F.C. Ozouf:

I will press on because I think your predecessor said in his concluding remarks when he left the Assembly that one of the virtues of this Assembly was the fact that you can win debates on the power of argument and persuasion and in our system of a minority government, the Council of Ministers does not have an automatic majority in order to get its agenda through. **[Aside]** Scrutiny has precious powers and I am going to, I think, importantly, test the mood of the Assembly by whether or not the question of it should be referred to Scrutiny should be a matter for Members and I would urge the Scrutiny Panel to take ... maybe they will be successful in that referral. Maybe there will be a majority of Members that believe the matter should be referred to Scrutiny and not passed. We all serve in our different positions, whether on the Ministerial side, on the Scrutiny side, with the continued support and the confidence of Members and I think that such matters of importance should not be dealt with in any way that a Minister has an ability to block something on the Assembly and railroad something through. I think that Ministers and the Chairman of the Scrutiny Panel should listen to a majority view. I have heard a lot of comments made by Deputy Higgins that call me to question his approach in this regard and I am happy to address it so I would like to, with your leave, move to request that the Assembly consider whether or not the matter should be referred to Scrutiny and in so doing, then indicate that they are indicating that it should be referred to Scrutiny at this stage, therefore halting the debate as opposed to moving it on.

The Bailiff:

So, Senator, first of all, you do not need my leave. Standing Order 79 says any Member of the States may propose without notice that the debate on any proposition be suspended and the States request the relevant Scrutiny Panel to consider having the proposition referred to it. So your proposition, if you wish to propose it, must be that, that the debate be suspended and that it be referred to Scrutiny.

Senator P.F.C. Ozouf:

That is therefore a clear indication to the Chairman of exactly what the mood of the Assembly is, mindful of the fact that Members must, I think, be alert to a majority view and use their powers and responsibilities very carefully.

The Bailiff:

Are you making that proposition?

Senator P.F.C. Ozouf:

I am making that proposition and wish to address a couple of remarks in so doing.

The Connétable of St. Peter:

On a point of order. I was asked if I would give way to Deputy Higgins. I gave way and said I wanted to return back to my proposition. Where do we stand at the moment?

The Bailiff:

Well, it is a matter for Members as to who makes the proposition then. Are you giving way to the Connétable of St. Peter?

1.11 The Connétable of St. Peter:

Yes, I would like to come back. I am pleased Deputy Higgins did stand to speak and I gave way to him on that to allow him to address the Members of the Chamber more fully. However, I am more confused after he spoke because he did come back to the main thrust of the debate, about the depositor compensation scheme rather than the Scrutiny aspect. However, at the start of his speech, he did say he was going to support the proposition and then went on at length to criticise many of the elements from within it.

Deputy M.R. Higgins:

Can I give a point of clarification? As I said, I feel very strongly about having a depositor compensation scheme. Disagreeing with what the Minister for Treasury and Resources says, I think we should pass it, the principles of having a depositor protection scheme. I have no problem with passing that and that will give a clear signal for all those who are worried about the world will think. We are going to have a depositor protection scheme. The next stage is for Scrutiny to examine it, satisfy it and convince you that we have the very best possible scheme. That is what I want to do. I will be voting for the principles of depositor compensation.

The Connétable of St. Peter:

Through the Chair, I would like to thank Deputy Higgins for that further explanation and I am delighted to hear he will be scrutinising it as an agreed scheme. However, I believe the time line is vitally important for the prime industry of Jersey and Jersey is my concern, to make sure that we move forward and move forward quickly to ensure that the fundamental square inches of the foundation of this very industry are in place when the leading banks around the world are looking, as they come out of recession, where is it best for them to put their money and their investments. I do make the proposition and ask for Standing Order 79, please.

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

Can I raise a point of order, please?

The Bailiff:

Point of order? Yes.

The Deputy of St. Mary:

Yes, it definitely is a point of order. I am concerned about the order in which one takes the debate on the principles and a reference to Scrutiny, which is not about the principles. It is about the Regulations themselves so I am concerned that we should be getting on voting on the principles first and then doing Article 79, 72, and whatever. I just want a ruling on that.

The Bailiff:

I think, Deputy of St. Mary, that is not a point of order. I understand why you have raised it. It seems to me that it is a matter for the Assembly. In other words, what is being proposed - we will find out whether it is seconded in a moment - is that the debate cease now and go to Scrutiny. Now, if that is passed, then, of course, the debate upon the principles will cease and therefore the principles will not be adopted. If, on the other hand, the proposition of the Connétable of St. Peter is rejected, then the debate upon the principles will continue. If they are passed, then, at that stage, it will be a matter for the Chairman as to whether he calls the matter in for Scrutiny.

The Deputy of St. Mary:

Thank you for that clarification. I hope Members have understood that.

The Bailiff:

Now, is the proposition of the Connétable of St. Peter seconded? **[Seconded]** Very well. Therefore, I open the debate on whether the matter should be referred to Scrutiny at this stage. It is, of course, entirely a matter for Members but they may feel that a lot of the arguments have already been rehearsed.

Deputy M. Tadier:

Can I just make a question to the Chair? What we are voting on here is whether it should be referred to Scrutiny and if the result of that is negative, that presumably is not the same as the House wishing it not to be referred to Scrutiny. They are saying that they do not want it to be referred to Scrutiny but it is not a vote to not refer it to Scrutiny so there is a nuance there, I believe, if you can follow my logic. **[Laughter]**

The Bailiff:

If so, I fear it is too subtle for me, Deputy. **[Laughter]**

Deputy M. Tadier:

What I am basically saying is the proposition is not to not refer it to Scrutiny. The proposition is to refer it to Scrutiny. Let us clarify that.

The Bailiff:

The proposition is to refer it to Scrutiny at this stage. If it is carried, then that is what will happen. If it is lost, then the majority of Members have decided not to refer it to Scrutiny at this stage.

The Deputy of St. Mary:

No, can I clarify. The majority will have said that they want the principles to go through.

The Bailiff:

Does any Member wish to speak on the proposition of the Connétable of St. Peter?

1.11.1 Deputy G.P. Southern:

Yes, if I could just bring myself to stop laughing because I have not seen such schoolyard antics since I was in the schoolyard. Here we are with Ministers saying: “Oh, what, Scrutiny cannot possibly do this because we do not want it; boo hoo.” Come on, come on, let us get real. Within 5 minutes of these principles being accepted, which could be done in those 5 minutes, Scrutiny will say: “Yes, please, we would like to look at it and see if we have got the right scheme for Jersey.” In accepting the principles - I have previously never heard such a clarity from a Chairman apart from me **[Laughter]** - we would be sending a clear message out to the world that we support and are getting on with putting something in place so they can rest assured in the validity of our financial services. If we do not, they will say we are very confused and we are playing silly boys’ games. Let us reject this and get on with referring it under Article 72 where, when asked, the Chairman of the appropriate Panel will say: “Yes, I wish to scrutinise this and see if it is the right scheme.”

1.11.2 Deputy J.A.N. Le Fondré:

If I have understood the whole debate correctly, the whole of the argument is not about whether Scrutiny reviews the Regulations or not. It is how and when and the whole argument that seems to be coming from the Ministerial side is that if we adopt the principles, which I believe everybody is in favour of, and then do not adopt the actual legislation, that sends, let us say, not a terribly good message to the outside world. The preferred way, which is trying to work together, is to try to pass the legislation as it stands but we have an undertaking from the Minister for Economic Development, if I have understood it correctly, that Scrutiny then review it in co-operation with the department - I trust the Minister will nod at this point hopefully - and then they will make their

recommendations which the Minister will then obviously consider and, I believe, implement, provided obviously they are reasonable which I am sure, given the experience of the Chairman of the Scrutiny Panel, they will be. That is, I understand, what the argument is about. Therefore, the idea, as I understand it, from this particular proposition is to test the mood of the Assembly as to whether people agree that is the principle, in other words, adopt the legislation today, leave Scrutiny to do their work and then to come back with recommendations rather than delaying the thing and I agree. The point is we are in difficult times. We have been in difficult times for the last 8 months. It is the ability to demonstrate we can move with the times and move quickly. I appreciate people do not necessarily believe it. They believe it is a mechanism to do things but, as I have said previously, if 12 months ago somebody had said that 2 of the big institutions of the U.K. have been effectively nationalised, people would have laughed. Things are still fairly hairy out there and this is one of those messages of trying to get a bit more good news, if you like, for Jersey to go out. So this is purely not about whether Scrutiny can review it, it is how we try and work together going forward. On that basis, from the point of view of giving my messages on this particular vote, I am going to vote against it because I would like to see the principles adopted. I would like to see the legislation adopted which means not taking it to Scrutiny under Standing Order 72, I think it is, but I would like to see Scrutiny reviewing it during the summer to then come back with their recommendations for due consideration. If we wait until October of this year, it is getting on quite late. What I will say is that from experience of past Scrutiny Panels, particularly, for example, in the previous 3 years, in terms of Treasury working, for example, with Corporate Affairs of the then time and even these days, sometimes we have all had to move fast because of the circumstances of the occasion and this is one of those times.

1.11.3 Senator P.F.C. Ozouf:

This is an uncomfortable debate but I feel is the only way of testing the mood of the Assembly. While I accept that Scrutiny of the principles is a curious debate to have, I think what the Assembly is quite clear about is if they are referring this to Scrutiny, they are effectively saying Scrutiny needs to do some work. In other words, if they want Scrutiny to review it at this stage, then they should vote in favour of the Constable's proposal. If they do not think that Deputy Higgins effectively should call this in and should allow the passage of the legislation - for reasons that I will come on to - which is my view, then they should vote against the proposition. That is the signal that is being sent and it is the only way that we can express this view to the Chairman of the Panel. I realise that this is uncomfortable. Much has been said about the urgency of a depositor compensation scheme and also criticism that has been levied at Ministers about why a scheme was not brought forward previously. I am quite clear and I think that all Members of the Assembly will know that the world has changed. Twelve months on from the financial storm, nobody could have imagined that there would have been billions of pounds pumped into national banks, banks nationalised, et cetera. I am sorry if it is a criticism to say that the Ministerial position has changed on a depositor compensation scheme. We have had to change because the world has changed. We are confident in our banking system. We are confident in our regulation. However, we need to show the world that we have a statutory scheme that works and could be used if it were to be called on. I would draw Members' attention to the further clarification and strengthening of our banking regulation that has been recently issued by the F.S.C. (Financial Services Commission) in further clarifying what we mean and what we do in Jersey as a result of the top 500 rule which is at the heart of our strength of our banking regulation. If I may say to those people who have criticised this scheme and say that it does not work, it does work because of the strength of our banking scheme. Deputy Higgins, in his remarks, I think ... and I am concerned with his, I think, slightly conflicted position in relation to the evolution of a scheme, I have heard Deputy Higgins say and inform the Assembly that the Board of Commissioners approved the scheme. I have discussed this matter by email exchange with the Chairman of the J.F.S.C. (Jersey Financial Services Commission) overnight and he has allowed me to say exactly what the situation is. It is not correct to say that the scheme that Deputy Higgins mentioned, when he worked for the Commission, was

approved. It was approved for consultation. In 2002, then there was a further gap and it was approved again for consultation in 2004. That falls significantly short and the Commission Chairman has been absolutely clear of approval of a scheme. The Board of Commissioners normally in their working practices approves consultation. That is all and, indeed, I can also say to the Assembly - and I will refer to this in a moment - that I met the Jersey Bankers' Association yesterday lunch time and I discussed with them whether or not their view was that the scheme should be brought in and there was a need to bring the scheme into force. They observed, as they have done previously, that the scheme that was put forward by the then Mr. Higgins was not approved by them. It was not agreed by them and in their view, and in some senior bankers' view, it would not have worked from a funding position. Members must be aware of the status of the scheme that has been said before and I have to say that I am authorised to say that the matter was not authorised by the Commission and I think that that is an important issue. I think there is an important issue for Deputy Higgins and the panel to bear in mind when they are engaging in debate and when they are engaging in something which I think should be independent scrutiny. Ministers have been criticised in relation to the issue of a £50,000 limit and how does that quite understandably work in people's minds when we are dealing with deposits of millions. I have not spoken to Senator Le Main and I have not spoken to Deputy Tadier but what I do know is that in the eye of the financial storm, people did make decisions, perhaps inexplicable decisions, about their deposits. People with substantial deposits moved deposits from banks and from jurisdictions because of the absence of a scheme. I know of a number of cases where depositors in Jersey, mindful of being given the information that there was no scheme in Jersey, moved millions of pounds of deposits out of the Island because of the absence of a scheme. I know it is completely bizarre because they are only covered up to £50,000 and Deputy Tadier and Deputy Duhamel are also right that people broke up their deposits and put them around in order to get the guarantees. That happened. I am not going to give way unless the Deputy really thinks he has got something important to say. [Laughter]

Deputy M. Tadier:

It was only does the Minister believe that the reason that people were moving their deposits is perhaps because our own Chief Minister told them to do so?

Senator P.F.C. Ozouf:

I think that the Deputy raises an important point about the political guarantee. This is why there is an urgent issue. We were confident and we remain confident in our banking system. We remain confident that the political guarantee could be paid for because of the strength of our banks. I draw Members' attention to the fact that these Regulations would mean ... and there is much store taken about the liability of the States. I have had to give them very careful consideration of whether or not to deal with the issue of the strategic reserve. The strategic reserve, the liability of the States, will only be called on if any one of the top 6 banks fail. Now, that is, as other Members have said, a very different world in which we operate at the moment, the failure of the likes of one of our leading banks would be called. We are dealing with a very different world and that shows and underpins the support that we have for our banking industry. But I am afraid, and this goes to the heart of the argument, that a political guarantee, an indication of an approval of a preamble to a bill, is not good enough for our banking industry. Our banking industry and our banking firms in Jersey want the words on their statutory arrangements with clients that say: "Your deposit is covered by the scheme that has been passed by the States of Jersey." Not a promise, not an indication that something is coming, an absolute statutory undertaking and that is why the issue must be, in my view, not referred to Scrutiny and passed by the Assembly. There is a need for a statutory scheme. There is a need for a statutory scheme now. I met the Bankers' Association yesterday and I asked them again as to whether or not their view was that the agreement should be put to the Assembly today to bring the scheme into force. I had some worried faces around the Bankers' Association, mindful of the right of the Scrutiny Panel to scrutinise and mindful of the importance of proper

democratic debate, but also concerned about the reputation of Jersey. There were real concerns and I have to say that my job and the Minister for Economic Development's job is to represent and to inform the Assembly of up to date and accurate information. That, I would say, is the most up to date and accurate assessment, having met the Jersey Bankers' Association yesterday. One banker asked why this was happening and expressed the words that it was extremely unwise. Of course we are confident in our banking industry and I do not want ... and I hesitate to be forthright and strong in the observations that I make to the Assembly but I think that Members should understand the importance of sending out strong messages of confidence to our banking sector. Deputy Higgins raised the issue of the Foot Review. Now, I do not know and Ministers are looking quizzically at Deputy Higgins in reference to who Deputy Higgins has spoken to. I, along with the Chief Minister and the Minister for Economic Development, have met Mr. Foot, have discussed with him his review and I think that Deputy Higgins misses the point. The issue is that Mr. Foot's report, which will be published in October, in the absence of a statutory scheme, will note that Jersey is the only place that does not have a scheme. This is significant. We want to avoid that. Mr. Foot and other people are aware of the Deputy Le Claire proposition bringing forward the undertaking to bring a scheme and bringing it into force. The G20, Deputy Higgins misses the point. We will again be identified as the only jurisdiction that has not brought a scheme. Moreover, a jurisdiction that agrees in principle to bring in a scheme and does not do so. The I.M.F. has also been mentioned. I spent considerable time with the I.M.F. assessors and we are shortly to see the report from the I.M.F. I am afraid Deputy Higgins is wrong. The I.M.F. asked substantial amounts of questions to me, officials and other Ministers about the scheme and when we would be bringing one in and I am advised that the I.M.F. will be stating in the reports that will be issued, and which are important to the whole discussion of the G20, the fact that the Island does not have a scheme. I think Deputy Higgins is against this scheme. I think that he has raised questions that he does not agree. Maybe he does not understand the issue of government funding. He mentions U.K. pre-funding that is out to consultation. Schemes will evolve. Our scheme will evolve. It will need to be reviewed. It is likely that our scheme will have to be reviewed as a result of the Michael Foot review, maybe out of the further conclusions of the G20 with further recommendations to improve financial strength and stability arrangements across the world. The issue of pre-funding is not, I am afraid, relevant to the debate today. It is a consultation by the U.K. which could change. In addition, Members should be aware that there is likely to be a change in terms of the U.K. directive of lifting the minimum depositor compensation level up to 100,000 euros, which may well be needing to be given consideration in improving our scheme. There has been a great deal of work to bring the position today that allows the Assembly to bring a scheme into force that works, that has been carefully examined, that has been carefully negotiated by bankers who, I have to say, do not like it because they have to take the risk of it. There have been substantial amounts of work in relation to the scheme. It has been scrutinised by bankers. It has been scrutinised by experts. It has been scrutinised by all relevant parties and they are giving the endorsement of the scheme. I welcome Scrutiny's review. I welcome Scrutiny's review post the implementation of the scheme because we will need to evolve it but I urge Members not to refer and to give a clear signal to Deputy Higgins not to call this scheme in, to allow the scheme to go forward and for a review to be conducted after the legislation has been put in place.

1.11.4 Senator P.F. Routier:

It is very difficult to follow such a good speech as we just heard the Minister for Treasury and Resources explaining our situation. But the comment I would like to make is that I am finding it very difficult to understand Scrutiny's position on deciding that they are prepared to support the principles of what is being proposed today. What we heard from the Chairman of the Panel was that he and his panel are prepared to approve the principles today but then he went on to pull them apart. He went on to say that he does not agree that there will be the £100 million figure and that the levies on the industry will be capped. All these principles are in here and he pulled them apart so I cannot understand how they are going to be in a position to say that they are prepared to

support these principles and then scrutinise the Regulations which bring these principles into place. That is the difficulty that I have with their position. It is really inconsistent so I ask Members to not support the desire for Scrutiny to look at this at this stage. I would urge Members to support the principles and the Regulations and then to welcome Scrutiny's involvement after that stage. I urge Members not to support this proposition.

1.11.5 Deputy J.A. Martin of St. Helier:

An amazing speech by the proposer who would have been the proposer [**Laughter**] of abuse. If anybody knows Standing Order 79, it is because you want something scrutinised and I can see [**Laughter**] exactly obviously why the proposer deferred to the Constable of St. Peter. Let us hope in his summing up, he gives a reason why he wants this referred to Scrutiny because that is what the Standing Order is for. [**Approbation**] I am absolutely disgusted with the abuse of this Standing Order. [**Approbation**] It does leave us in a position where you are damned if you do and you are damned if you do not. I stood up yesterday and I asked both sides to give the reasons why Scrutiny had not been able to scrutinise it in the time. I said if it had been Deputy Southern and myself, I am sure we would have had it done because we would have niggled and niggled and niggled away but we had experience. We had experience with working ... and confidentiality agreements were always signed by the Chairman and we all saw the papers and we leaked nothing. Nothing. We saw some very, very confidential papers so I do not know where this rule has changed. The explanation given by Scrutiny was that the Chairman could only see the papers but I really, really am annoyed and I do not know now which way to vote on this [**Laughter**] because it is such an abuse and I really want to hear the summing up of the Constable of St. Peter to give me a really good reason why this is going to be referred to Scrutiny now. Other than that, I really do not know which way to vote because it is going to go to Scrutiny. Scrutiny have already said that. Is this supposed to be a test move using a Standing Order? I know you are very new in the post, Sir, [**Laughter**] but I am sure there may even have been a ruling from the Chair that this is a total abuse of Standing Orders and I, for one, am not very happy with it. [**Members: Oh!**]

The Bailiff:

From the Chair, all I can say is this. It is not for the Chair to define the motives of those who wish to [**Laughter**] ... If a Member wishes to bring a proposition and a Standing Order says he is entitled to do so, it would indeed be unusual for him then to vote against it but there we are. It is a matter for Members, not the Chair.

1.11.6 Connétable A.S. Crowcroft of St. Helier:

I am going to help Deputy Martin that perhaps this debate is merely the opportunity to give some who have already spoken on the subject a second bite of the cherry. [**Approbation**] Nor do I think it is entirely fair that aspersions are cast on the Scrutiny Chairman. We are not adopting or thinking of adopting a scheme for depositor protection developed by one, Mr. Higgins, after all. I think the problem with the proposition, though, as Deputy Martin has alluded to, is if you want to approve the bill in principle, but for it then to benefit from the scrutiny process, you will vote against the proposition now, as you do not want it to be referred to Scrutiny now and for that debate on the principles to be concluded. The Minister for Treasury and Resources wishes to use the proposition to persuade the Scrutiny Chairman not to call it in. This is a very finely nuanced approach, to use a word by Deputy Tadier, and Deputy Martin is wondering, given such a nuance, how can people express their view. I have got one possibility which is that everybody who agrees with the Minister for Treasury and Resources that the Scrutiny Chairman should not call it in should perhaps press the abstain button and then we will have an indication of that. But really, I must admit, I agree with the previous speaker that this is going to be a very confused vote because many will vote against it because they want the debate to be concluded and they support the Scrutiny Chairman then calling it in.

1.11.7 The Deputy of St. Mary:

I hope to add clarity [**Laughter**] with my forensic analysis. This is, in my view, a political manoeuvre, whether witting in the case of the Minister for Treasury and Resources, I believe, or unwitting, possibly in the case of the Constable of St. Peter. Now, to put it quite clearly, voting for referring this to Scrutiny now under Article 79 means that the debate ceases so the Scrutiny Panel takes it away and this House has not approved the principles. So the message that goes out is that this House is not in train, that the D.C.S. (Depositor Compensation Scheme) is not on the road, we have nothing in place, we do not even have the principles in place, and the Foot Review will report that we have nothing in place. If, however, we vote against, then the debate continues and we are able to vote through the principles which everybody wishes to do and the Foot Review will be able to write that we have something in place and we are proceeding down the path of putting a D.C.S. and all the Regulations in place. So that is the position and because that is the position, Members have no option. We all have to vote against this proposition which, of course, is the desired result because that will then be interpreted and spun as this House does not want this to go to Scrutiny. It has nothing to do with that. We have to vote against this because if we do not vote against it, then we will have no principles. We will have no principles of a D.C.S. in place. We will not be able to approve them and having understood that, it is quite clear that we, as I say, have no option. We have to vote against this. Now, if the Minister for Treasury and Resources and other Ministers then choose to spin this to the media, then that will be disgraceful because if we are not voting not to put this to Scrutiny, we are voting to save the principles going through. So just to make it quite clear, I thought that was worth saying. Now, on the wider issues, Senator Ozouf strayed, I think, a little bit from the actual proposal which is whether or not to refer this to Scrutiny immediately so I too will have my pennyworth on wider issues and recap on the previous debate. The Minister did it himself. He recapped on points that had been made and it really gets quite annoying. I shall be very brief, briefer than the Minister. This is about railroading. It is about unseemly pressure and the case is quite clear. We had a depositor protection scheme, although there are arguments about how far down the road that went. It was well down the road years ago. We also had the option of an instant one October 2008, which was presumably rejected by Ministers. We will just have to grin and bear it and try and struggle through the financial chaos without it. I am very particularly interested in the pressure that comes from the banking community, who, we are told, find it would be extremely unwise if we were to hold this up for a few months and I have to question whether the banks run this Island or whether we decide whether things go to Scrutiny or not. [**Approbation**] We are also told that our scheme will evolve so it does not matter if we put through the Regulations as well. Our scheme will evolve but the thing is it will evolve from a position which will already have been agreed by the House that the banks will have funded the scheme, to my understanding, less than in any other jurisdiction and I find that rather odd and well worthy of scrutiny. That is a real question and it is something we should address as to the level of risk being taken on by the very people who are conducting this business. It is almost as if we are being asked to do a compensation scheme for Normans or any other company in the Island. I mean, who else shall we support from risk? I just find all this slightly uneasy so that is the general point. The rush is unnecessary. It was imposed on us, has been imposed on this House. Just to recap, you have to vote against this proposition because if you do not, then there are no principles approved at all because the debate will cease and how it is spun after that by the Ministers is up to them.

1.11.8 Deputy M. Tadier:

Following on from the Deputy of St. Mary, I think he has hit the nail on the head when he has highlighted the actual absurd situation in which we find ourselves here, for whatever motivation. It seems to me patently obvious that we all agree, it would seem, on the principles, and if certainly we do not all agree, I think anyone voting against would certainly be in the minority. I think if we took a vote on the principles now, I suspect everyone in this room would vote for those principles so that begs the question why do we simply not take the principles now and then decide after whether we want to take a vote on whether it should be referred to Scrutiny even though, of course, that is the

prerogative of the Chairman of Scrutiny who will refer it to Scrutiny anyway. This is the kind of farce that we have descended into and I dare say it does not do any good for our reputation. The point I really want to make here, and it does follow on to a certain extent from what Deputy Martin had said earlier, is that we find ourselves in a completely perverse situation on 2 counts. First of all we have a Member standing up proposing a proposition which he has clearly no intention of believing in. Normally, I believe, the protocol is if you propose something, then you at least will vote with it. You at least support and believe in the ideas. So this, for a start, certainly is an abuse of protocol it would seem and an abuse of process. What sticks more in one's throat is that we have certainly moved to a very controversial system of Ministerial government. We have had its proponents and opponents and it is certainly something which has come into the spotlight once again. We have had Deputies in this very House asking questions about the whole power of Scrutiny, whether it is effective or not. Indeed, certainly there is a divided view on that so it only serves to undermine Scrutiny even further when Ministers try and effectively ride roughshod over Scrutiny. We heard the Chief Minister himself yesterday admit that they were not riding roughshod over Scrutiny which any intellectual who is familiar with the system of a reversal, you just simply take the opposite of what is said. Then you use the principle of Ockham's razor, the philosopher, when faced with 2 or more possibilities, you decide which is the most likely and I think anyone out there would simply say: "Of course, what the Chief Minister was saying is that we are riding roughshod over Scrutiny otherwise, presumably you would not need to say that you were not." What is even more worrying here is that Ministers, in their desperation, and I hope that this is the message that will be going out to the media, what we are seeing here is completely indicative of the megalomania of our Ministers, and one in particular, which is in the more common vernacular known as being a control freak. By the normal processes they simply cannot get their own way, throwing as many toys as they have out of the pram, will not do it so simply they decide: "Let us have a completely contrived scenario which has never been used before where we have a vote to refer something to Scrutiny which we do not want to be referred to Scrutiny, so that the message goes out that the principles will not be passed, but in fact we want the principles to be passed anyway." This is the complete farce that we have descended into. We do not have parties in Jersey. I remember speaking to someone before the elections that ... in fact we have had parties in the past. He referred me to the Laurels and the Roses but I think today what we are seeing is more of a case of Laurel and Hardy and this is the kind of situation we have descended into. So, logically ... by the way, the point I really wanted to make is that it is completely inappropriate for Ministers to be interfering with Scrutiny. Scrutiny has, in a certain way, a sovereignty and that is what the previous House and what the system has granted to Scrutiny. It is not for Ministers to stand up and say that something should or should not be referred to Scrutiny; that is entirely up to the Scrutiny Chairman and his panel if they wish to scrutinise something which has been passed. So let us get back to reality here; we all agree with the principles. Constable of St. Peter, with due respect, I would be grateful if you just pull your proposition. I would appeal to the Constable of St. Peter that he pull his proposition and that in fact we get back to the real debate of passing the principles, sending out a clear message of support for this proposition and then, once we have done that, if necessary, we can take a vote on whether to refer it to Scrutiny but that seems, again, futile and that we just move on. That is where we are; this is the best we can do. We do not always get our own way on this side of the House; Scrutiny back-benchers. We move on and we live with that; the Ministers should be doing exactly the same thing and stick to due process because it would send a bad message out to the Island and the international community that we just disregard democratic processes simply for convenience.

The Connétable of St. Peter:

A point of clarification, if I may? Just very quickly, to answer the last speaker ...

The Bailiff:

I am sorry, Connétable, you have your chance in reply if you want to ask a point of clarification.

1.11.9 Senator A.J.H. Maclean:

I will not speak for long on this because I sense the mood in the House that this proposition is going to be rejected. I will, however, just make a few observations, if I may? The first, relating to the previous speaker; it does concern me when I hear comments that issues that come to this House or so-called tactics that are used; tactics between the Executive and the non-Executive and that in some respects Scrutiny is being poorly treated and I think that was a comment that the Chairman of Economic Affairs suggested, that he and his panel had been, I think the words he used ... I will not repeat the actual word he used because that was withdrawn but I think he used the term "misled". I do have to refute that, I am afraid. I do agree however with the Chairman when he said that our personal relationship is very sound. We do enter into dialogue on an informal basis. I have offered to him right from the beginning the opportunity to talk and we do meet on a regular basis to discuss matters relating to Economic Development and matters that may be of interest to his panel for scrutiny purposes. I believe that open dialogue is important to ensure that the functions between the Executive and Scrutiny can work as effectively as possible and I believe we do that. Now, with regard to depositor compensation, we have issued a timeline on the information that has been offered to and supplied to the Scrutiny Panel in regard to this matter and I have to say, first of all - I mentioned it, I believe, yesterday - that I am encouraged by the experience that the Chairman himself has with regard to this matter in his previous incarnation of the Jersey Financial Services Commission and the work of course that he - and Members would be aware of this - has done on matters such as depositor compensation schemes. I think that experience is an area that led me to believe that the panel themselves would have been able to deliver a timely review in this matter. I do not believe that the department has either misled or withheld information that it could not have delivered any quicker. For example, the information that has been, I believe, inaccurately put forward is discussions of the Oxera report which produced; not the final report in February; it was a draft report in February which had a confidentiality clause placed on it by Oxera themselves because it was work in process. It was not something that we could pass on to the panel at that particular stage. When the Oxera report was complete, a final report did go to Scrutiny and that was on 2nd June. The Chairman of the panel mentioned the 4 volumes of documentation. The panel themselves have asked my department for every piece of documentation, which of course is their absolute right in regard to this matter, including emails and recorded telephone calls and so on and so forth. That was 4 volumes of documentation. Now, 2 volumes included emails which of course we could not pass on without the permission of the senders of those emails. There is a confidentiality issue there, so there have been some problems in getting all the information but, since 5th May when the 14th draft agreement was passed across, I believe that the panel has had more than enough information to commence their review. I have to say I was disappointed that it was not until 2nd July that we received an official letter from the panel, which I have here, giving details of their scoping terms of reference for the review that they were intending to carry out. That was a full month after they received the full final Oxera report and the full legislation to review. I am disappointed by that and I do feel that this is all about what is in the best interests of Islanders, what is in the best interests of the Island and our reputation and I feel that, in the circumstances, we should bear in mind that these depositor compensation schemes exist in many other jurisdictions, Jersey now is in a position where it is virtually the only jurisdiction that does not have a depositor compensation scheme. It is a matter of confidence; it is a matter of confidence for our banking community but matters such as the G20, the Foot review and so on, they are important. If we have not got it, it will certainly be noted and that will count against us at what is undoubtedly a critical time for the Island and all off-shore jurisdictions that are, as we know, under the microscope of government. I think, as part of that, we need to bear in mind also our nearest neighbour, Guernsey. This was a point that has been picked up. They delivered a scheme very quickly and the fact that they have a slightly different make-up in their scheme; they have a captive insurance element, but there are elements of their depositor compensation scheme, important details, such as the risk matrix with regard to the banks and what weightings they will be called upon to pay out that have not yet been agreed. What they have is they have a scheme in place but there are important

elements that are yet to be agreed. Now, I do not feel and I have had a private conversation with the Chairman of the Economic Affairs Scrutiny Panel on this matter, hoping that he would allow ... and this was in no way trying to force him and I am sure he will confirm this point, I simply asked him at a Scrutiny hearing and in private whether they would consider allowing the legislation to go through so that we can get the legislation in place to give confidence that we have it and that he could review it after that particular point. I do not feel that that is an unreasonable position. I think it is a pragmatic, common sense position to take and it is an example of the Executive and Scrutiny working together in a constructive manner. The only other point that I would like to raise before I close is just a point of correction on the Deputy of St. Mary. He talked about the fact that, during the Scrutiny hearing, an officer at that hearing suggested that we could have had a scheme introduced overnight. I am afraid that was not entirely accurate. What was said - and I have got the Hansard from that particular hearing - the officer said: "There are certain things which are common to all D.C.S.s around the world and back in October there was a very real chance that Jersey might [not could but might] have to bring a D.C.S. in overnight." The officer went on to say: "You know, Guernsey had to do practically that" and, of course, as we know, Guernsey's scheme is not yet complete, although it has been introduced. I think I will leave it at that. Thank you very much.

1.11.10 Deputy T.A. Vallois of St. Saviour:

I just have to say I am absolutely appalled that the Constable of St. Peter has made this proposition. I am really disappointed in the abuse of the Standing Orders and the fact that we have a process in place there that the House has agreed and we are now abusing it. I just do not think it is right. I would just like to make a point; to me there are 3 options with regard to this depositor compensation scheme, the first option being passing both the principles and the legislation for Scrutiny to therefore carry on with their scrutinising of the legislation. Number 2 would be to pass the principles and refer it to Scrutiny, and number 3 would be to accept this proposition and not have any form of confirmation whatsoever that the depositor compensation scheme will be coming in in Jersey. What kind of message does that send out to the international community? At least if we have the principles in place, we have some form of confirmation there and, I mean, if we are worried already about the confidence and the message we are sending out, this by all means is the worst way to go about it.

1.11.11 Deputy I.J. Gorst:

Perhaps I should declare an interest; I am still retained by a financial services company on the Island. I would just like to make a comment in regard to one or 2 Members who have led us to believe that in their opinion, if we were to pass the principles today but not go ahead and pass the regulation, that they believe, in effect, we would have an all clear. We have heard from the Chairman that it is his belief, after a telephone conversation, that the Foot review would say: "That is fine; the principles are in place and everything is okay" also that the G8 are not concerned about depositor protection schemes and that the I.M.F. are not concerned about depositor protection schemes. We also heard that the Deputy of St. Mary was of the same opinion; we would be sending out a strong message, by passing the principles. Unfortunately, it is my opinion that that is somewhat of a naïve approach. It is not good enough for us just to pass the principles because by the same token the Chairman also said that he had several concerns. He believed that the scheme was not necessarily fit for the purpose and it was his aim to bring, in his words, the best possible scheme that we could and in that aim he is absolutely right. But I believe it is naïve; we need not only to pass the principles; the principle is just saying: "Yes, we should have a depositor scheme." Well, if you asked me outside of this debate 2 days ago, well, of course I would say: "Yes, we should have a depositor scheme" but me saying: "Yes, we should have a depositor scheme" and this Assembly saying: "Yes, we should have a depositor scheme" is not the same thing as us having a depositor scheme. It does not, in my opinion, give confidence to either our banking community, the savers of this Island, who we seem to be forgetting about, nor to the international community

that we continue to be a highly regarded and well regulated jurisdiction, which is what we ought to be concerned about. Some Members have also said, and I will be closing shortly, that Ministers have been scaremongering. I do not believe that it is one of my vices to scaremonger. I like to try and calmly, coolly and somewhat boringly reflect upon all of the facts. I do not believe that it is scaremongering to take the position that the Minister for Treasury and Resources and the Minister for Economic Development have taken today for the very reasons that I have just outlined. I will be rejecting this. I hope that Members will send a message to the Chairman of the Scrutiny Panel that they do want to not only pass the principle but have a scheme in place because it is critically important and I hope, although I will make a speech when we return to the main proposition, that the Chairman will take note of that.

1.11.12 Deputy M.R. Higgins:

Right, I will try and answer a number of the points. Senator Ozouf first; again he was stressing the need to show that we have a statutory scheme, which I will come back to in a moment. Just going back to the scheme that I was involved with in 2002, I was most interested to hear what the Senator said there. I am going to publish, in the next day or so ... I will get hold of the minutes of that meeting and my recollection is, and it is quite clear in my mind, that it was an approval of the scheme. No more about consultation; we had already been through a consultation. I will publish the minutes of the meeting of the Board of Governors of the Financial Services at that time to you so you can all see what was said. I would say that the current Director General was the third one that we had since the time. It was Richard Pratt who was Director General at the time. We have had David Carse since and now we have got John Harris.

Senator P.F.C. Ozouf:

As a point of clarification, I spoke to the Chairman of the Commission and is he indicating that he is saying that the Chairman has advised me and is effectively not telling the truth?

Deputy M.R. Higgins:

I am saying that my recollection of the events, and I believe the Minister will substantiate it, are as I am saying and I will publish it. If I am wrong I will apologise to this House but I believe I am correct. As far as the J.B.A. (Jersey Bankers Association) is concerned, I am not surprised that they want this scheme in. After all, we are basically funding it. The bottom line is we are going to be behind it. We are going to give them tremendous reassurance. They have got caps, there is going to be limited exposure to them. We are underwriting this scheme and the liability, at the end of the day, is £100 million. Michael Foot; the Minister mentioned that he had met with Michael Foot; so did I, when he was over here. I met with the members of the Corporate Services Scrutiny Panel. I asked him if we required a depositor scheme. He did not say we required a depositor scheme. What he did say was if we did decide to go for a depositor scheme, that we should consider certain things. In fact, I would like a point of clarification from the Chair of the Assembly; my understanding is that, certainly from the U.K. process, Members will be deciding the principles of the bill; they will be deciding whether it is, in general, a good idea and then it goes through the other sort of stages in the legislative process. Now, within this House, the next stage of the legislative process is if the Chairman of the appropriate committee wanted to look at it, is to scrutinise the bill in detail and that is exactly what we are proposing; the next stage of the process. So, we agree that we should have a depositor protection scheme, we do believe that the fact that ... we are stating quite openly that we want to see a scheme in the Island, we will go through the next stage of the legislative process, which is looking at the detail, we will produce a report and what we will do is we will present it to Members of this Assembly, they can see our comments, they can see the comments in the original proposals and so on, and this House will then decide whether to adopt the scheme. I am certain that this House will adopt the scheme when we report back. Now, it may not be totally in view of our views. It may be that they want to go with the original proposals but at

least they will have the evidence and we will have expert evidence and testimony and documents that you can decide from rather than some of the comments that have been made.

Senator A.J.H. Maclean:

If the Chairman would give way, could I ask some clarification from him? I would just like him to clarify, if he could, and give the Assembly some indication as to the time scale that he believes it will take to do a review should he decide to go ahead and do so and if he could also clarify, he has mentioned expert advice that he is going to draw in for such a review. Has he approached anybody for that yet? If so, how many people and has he secured anybody?

Deputy M.R. Higgins:

I have already stated that, under the process we would have to report back at 20th October. Now, if we could write a report and come back to the States beforehand, we will do. As I say, we are going to work through the summer recess and have hearings as frequently and as often as we can to get the information to get this report to the House. So far as expert advisers, my Scrutiny officers have sent out information trying to get advisers. I have also spoken to the International Association of Deposit Insurers who are based in Basel in Switzerland. I have spoken to Donald Inscoc, who is a former head of the Federal Deposit Insurance Corporation of the United States. I have also spoken in the past and I hope the person who might be available, if it is acceptable to the panel, will be a person by the name of Raymond Labrosse who is the person who was head of the Canadian Deposit Insurance Corporation and who also set up the International Association of Deposit Insurers and is one of the leading authorities in the world. I will very most likely get him on board. He is the person who advised us way back in 2002 and all I can say is I have never come across a more knowledgeable person in my life on this subject. So far as ... just carrying on with the comments then, I would suggest that as soon as the people can, I do not think it is up on the website yet, this is the transcript of the hearing on 2nd July, with the Minister for Economic Development and the Director of International Finance from the Chief Minister's Office and the Finance Industry Development Director also from the Chief Minister's Office, who gave evidence before us. It is interesting reading. For example, we are constantly being told about the importance of having a scheme. You were told in the past about the importance of the political guarantee and how everyone in this Island can rest assured in the political guarantee. We were told that there are something in the order of £3 billion worth of retail deposits in this Island held by residents. Now, the political guarantee was unlimited in terms of the protection that the 3 Ministers offered the public of this Island; an unlimited guarantee: "No matter how much money you have in a retail deposit, we will cover it." The strategic reserve was £550 million, so the point I am trying to make is that political guarantee was worthless and yet many of you accepted it and believed that it was going to be there and would look after the interests of the depositors in this Island. What I am saying here is you have been misled, in my view, before and I believe the people of this Island have been misled before. We need to get a proper scheme and we need to get a proper scheme with the protection that the people need and one that will work. Again, without going into detail, I am not convinced about the mechanisms that are in place that the scheme, if it was ever called upon, would work if it is swiftly written into the ... In terms of the history of the relationship with the Economic Development Department, I have already stated my view and the Minister has stated his. I can see, on a personal level, I like the Minister and we do get on well but on this particular issue I still hold my position. We do believe and in fact if every other member of the committee got up and said what they thought, I think they would agree with me that we felt we were misled. We could have done this much earlier; we could have worked much more closely with them and we would not be in the situation we are in at the moment. I am sorry, I was side-tracked, going off here. When I was talking to the Chairman of the Assembly, I was asking, again, with the principles. The principles are, I believe, to deal with the general idea of whether you want to have a depositor scheme. If we then go through the next stages we are then scrutinising the legislation, the same as, when it is within this House and not within Scrutiny, we are going Article by Article. Now, if we

do not like it, obviously people can bring in amendments and we can change it and all the rest of it. What we are going to do is basically carry on with the straightforward legislative scrutiny process. If you agree the principles, we will go through, give you our comments and we may even put forward some amendments but we will bring it back to you and then this House will make the decision in October. I do not believe that we are doing anything other than what we should be doing. There is a £100 million liability to the people of this Island and we cannot nod it through just as we are today. We will scrutinise it, come back and then you can make the decisions based on the facts. As I say, please read this and you will see a lot of very, very useful information and you can also see that when we ask for evidence about G20, I.M.F. and all the rest of it, none was forthcoming.

Senator P.F.C. Ozouf:

The Member accused Ministers and myself of misleading the Assembly and misleading the public; Sir, you did not pick up on it. I take great exception ...

The Bailiff:

No, he did not. He said his panel felt they had been misled during the course of the discussion. I think Members have said that.

Deputy J.A.N. Le Fondré:

I was trying to seek a point of clarification from the Deputy in relation to his comments on the timing of the appointment of the adviser. If I have got it straight, he has not yet appointed the adviser, or his panel has yet to choose.

The Bailiff:

Are you asking for clarification?

Deputy J.A.N. Le Fondré:

I am asking the Deputy for a point of clarification. Could he give an indication; as I understand it, we have got about 12 to 13 weeks until the panel has to report back, therefore, how long is it likely to take to get that adviser in place?

Deputy M.R. Higgins:

I am of the belief that we can appoint an adviser within a week. It may not be the expert I want but it will be someone from the Institute of the International Association of Deposit Insurers.

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

I find this quite extraordinary. It is like a game of tennis at Wimbledon; batting to and fro. Not one of them is going to come out with an answer or a game, set and match that I feel, as an independent referee, or feeling like one, that it is going to give us anything. The public out there are looking for a positive result that gives confidence to this Island and gives confidence to its people. At the moment I am not hearing anything that is going to do that. The only suggestion I have heard is push the A button; that is to say: "Well, you disagree with everything that has been brought forward." I live in a positive world and I want to push the right button for moving things forward and, to me, the right button for pushing things forward is that you do have a guarantee, a depositor compensation guarantee scheme, you do have one that accepts the principles but you have one even if it is interim that you can tell the public that they have the guarantee that is being asked for and you also have the added benefit of the Scrutiny Panel doing the work that they are commissioned to do, to give the checks and balances to ensure that it is appropriate. I cannot see why we cannot have some amendment or some way forward, that we cannot have an agreement with the appropriate Council of Ministers Ministries to ensure that if things, as they often do, need changing ... especially in this world that we are living in at the moment, which is changing by the day, or it seems to be. Certainly, confidence in government is changing by the day and we need to be able to

move this forward. Please, let us find some way of moving this forward before the end of the week, even if it cannot be today. Thank you. I shall not be voting for any of these until someone gives me something that I feel confident I can vote for, thank you.

1.11.14 Deputy P.J. Rondel of St. John:

Just think how we got ourselves to where we are. **[Laughter]** Back in the 1990s when we had the Clothier debate; an ‘in principle’ debate and we got ourselves in a mess; the mess we are in today with Ministerial government. That is why, when you talk about doing things in principle, I cringe. We were sold a system by Senator Pierre Horsfall of Ministerial government: “Accept it” he told the Members and he managed to persuade enough Constables to go with the committee of the day that we should be going down this particular road: “We will put the meat on the bones later.” Well, I am still waiting for the meat to be put on the bones. Earlier this year I tried to bring a report and proposition on amending government reform and that was rejected. I have got real concerns when asked to accept something in principle. Today, in fact, I am probably going to vote against this because I think we have got to get to the meat of things so that in fact it can be scrutinised properly and then come back to the House with what is required. I am somewhat disappointed that my good friend from St. Peter, the Connétable, has brought this and muddied the waters, along with the seconder of the proposition, the Minister for Treasury and Resources because all they happen to have done this morning is totally muddied the waters for everybody. I only hope that the Connétable, when he sums up, might in fact decide to pull this and get on with the main debate because, really, there are no winners and the public out there listening to us must think: “What are they up to today?” You know, we have had 3 days or 2.5 days today and I can see us still here in ... I have got my diary jotted out for next Tuesday and Wednesday of next week as well because the time we are wasting ... can we get on with the main debate and, Constable, stand up and withdraw your proposition, please.

1.11.15 Deputy A.E. Jeune of St. Brelade:

At least with Wimbledon, like inter-insular politician cricket matches, you do get results. As I see it, this proposition from the Connétable of St. Peter enables Members to express whether they wish to delay the implementation of this scheme. October is 3 months away; one quarter of a year. I hope the Chairman will respect the view of the elected Members of this Assembly, who represent the people of this Island, be they savers or employees, directly or indirectly employed by the finance industries of Jersey. That view will be demonstrated by the vote.

The Deputy of St. Mary:

On a point of order, that is not true.

Deputy A.E. Jeune:

May I ask what is not true?

The Bailiff:

No, no, no, I do not think we want to get into a debate about this. I think the point, which has previously been put, is that even those who are supporting the Scrutiny Panel may think that they want to vote against this because they want the scrutiny to be after approval of the principles.

Deputy A.E. Jeune:

I am not sure that is what I am saying. I do not wish to delay this main proposition and I will be voting against the one being brought now.

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

Yesterday, Sir, you were not in the Chamber, and you probably are rejoicing over that fact, but at yesterday’s session, according to the Chief Minister, I made my best speech ever, therefore I am on a hiding to nothing from here on in **[Laughter]**. So, during this particular nonsensical debate I

think it is my best opportunity to start to blemish my record once more as I have in the past been accused of speaking from another planet upon occasions. I think this opportunity to debate whether or not we wanted scrutiny though is the crux of pretty much the entire debate. We have all known, politically, that Deputy Higgins wanted to take this into Scrutiny. We have all known, politically, that the Council of Ministers, the Executive, felt from their position that taking it into Scrutiny was going to send out a message they did not want to send out at a time that they did not want to send it out, which they thought and they feel and they argue would erode confidence in the finance industry at a particular time where we are seeing the rate of inflation for the first time decreasing since 1948, the unemployment figures reaching large numbers, many shops in town - although not record numbers - vacated and many shops in town struggling to make ends meet. Tourist numbers are down and the global economy is pretty much teetering backwards and forwards from working to not working. In fact, an analogy would be a car that has got some pretty bad fuel in it at the moment and that toxic fuel is the debt that has been, as quite rightly pointed out, the problem of many of the global problems today. Last night, quite ironically, after yesterday's debate, I guess because of the speech I gave, I was exhausted and went to sleep at about 8.30 p.m. and woke up at 2.30 a.m. and could not get back to sleep until 5.30 a.m. this morning but I turned on the television and watched, you know, what you can watch at that time of the morning and fortunately I found myself watching an economic brief. I know the Constable of St. Mary feels that I speak from another planet, but I am trying to make quite a legitimate point here; there was on television last night a comment from Mr. Warren Buffett who is a billionaire investor who advises on global issues and he spoke about the next round of fiscal stimulus that the United States of America is about to engage in and it is lining itself up to introduce another 2 trillion to 3 trillion dollars of support for the finance industry or the economy of America. He made the analysis about, when he was questioned quite intelligently by the presenter, whether or not China was able to pull us out of this particular economic mess we are in and whether or not the Asian economies were able to do so collectively. Mr. Buffett pointed out that he would not purchase any American debt. He felt that it was terribly wrong to do so. He said he did not like to admit it, especially publicly; he felt that China, although it had the largest holding of American debt, was not going to be able to, in their current position even if they went all out, be able to do anything about the next round, and he signalled that there were more problems to come. A year ago, in October or November of last year, when I was preparing the proposition for debate in December, which was unanimously passed to bring this for debate in July, all of the Members realised that we had to do something and we had to do something in short term to give confidence to the industry to continue investment, to continue the securitisation of jobs at an uncertain time because we knew that the domino effect around the world was going to possibly impact upon Jersey as it has been doing. Now, this debate is about whether or not we want to refer this particular package, which is this particular proposition about a depositor compensation scheme to Scrutiny to do a job of work on it. I cannot support that; not at this stage. Deputy Higgins points out in his own speech that the United Kingdom are reviewing their scheme. But they have a scheme. They have a scheme; they are reviewing it; they do not think it is right but they are going to bring back changes. I think what is more important than the perfect scheme is a scheme. **[Approbation]** I think what is more important than the most comprehensive travel insurance policy is a travel insurance policy. The same for a pension, the same for a medical; you get the best you can, at the time you can, with the money you can, in the manner that you can, with the resources available. Now, the Minister for Economic Development came forward with a package in time. There has been a complaint from Scrutiny about the information and the access to information and the rest of it. Well, Scrutiny, I am sorry, talk about the age of Scrutiny; we had the conception at Clothier, we had the birth of the Ministerial system, we had the infancy of Scrutiny through its first shadow years, we are having the teenage years now. The teenage years of Scrutiny and we do not really know how it should be working or how it could be working or how we want it to work and whether or not we need to change Standing Orders but, to refer this to Scrutiny now, in my mind, would be wrong. It would be wrong because I think there are other ways of conducting scrutiny and those ways do not necessarily need to hold up or delay

the will of the House and the best interests of the States. We did a body of scrutiny on the waste management strategy; it had begun many years before I joined the panel and it was ongoing. We did not know what the technology was but we were out there looking at the other schemes, compiling evidence, doing interviews, calling in people, asking questions and we were compiling the body of work so that when they did indicate which method they wanted to go down, when they did say the preferred method; one that we argued against - and we thought quite comprehensively against - we were ready to table our meeting and we called our experts over and we had 11 Members attend our meeting, our Scrutiny meeting, our panel's finding for Scrutiny. We had 11 Members attend to listen to the evidence, and 5 of those were the Scrutiny Panel. If the Economic Affairs Scrutiny Panel pulls this to conduct a body of work of scrutiny on it, it will be going away, leaving, in some areas, a particularly bad taste in peoples' mouth. They will be coming back with recommendations and analysis and evidence - I am sorry, I am trying to address the Scrutiny Panel and they are talking among themselves, so I will pause for a second - they will be able to come back with analysis and evidence based upon their investigations which already are quite well understood in certain jurisdictions, as analysed by Deputy Higgins already, and they will be able to bring recommendations but the reality is that the House can and probably will disregard the vast majority of that whether it makes sense or not because the nature of the States is that it takes advice and it follows the lead. If Scrutiny is going to do an effective job it has got to make small changes and not try to battle large changes and courses of direction. A small amendment today could have been brought, listening to what I am hearing, to say: "Let us make the scheme temporary for 2 years while it is under review, or 3 years or even a year." The point has been made that the U.K. scheme is under review. We could have had a very quick amendment. We could have had a very quick amendment by Scrutiny to say: "Right, okay ..."

Senator A.J.H. Maclean:

If the Deputy would just give way, if I can clarify? I did make the point in my opening speech yesterday on this matter, that the department will in fact review the scheme if it is introduced today, in a year's time or sooner, if necessary.

Deputy P.V.F. Le Claire:

Well, there we are. Yesterday I said it would be one in the eye for them and one through the foot for us and I stand by that and I was not referring to one in the eye for the Minister and the Minister for Treasury and Resources; I was talking one in the eye for the Executive and I was not talking about us; Scrutiny, I was talking one in the foot; a shot through the foot for us collectively, Jersey. This is not the time to be telling depositors in Jersey, ordinary men and women and those banking institutions that want to be seen to be given a good, clean bill of health by these large investigations that are going on through the Foot review and the G20 ... these are not the times that these banking institutions, during consolidation phases, want to be hearing anything but glowing news about Jersey and its commitment to finance. I said yesterday and I will say it again; there is no other game in town. I am not supporting this proposition to refer this to Scrutiny. Does that mean I am against it being scrutinised? No, we should always keep under scrutiny and we should always keep under review all of the policies in place in Jersey and all of the laws in place in Jersey and to do otherwise would be foolish. We have recently reviewed and replaced the social security scheme. We have recently reviewed and modified the housing scheme. We have replaced many schemes; we have changed many things and will need to continue to adapt. What we cannot do is let this sit for 6 to 8 months in Scrutiny, to come back and then be passed as it is today. We have an opportunity to pass it today and review it in a comprehensive and mature fashion once it is in place. People want it in place, the public want it in place, the banks want it in place, I certainly think it should be in place. I have been a strong supporter of scrutiny all of my life in this Chamber and I have always been on the opposite side of the House from those who are in charge but when it has come time, on occasions, for me to speak in favour with what the Executive are doing when they are saying things, I go with them because, in this instance, I am certainly convinced they are

speaking from the heart, from an informed perspective and I have heard nothing, I am sorry to say, from Deputy Higgins that convinces me that a delay of this nature is going to be good for Jersey. It is going to give us options, it is going to give us analysis and it is going to give us an argument about changes or, on the other hand, conversely, if it does not do any of that, it is going to give us a ringing endorsement of the scheme we are proposing today. What nonsense. I am glad that the second speech I have had to make on this topic has been in a nonsense debate. I shall not then have to worry about any more speeches I have to make because this entire rationale for pulling this in, at the moment, in my view is nonsense. **[Approbation]**

1.11.17 Deputy F.J. Hill of St. Martin:

I have not spoken before because I really thought we would have had this very short debate. I thought the principles would have been accepted because this is something we have been waiting for for years and years and years. I would have thought if, indeed, Scrutiny wished to call it in, as was their right, they were entitled to do so. So, why have we spent all this amount of time discussing something which really could have been obvious right from the start? **[Approbation]** We have made really hard work over nothing. Again, we keep coming back to this shotgun politics. The number of times we have stood in the House here and said: "You must do this because the world is going to come to an end" and yet we have been thinking about it for years. Can I just put 2 areas of note that have come to me? We have this story that we know the depositors have been depositing money in Jersey for years and years in the knowledge that there has been no depositor scheme and now we are being told they are not going to do so or are going to withdraw it because we have not got one, so who is telling the truth? How important is it? Also, if this is so vital to bankers in the financial services, do you know what, I have not received one note, one letter, no nothing from anyone and I would ask how many Members have received information or requests from the bankers because it is quite normal, when you get something so vital as this, that you get letters, you get communications from those people who have an area of concern, yet ... and I have no reason to disagree with what the Minister for Treasury and Resources is saying but certainly the message has not been passed through to a normal Member of this Chamber, and certainly I am an ordinary Member. Getting back to the actual proposition, I do think it is a mischief and I am sad to see that the Connétable of St. Peter really put it forward. This achieves nothing and I would urge Members to reject this proposition.

Senator P.F.C. Ozouf:

Can I seek a clarification from the Deputy of St. Martin? He said that he had not received any correspondence. Did he not receive the letter from Jersey Finance that was circulated?

The Deputy of St. Martin:

Not that I can recall, no.

1.11.18 Deputy E.J. Noel of St. Lawrence:

In my opinion the Chief Minister, yesterday, could not have been clearer. Again, Deputy Le Claire has surpassed his achievements of yesterday with his last speech. The best interests of Jersey must be put first and not individuals of this Chamber. I stood for election not for the love of politics but for the love of my Island and I wish to protect our Island for future generations. Deputy Higgins and his panel should scrutinise the D.C.S. but after we have passed the principles and after we have passed the legislation. We are being held to ransom by Deputy Higgins and we have no way of paying his ransom. I repeat; let us put Jersey first, let us have a D.C.S. on our statute books.

1.11.19 Deputy T.M. Pitman:

I was one of those who was not going to speak either in this part of the debate because, quite frankly, if not having a D.C.S. which, I think we all quite agree that we want, will damage Jersey's reputation then the last hour of this debate has probably killed off that reputation completely. It is an absolute farce. So, all I really wish to say is that if the foot stamping in support of Deputy Le

Claire's statement, and I do not mean any disrespect to the Deputy, that, in his words, any scheme is better than none, or the right one, then I think many Members of the public will feel that we really should just pack up and go home. After all, is signing up to any health insurance scheme only to then find out that it does not cover you for half the illnesses you might get, better than being prudent and ensuring you buy the scheme that will protect your welfare. No, of course it is not. That analogy is, quite frankly, bonkers. I think we really need to respect Scrutiny, get past the absolute madness and end this now. Let us just get on with it and let the Scrutiny Chairman and his panel do the job.

1.11.20 Connétable J. Gallichan of St. Mary:

It will be very brief. It was just to say I honestly understand the frustration as to why this particular motion has been brought but I believe the Constable of St. Peter really thought he would get an indication of how the House felt and of course that is not going to happen from the vote, just from the way Members are speaking. So I am obviously going to vote against this. I think most people are; they want to see at least the principles in but I would, for the record, just like to advise the Chairman of the Economic Affairs Scrutiny Panel that I really do not believe he should be calling it in and that is my opinion and he now knows it. Just to raise the point, the Deputy of St. Martin, I think, he said that for years depositors had gone on making deposits in Jersey banks without the comfort of a depositor compensation scheme. Well, please, could the Deputy take his head out of the sand and realise that times have definitely changed. They have changed in an enormous way. They have changed globally and we have to respond to that. Just to say, during this debate and the principle debate so far and this mini debate we have had, I have been saddened at the way Scrutiny has come out of it. I am saddened at what Members have seen as an abusive process and I think probably it can be seen that way, in fairness, but I think it was probably brought for a higher motive than that. I am saddened also by the way Scrutiny has stood up to this because, at the end of the day, if we approve the principles, we would be left with what is effectively legislative scrutiny being undertaken which is well and good, but this proposition has been lodged since 2nd June and I have seen nothing concrete coming out of the panel. I have got no terms of reference on the website; they have not appointed an adviser. With 6 weeks to the date of this debate, as has been said ably by Deputy Le Claire, something could have been done to give us something to go on and I think the Scrutiny Panel itself has shown it has failed in this so far and I think the time to speak more on that will be in the main debate.

The Deputy of St. Martin:

Could I, on a point of order, just remind the Connétable of St. Mary that I said we should reject the proposition? I was not supporting the proposition.

The Connétable of St. Mary:

I realise that.

The Bailiff:

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

1.11.21 The Connétable of St. Peter:

I rise with saddened heart at what I have been hearing this morning. I did not bring this proposition as a mechanism or some sort of conspiracy, as some people wish to try to infer it to be. I went through quite a long time going through Standing Orders trying to find out where I could find a mechanism to ask everybody in this House what their view was with regard to this going to Scrutiny or not, in the hope that Deputy Higgins would listen to the Members of this House and their view and take it on board. Standing Order 79 is the only vehicle which I could find that gave me access to let the Members speak and send a very sound message to Deputy Higgins. Much has been said about the depositor compensation scheme this morning; a considerable amount has been said about the vulnerability or the potential vulnerability that Jersey will be in if this scheme is not

in place, not the principles but the scheme. It is no good going forward and just putting the principles in place, scrutinising that and moving forward slowly; the scheme is to be in place now and then Deputy Higgins, then scrutinise it. Please allow this House to speak to you today [**Approbation**] to speak to you very loudly and say: “For the benefit of you, all the Members of this House and all the people in Jersey get this through today, get the whole thing in place and then please scrutinise it.” I will support you totally and wholeheartedly but I am asking you, in bringing forward this proposition today, I am asking you on behalf of the Members of this House to let this go through and then scrutinise it. I move the proposition.

The Deputy of St. Mary:

On a point of order, is he able to speak against his own proposition within Standing Orders because this is bizarre?

The Bailiff:

As I indicated earlier, it is indeed extremely unusual [**Laughter**] but it is not for the Chair to control the wisdom of Members’ speeches. The appel is called for in relation to the proposition of the Connétable of St. Peter, under Standing Order 79, that the matter at this stage be referred to Scrutiny. I invite Members to return to their designated seats and the Greffier will now open the voting.

POUR: 2	CONTRE: 43	ABSTAIN: 0
Senator A. Breckon	Senator T.A. Le Sueur	
Connétable of St. Peter	Senator P.F. Routier	
	Senator P.F.C. Ozouf	
	Senator T.J. Le Main	
	Senator F.E. Cohen	
	Senator S.C. Ferguson	
	Senator A.J.D. Maclean	
	Senator B.I. Le Marquand	
	Connétable of St. Ouen	
	Connétable of Trinity	
	Connétable of Grouville	
	Connétable of St. Brelade	
	Connétable of St. Martin	
	Connétable of St. John	
	Connétable of St. Saviour	
	Connétable of St. Clement	
	Connétable of St. Lawrence	
	Connétable of St. Mary	
	Deputy R.C. Duhamel (S)	
	Deputy of St. Martin	
	Deputy R.G. Le Hérissier (S)	
	Deputy J.B. Fox (H)	
	Deputy J.A. Martin (H)	
	Deputy G.P. Southern (H)	
	Deputy of St. Ouen	
	Deputy J.A. Hilton (H)	
	Deputy P.V.F. Le Claire (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy S. Pitman (H)	
	Deputy K.C. Lewis (S)	
	Deputy I.J. Gorst (C)	

		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy of St. Mary		
		Deputy T.M. Pitman (H)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		

The Bailiff:

Very well, so we return then to the debate on the principles. Does any other Member wish to speak on the principles?

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

I think we have finally come to the point where we all agree that, in principle, Jersey should have a depositor compensation scheme despite what certain Members of this House were saying 8 months ago. Some of us were aware of the situation and we were aware of the need, such is what happens when you have an industry based on perception but that is where we are. The issue which I have is that this has been rushed legislation. Very important legislation but rushed legislation. We have seen similar things which the Minister for Home Affairs has pulled because he has seen legislation which needs to be looked at. We are proposing very important, complicated, technical legislation which exposes £100 million of the strategic reserve. Now, it is my understanding that the strategic reserve is there to support the Island if, all else, the banks fail. That is the very point of the strategic reserve and yet we are saying: "Give up £100 million of the strategic reserve should the banks fail." I think that really does need to be looked at. Now, it might be appropriate that that is done. That might be the case but I think that it needs to be looked at. Previously this year we have seen issues regarding the Viscount's getting money out of businesses; we have seen the problems of that. Again, that needs to be looked at because we have had problems around that already. Regarding the process, we received the Oxera report on 2nd June but, regarding the scrutiny process, scoping documents need to go to the Chairmen's Committee, we need time to do a report, we have been advised by our Scrutiny Officer that to do a basic Scrutiny report it takes 3 months. We received the information on 2nd June. June, July, August; Scrutiny could not have done a report, a proper report on this very complex piece of legislation within that timeframe; it is not possible. So now where are we? We have tried to be open and co-operative with the department from February this year. We received documents from the industry that the department had before the department has given it to us. I agree with Deputy Le Claire and what he has said that the public want a scheme but the public want a proper scheme. The public want a scheme that will work. The public want a scheme that will not expose Jersey to any problems. I also stood, like Deputy Noel, in the election because I care about the Island but another reason why I stood is because the States, in the past, do not do things properly. It is about following proper process. It is about doing things in the correct manner; not doing things quickly, not rushing things which need to be done properly. We are in this situation because Scrutiny has tried to be co-operative. We have been everything that we could be but, in order to not be criticized that we have done absolutely nothing, we have had to do different workloads. We have had to look at different things because, despite us wanting to do things at the very beginning of the year, we have not had the opportunity to do so. So, when we are criticized for completing other workloads, I am left for words. We are trying to do things; we are trying to follow proper process because of the failures of this Assembly in not doing things like that in the past. Regarding the consultation process, I think it is appropriate that it happened but we must ask ourselves further, which is why it must be scrutinised, if you were to ask any industry: "Do you want the government to put in place a scheme

whereby your liabilities are covered?” Well, which industry is going to say no? These are very important, fundamental issues which need to be looked at. I will be supporting the principles because I do believe we should have one. I believe we should have had one years ago and I think people, to stand up and have said months ago: “We have the top 500 banks so we do not have anything to worry about” is ludicrous **[Approbation]** because now we have one of the top 500 banks which has been effectively nationalised because it is in the ownership of the British Government. I do not believe that means that the banking industry all is good and well and, as Deputy Le Claire has said, there is more to come. More debt is being bound from time to time and if China decides to call in the loans from America, then we are looking at a very different world financially. In conclusion, proper process must be followed and, unfortunately, this is the road we have come to.

1.13 Senator A. Breckon:

First of all, can I just remind Members of decisions of the House? A few years ago, this House made a decision twice that we would hold a census in 2006. The Council of Ministers conveniently ignored it and came back and said: “We can produce this information in another way.” So it would appear that decisions of this House are not sacrosanct. I think Senator Ozouf mentioned: “What a difference a year makes” and I would like to remind him of a few things at this point but, first of all, I think there are many things that we could have done and should have done and a compensation scheme for depositors is one of them. We could have done it in peace time. Others have done it but when Senator Ozouf was Minister, he would not listen and, when he listened, he would not act. I heard a programme on the radio some time last year and it was a member of the Rothschild family and what he was saying was, in his opinion, which was a very professional and knowledgeable opinion: “The failure is of the regulators and the auditors and people like that.” They failed to report, they did not see what was under their noses and there was a lack of transparency and what transpired from that was protection for you and I against the failure of these systems. It was at that sort of level and we are first class at this because we have a Financial Services Commission that is not regulating effectively. They are taking deposits. Where is the protection? It is not coming from them and, for me, that is a failure. How can money in a bank or building society be at risk? If somebody had said that 3 or 4 years ago, people would have said: “You are nuts. You will never have people queuing in the streets to get their money back. It will not happen.” But it did and we have seen that with Northern Rock. Who is responsible? Apparently, you and I are. Not just you and I but the people out there. It is not the people who have had the mega bonuses and the perks and whatever else and taking some of the money with them. It is left to governments and people to bail out the banks. The Chief Minister mentioned yesterday about real life experience. This is a real life experience. People across the world are paying for corporate failure and greed. That is where that is coming from. **[Approbation]**. It is not coming from us at all. Something was mentioned about people looking at us and reporting us, about Crown Dependencies and we are out of line. Again, I have said in this House about a dozen times about things that go on in the Isle of Man and the Isle of Man said: “We are the only offshore jurisdiction with a Financial Services Ombudsman Service.” We have ignored that. Jersey could have had feathers in its cap before now but in peace time when we could have done it, the voice, I am afraid, of mine and others has fallen on stony ground. I would like to refer to some record from Hansard. On 13th May 2008, Deputy Gorst asked questions of the Minister for Economic Development regarding the creation of a Jersey Bank Depositors’ Compensation Scheme. He said: “Has the Minister any plans to create a Jersey Bank Depositors’ Compensation Scheme and, if not, does he have any proposals to protect depositors and maintain competitive advantage?” In the response - and I know that we had a discussion yesterday about how effective questions and answers are - part of the answer was: “All banks in Jersey are well regulated and each is a subsidiary or branch of a larger banking group which ranks in the top 500 banks worldwide and, therefore, each Jersey bank has a larger parent company in the U.K. or elsewhere.” He goes on to say: “There is no evidence to suggest that a lack of a bank depositors’ compensation scheme

reduces Jersey's competitive positioning. Indeed, there is a distinct possibility that the very significant costs of introducing such a scheme would act as a disincentive to Jersey. In fact, banks may consider not establishing in Jersey because of the costs. My view is that we should continue to rely on tough regulation and not deal with issues or regulation of dealing with a stable door after the horse has bolted." Senator Ozouf said this morning that when he met with the Bankers' Association yesterday, they said: "It would be extremely unwise not to have a scheme." So we have not got a U-turn there. I think we have got somersaults and cartwheels [**Approbation**].

Senator A.J.H. Maclean:

If the Senator would give way, could I ask him to clarify a point? I wonder if he could very kindly clarify as I did not catch the date that he said that came from Hansard because I think it was early 2008. Would he accept that that was correct and that it was a very different time in the economic landscape?

Senator A. Breckon:

It was 13th May 2008 and if the Minister would listen, what I said is that, in peace time, Ministers with responsibility in decisions could have been made to bring a scheme into place. I also said that. Deputy Gorst also went on in a question he asked: "I am sure the Minister is well aware of the Isle of Man Depositors' Compensation Scheme." That was the essence of what he said and Senator Ozouf said: "I will say that we will keep the matter under review. However, the advice that has been received is that because of our tough regulatory arrangements and only introducing or allowing the establishment in Jersey of banks in the top 500, it would be, in effect, not necessary." Then there was question from Deputy Le Hérissier. The Minister at the time, again, was asked: "Can he give a categorical assurance to the people of the Island that the people's deposits are absolutely iron clad with these top 500 banks?" The Minister at that time blabbered on a bit but he did not answer that question and Deputy Le Hérissier came back: "Can I press that?" Again, he sought assurances and, again, the assurance was: "Depositors in the Island can rely upon the strength of the banking system in Jersey and can rely on the fact that there is tough regulation in terms of 500 banks, the quality of banks that exist in Jersey and they should take considerable comfort from that." Again, in response to a question from me about tough regulation, the Minister replied: "I explained that the tough regulation is that we only allow in the Island the setting up of banks that fall within the top 500 rule. That is tough regulation. Many people have questioned that policy over a period of years but I think the policy has stood the Island in good stead. That is the confidence that the Jersey depositors can take." So that is the assurances we got. We did not need it and it was rock solid because there was only the crème de la crème, as it were. Deputy Gorst followed up again in a rather long question. At the end of that, he was saying: "It is incumbent upon us as a jurisdiction to ensure that we do have every piece of armoury at our disposal to encourage depositors within the Island and, not least, encourage local savers to deposit their money in Island banks." Senator Ozouf then was softening up a little bit and he was saying: "I am happy to review again the Isle of Man scheme but it does come with a cost and there is obviously a trade-off of cost versus, I think, the better situation of ensuring tough regulation so the banks [blah blah blah]." He was saying: "But I will review again the issue of the Isle of Man Depositors' Protection Scheme and if there is something that is appropriate, that is balanced, then I will look at it and bring forward proposals to the Assembly." That was in May 2008. We have heard about lifting schemes from everywhere else, now they are readily available everywhere else apparently. Why was it not done between May and the end of the year, if that could have been done? Again, I asked a question following that about the levels because they were moving in the U.K. from 30,000 to 35,000 and it has since moved to 50,000 but, again, questions were not really answered but, in part of the answer, Senator Ozouf said: "There are no issues in Jersey at this present time and Members should draw comfort from that." There were other questions and there was a statement made on 23rd September 2008 which promised that we might get some sort of review. So the issue I would contend is not new. We have failed, perhaps when we did have an opportunity and I think something that I have

been on about for years is a Financial Services Ombudsman and I think that is something as well that Deputy Higgins is aware of. But, again, this has been ignored and perhaps we should look at these schemes of basic consumer protection because, as others have said, the Island can rightly say we have these systems in place as a safeguard. We do not need anybody to tell us from outside. We do not need to impress them. We need to do what is common sense for investors, for local people and for people outside the Island. The other question I have is who can make the promise of £100 million from the strategic reserve? Should we have asked the people: "Do you want your money, your strategic reserve, your rainy day set aside for what are indeed commercial transactions which is what banks are conducting?" Now, they have fallen foul of their own incompetence and their own greed and they have been bailed out by governments across the world and that is ongoing, as we have heard from somebody else this morning. But should we not have asked the people of Jersey: "Do you think this is a good and effective use of your safeguard, your rainy day fund?" Nobody has done that and I think that is an important point. Senator Ferguson said as an aside that the Corporate Affairs Scrutiny Panel are intending to do that but I am not sure when or how they are going to connect to ask the good people of Jersey what they think. So while I applaud the element of protection, it is qualified in the fact that we could have done something; we should have done something; are we doing the right thing now? Hopefully, yes, but I am not sure we are because whose money is it? The banks now are skipping on board: "Well, if there is a government guarantee, okay, yes, we will sign up" but there we go. Now, if you look at industry funded things for dispute resolution and remedy, in the main, they are funded by the industry themselves. If you look at things like financial services and regulation in the U.K., in the main, the industry pays a considerable part of the funding depending on the use, there is some basic fees and then it is based pro-rata whether it is insurance, banking or other financial services. They do pay themselves and they are quite happy, I would contend, to avoid any costs or charges if they can. Somebody will pay in the end but, eventually, it will be us. It will be the ordinary consumer and the ordinary punter that will pay for it but government can put something in place that is transparent and helps that. There is another thing I have a concern about and that is where we have got some of the hired help and people like the Jersey Finance. How come they are all jumping onboard now? Where were they when it was a basic consumer requirement or service? Why did they not say anything then? If we want to impress people outside, then we perhaps should generate it from what we do inside and not say: "Well, that is nice. We can tick that box." It is not about ticking boxes. It is about the little, old person living in Albert Street and: "Is my money safe in the bank?" Well, yes, it should be. It always was. If it is not, why is it not? It is all right saying: "We only licence the top 500" but how can we honestly examine banks who are operating on a worldwide scale and say they are competent to operate? I am not sure that we can. I am not sure that we can. We are taking somebody else's word for lots of this. So while I welcome this, it is a guarded welcome and if Scrutiny want to look at things and find things and make recommendations, whether they do them in the next 6 weeks or the next 6 months, I think we all should be aware of this. I think the Deputy of St. Martin said: "Has anybody contacted you?" Well, lots of people, I can tell you, have contacted me and not from just inside the Island but from outside. I got a call about 6 or 8 months ago from an Irish bank asking me if I could stop people in Jersey contacting them because the Irish Government of the time gave an unlimited guarantee on deposits and there was a run on money in effect and I said: "How the Dickens do you expect me to stop people phoning you?" I got a call from an Irish bank and that is how money can move and was moving. Now, I well appreciate the situation that we have got and I well appreciate how things have changed but I would just close by perhaps asking Members to bear this in mind, people who are going gung ho about this now were saying: "We do not want it. We do not need it." So, although a year can make a difference, at the same time, we must be aware of real life issues of things that concern people and address them before somebody tells us it is a good idea to do that and gives us a pat on the head. Now, Deputy Higgins' position in this is at the tail end of this because if you look at the trail of information from this from May last year, if things had been worked on and discussed ... it is obvious now in hindsight that has happened but it is not obvious to the rest of us that were not aware of that.

Perhaps ‘policy and development’ or whatever it may be has an opportunity to share information and not be confrontational about sharing it because we are all working, hopefully, for a common goal and a common cause and we can defend the Island outside. But, first of all, we must sort out the housekeeping issues inside and that is what I believe this is, but it is of substance because it is of concern to many, many people outside, not just in the Island but outside the Island. It is a flag we can fly when we say: “Jersey is a world-class finance centre and we have safeguards in place that protect the small person against the might of an institution when and if [hopefully they do not] they go wrong” and if we can do that, we are doing it for the right reasons. With that, I did not speak before because I have been actively involved with Scrutiny for a while and I am conscious, with respect to the panel, they do not come with a great deal of Scrutiny experience. Perhaps there could be somebody co-opted or somebody to assist to make this happen but it does need to be looked at and I do not have a problem whether it is now or whether it is later. I think, knowing the Minister, Senator Maclean, you will get that co-operation. We need, I think, to put something in place and we need to move on and, with that, I would ask Deputy Higgins if he would re-consider his position so that perhaps, while he may well wish to scrutinise it, [Approbation] I think if we get to the principles - and we have been in a similar situation with Williamson, with the Co-ordination of Services for Vulnerable Children - I would ask him to consider that because I think we can have a “win win” situation here and perhaps we can move on with that. I respect his decision to do whatever he wants to do but I would ask him to consider that. [Approbation].

1.14 Senator P.F.C. Ozouf:

I am extremely pleased to follow Senator Breckon.

Senator A. Breckon:

A point of clarification.

Senator P.F.C. Ozouf:

I was writing some notes while he was speaking and criticising the approach that had been taken.

Senator A. Breckon:

A point of a clarification.

Senator P.F.C. Ozouf:

If the Member is making a point of order, I am not sure.

Senator A. Breckon:

A point of clarification. Can you tell me how many times the Minister has spoken in this debate already because he seems to have been up and down on his feet umpteen times [Laughter].

The Bailiff:

A lot of people seem to have been up and down on their feet, Senator, though I take the view that the Senator ... he spoke in the proposition of the Connectable of St. Peter, before that, he stood to make the proposition to propose that proposition and then gave way, so I do not consider he has yet spoken in this debate, so if you wish to continue.

Senator P.F.C. Ozouf:

I do apologise and I am cognisant of the fact that Ministers are ... and I am speaking with some degree of emphasis and passion and I do not do so for simple political reasons. I do so for perhaps the reasons that have been best elucidated by Deputy Le Claire who I think has spoken brilliantly in these debates and also my Assistant Minister Deputy Noel who says that we are here to do the right thing for Jersey. I thought that Senator Breckon, in repeating some remarks that I made last May, gave exactly the reasons why - and he concluded by agreeing with that - we have had to change our mind, and changing our mind is the right thing to do. Last May, I do not think anybody in this

Assembly would have predicted or would have thought of the collapse of Lehman. Not a bank, because our strong regulation in Jersey, that we had in Jersey. Nobody would have thought that R.B.S. (Royal Bank of Scotland) would have been, in the majority, nationalised or that HBOS would have been drawn to its knees in terms of needing to be bailed out by the Lloyds Banking Group. I said at that time last May that it was important that we keep the matter under review and that, however, we were confident in our banking industry and our regulation and that is exactly the reason why we have a proposition for a depositors' compensation scheme that works, that has a cap of £100 million, there has been detailed examination of the residual risk in Jersey and that makes meets international standards in terms of having the confidence of depositors. So the world has changed. Governments around the world have changed their position dramatically in relation to supporting their banking systems injecting billions and borrowing billions of pounds to inject in their economy. If I am at fault for changing my mind, just as Ministers in the U.K., France, Germany, Belgium, Spain, the Netherlands, across the Asia Pacific, the developing world and elsewhere, then I am sorry but I think that it is absolutely right that you change your position because of the economic circumstances. I say to Deputy Maçon, with the greatest of respect, I would love to have sat with him and his panel to explain the issue of the £100 million cash flow for the strategic reserve and that is something that we will come to, hopefully, when we get to the Treasury and Resources' propositions. What I need to say to the Deputy is 2 things. The £100 million is cash flow. It is not ultimately a cost to the States unless one of the top 6 banks fails. So it is a cash flow issue that we are underwriting from the strategic reserve because we want a scheme that sends out the message that we will pay up in terms of those £5,000, for example, initial payments. I do not want to be in a position in a world in which, if a bank were to collapse, we would not have the available line of credit in order to meet Jersey's obligations. When we put schemes in place in Jersey, we make sure that they work and that they work from all senses of it and I have had detailed discussions with all those drafting the schemes to ensure that the money is available when it would be necessary even though that circumstance is, I am pleased to say and I remain of the view, an extremely remote proposition. If it gives the Deputy and his panel any comfort, I will say to him that is the Corporate Affairs Scrutiny Panel that scrutinise Treasury and Resources and I have been, as the Corporate Affairs Scrutiny Panel characteristically always do, grilled on the matter, interrogated on the matter and had to account for my decisions in relation to the strategic reserve and those important decisions and the Chairman spoke yesterday. There is also the issue of Members being concerned about advice. Oxera has been mentioned. Oxera are also advisers to the U.K. scheme. We have engaged and got some of the best brains around in terms of developing, in a very short period of time, this scheme. This is my only chance, as it will be other Members only chance, to appeal to Deputy Higgins to re-consider, as I have had to do, his position. I really believe that we need to send out the message of confidence in our banking system, the reassurance that was not required previously, the detail in the fine print that Jersey depositors will get ... that their deposit is underwritten by a statutory guarantee rather than a political guarantee which has no statutory basis. There are things that should be reviewed and kept under review and continually challenged and we will need to do so but governments have introduced schemes and they review them and keep them under review. We are going to have to review the issue of the limit and perhaps lift that up to the 100,000 euro in accordance with the E.U. Directive, which will be a matter for this Assembly to consider. We may well need to review the issue of the 0.3 per cent deposit limit. We must keep everything under review if the world changes and if international standards regulate. I sense the mood of the Assembly. I think that the Assembly wants to not only agree to the principle of the bill that they want a scheme in but they want Scrutiny as well to run in parallel. Looking at the clock, maybe we will wrap up the debate on the principles before lunch and maybe we will not, but I would urge the panel to meet over the lunchtime adjournment and re-consider their position, admit that perhaps the information has been useful in terms of this debate and sense the mood of the Assembly, as we all must do, in holding our executive positions. I really do implore the panel to re-consider, do their work but do not hold up effectively this important protection that really matters for Jersey and the messaging that we

have in relation to the Foot review, the I.M.F. and the G20 which is going to be important to our medium and long-term interest and will happen in the crucial period of September and October. I urge Members to support the preamble and, equally, with some degree of passion, urge the Panel to re-consider their position.

The Bailiff:

Does any other Member wish to speak?

1.15 Deputy A.E. Jeune:

I am not an accountant, I have never worked in the finance industry but I am looking at this proposition, I hope, from a common sense perspective. We do believe, or I do believe, we have stable banks here on Jersey but we do not have a crystal ball. Most of the other speakers, in particular Senator Breckon, have said much of what I planned to say so I will skip most of it. But, as has been said, we need to keep up the confidence and credibility that we have built up over the years and I sincerely hope that the message that we are to send out is not going to be that Scrutiny does not listen to the majority decision of elected Members.

1.16 Deputy S. Pitman of St. Helier:

Firstly, I just wanted to ask the Minister for Treasury and Resources if he did this review on the Isle of Man last year?

Senator P.F.C. Ozouf:

The matter was kept under review. Right the way through the end of last year, I was involved in the early drafting and the early discussions when still Minister for Economic Development following the instruction that the Assembly gave me to progress matters from Deputy Le Claire's proposition. So the Isle of Man scheme is one of the things that is being reviewed. However, it is the new Minister that has dealt with the detail of the scheme. A number of international schemes have been looked at.

Deputy S. Pitman:

I just wanted to outline the process in which our Scrutiny Panel has tried to get information out of the Minister and, I have to admit, it was not always that he had the information at hand to give us. I would just like to start that it was in the October hustings that Senator Ozouf was at the time saying that we did not need one of these schemes in place and then, in early February, we later discovered that the industry was being consulted, so that is a matter of only 2 or 3 months. So I understand that Members have been given the timeline of the panel's work on this. On 13th February in our minutes, it says: "The Panel agreed that it would gather relevant background papers and undertake initial scoping of the possible review of the Depositors' Compensation Scheme" and this was at the point when we first asked the Minister for information. On 2nd March in our meeting minutes: "The Panel was advised that a first draft of the depositors' compensation scheme policy along with notes for law drafting were being worked on at the Chief Minister's Department and that a draft document would not be ready for Scrutiny by the Panel until April 2009. The Chairman informed the panel that Oxera had produced a report on behalf of the States of Jersey examining the issue of the scheme. It was agreed that a copy of the report would be requested." On 9th March, we requested the Oxera report and were advised by the department that the report would be provided when it was completed and a second request was made for advice on when this may occur. On 19th March, a follow-up request went to the department again for a date on the completion of the report. On 2nd April, there was further follow-up to the Economic Department regarding the completion date. On 20th April in our minutes: "The Panel agreed that it would bring forward its planned review of the depositors' compensation and that the review should be scoped." At the end of April a request went to the department for the Oxera report, relevant background reports and information. On 5th May, the panel was advised that the Oxera report had yet to be forwarded to the department but on 5th May, we did receive the 14th draft of the Regulations. On 18th May, the

panel requested that the Oxera report should again be requested from the department and, in addition, any part of that report received, if not the whole, and any related correspondence would also be requested. On 21st May, the response from E.D. (Economic Development) is that they do not have the Oxera report but it will be sent once released. The report was sent on 1st June by the department. It only at the beginning of July, we also found out that there were 4 huge confidential files of information that we received that only the E.D. Department has requested and that only the Chairman reads and he has since been reading these confidential files which the panel has yet to receive until we find out the small parts of it which are confidential and not the whole file. In the beginning of June, in the minutes of the meeting: "The Panel agreed that a request would be made to the department for any draft or interim reports and advice received from Oxera during the drafting of the proposed legislation to be forwarded to the Panel." In addition, it agreed to request information regarding the consultation process that was undertaken by the department to include all consultees, the questions asked and responses received. That was on 8th June. Again, on 15th June, a request was made for all correspondence with Oxera, all, if any, interim reports provided by Oxera, all advice received from Oxera in relation to the draft legislation, the law drafting instructions, all information demonstrating the scope and questions and responses to the consultation on the draft legislation and any other information that may be relevant to the development of the draft legislation. As I have just said, it is only 2 weeks ago when we received these huge files. So I was just trying to put across that the panel has tried its best. We have started reading the information that we had before we received the huge files 2 weeks ago but we could not do a review because we did not have the time because we did not have the information. I would just say that £100 million of the strategic reserve, our rainy day fund which is taxpayers' money, is one good reason why this should go to Scrutiny. Why do we have Scrutiny? Well, my view is that to get the best possible policy for the people of this Island, when we are using their taxpayers' money in that manner, we must give this scheme good Scrutiny.

1.17 Connétable K.P. Vibert of St. Ouen:

I am very concerned that the last number of hours - because has been - has been what I think is probably a debate at its worst because we have taken our eye off the ball completely and concentrated more on political procedure than on achieving what we are supposed to achieve which is the protection of the people of this Island. **[Approbation]** I think I would refer to Senator Breckon when he said that all the topics that the Minister for Treasury and Resources has brought up; the various international bodies that are going to be looking at our decision, yes, that has to be taken into account. But as Senator Breckon said, we are here to protect the little, old lady in Albert Street and I would make one last plea to Scrutiny to let this go through and then scrutinise what we have passed to make sure that what we have done is the correct thing to do. But, in the meantime, at least let us have something which will protect the little, old lady in Albert Street **[Approbation]**.

LUNCHEON ADJOURNMENT PROPOSED

Senator P.F. Routier:

I propose the adjournment, Sir, and perhaps implore the main players in this debate to get together over lunch and come forward so we can move forward satisfactorily.

The Bailiff:

Very well. The adjournment is proposed, so the Assembly will re-convene at 2.15 p.m.

LUNCHEON ADJOURNMENT

The Bailiff:

Now, does any other Member wish to speak on the principles? Very well, I call upon the Minister to reply.

1.18 Senator A.J.H. Maclean:

It is amazing how a good lunch distils the appetite for Members to speak further on a particular topic which we have been dealing with for some hours. I hope I, in my opening address some day and a half ago, stressed the importance of the Depositors' Compensation Scheme. The importance of the scheme is not just to Jersey but to, in particular, our local residents. I know Senator Breckon raised the point about the small depositors in the Island and it is indeed the small depositors in the Island who indeed have most to gain from a scheme of this particular nature. We are particularly concerned about the reputation and, again, many Members have made comments about how the urgency of this is not that relevant and how indeed back in October of last year, we could have had a scheme or we could have brought a scheme in, as Guernsey did. I should say that Guernsey were forced into a position of accelerating a depositors' compensation scheme because they had a bank failure. It is not something that Jersey, fortunately, had to go through. Indeed, the reason that we were not in that position was very much because of the policy of a number of years of ensuring that we have the most robustly regulated financial services industry possible and, indeed, the top 500 banking policy has stood us in extremely good stead over the years. But that does not mean that there is not a good reason for accelerating the scheme now and more than anything else, it is about delivering on the promises of this Assembly and of this Government. It was in December of 2008, in the immediate aftermath of the most severe aspects of the global financial crisis and, in particular, the banking aspect of that crisis where household names were collapsing and governments were stepping in to protect their major banks. Deputy Le Claire who, I must say, I thought spoke very well yesterday, but I thought surpassed that speech today. I certainly hope he quits while he is ahead. **[Laughter]** But, in all seriousness, Deputy Le Claire brought a proposition to this House. He was concerned and I know he had been contacted by very many of his constituents about the position of depositors in Jersey at the end of last year. We had a debate in this Assembly and, unanimously, we made the decision that a depositors' compensation scheme should be put in place and, moreover, we decided and agreed there would be a deadline for delivering a depositors' compensation scheme and that was July 2009. Right now, in other words. It was because we were in a fortunate position of having a little bit more time than perhaps some other jurisdictions who were under a great deal more pressure, because of the makeup of their banks, that we were able to instruct an organisation such as Oxera to give a comprehensive review of depositors' compensation schemes around the world and to look in particular at what would be relevant for a jurisdiction such as Jersey with our particular makeup in terms of the banking sector. We should remember also that Oxera are the organisation that the U.K. Government used to advise them on their depositors' compensation scheme and I think that is an important point because, again, a great deal of play has been made by a number of Members, in particular, some of the panel members from Economic Affairs that this particular process has been obstructed by my department. I have to say that I completely refute that. I like to think, and I made the comment earlier on, that we have a constructive relationship. Certainly the Chairman and I have discussions off line on a reasonably regular basis, which is important, and the Scrutiny Panel themselves have been invited at any stage to draw matters to our attention. We are more than happy to give briefings. We have offered briefings on any subject that they so chose. We had not had a request specifically on depositor compensation schemes until after we received the letter from the Chairman on 2nd July, some month or so after all the final documents were passed through to the panel. I accept it is a complex and important piece of legislation that does require and does need scrutiny so I do not think there is any doubt that Members of this Assembly would agree to that, but I think we have got to balance the importance of that and ensure that both sides of the House, the Executive and the vitally important Scrutiny function, work together where it is a matter of particular importance to the Island. In my opinion, this is probably one of the most important things, one of the most important pieces of legislation that we should be considering and at a time like this when we are following in the legislation that is being proposed, regulations and a format that meets international standards and is largely utilised by many other jurisdictions elsewhere, it is not a question of re-inventing the wheel. We have a basic framework and although I accept the Scrutiny Panel, without doubt, will add value, and I am sure if they were to chose to scrutinise this particular legislation

after implementation, I have already undertaken that we would review it and, working with them, we would be more than happy to consider amendments should they chose to bring them forward. I know, for example, that the Chairman, Deputy Higgins, with his experience of these matters, is concerned about one or 2 issues. I accept that. There is always room for improvement. We should remember, though, that in Guernsey, who were forced to act rapidly to bring forward a depositor compensation scheme, important aspects of that particular scheme have yet to be finalised. The importance they recognised at the time was to get a scheme in place, utilise a framework, a tried and trusted route that is known and that is what they have done, but they have yet to finalise important matrices for example as to the weightings that the banks would be responsible for should there be a failure and should the scheme be called upon. I think that demonstrates if nothing else does that there is an opportunity with this piece of legislation and this type of legislation to scrutinise it. It may not be the usual format, but there is an opportunity in my view to be able to scrutinise it effectively and valuably after the event and still ensure that Jersey's reputation is not, in any way, diminished. I have to say there are risks. It is accumulative effect of risks. It is not one particular risk. There has been talk about the G20. Yes, the G20 themselves are not looking at Jersey's Depositor Compensation Scheme. Of course they are not. There is the Foot Review which will be reporting later in the year. What we do not want, what we must not have, is a position where there is an opportunity for those that are scrutinising offshore jurisdictions, such as Jersey, to have a hole in our armoury, a gap in our regime and depositor compensation schemes, particularly at this time, are things that really are a must have. It is recognised as a must have. We have got the banking industry themselves recognising that it is very much a different world and that business is being lost to the Island without the benefit of a depositor compensation scheme. It is multiple interests which are at stake here and reputational interests which are at stake here. Members have raised numerous points. I am not going to go through, I am sure Members will be pleased to know, in detail each individual contribution. All I will say is thank you to Members for all the points they have raised. There are just one or 2 issues I would like to highlight at this stage. There is a concern about the £100 million potential liability and I think that is a point that is just worth covering because I think there is some misunderstanding. The £100 million liability over a 5 year period is not an open cheque should there be a bank failure, any bank failure, that the States of Jersey or our strategic reserve, more importantly, is going to have to stump up £100 million. I should just add that the details of where the funding comes from, the strategic reserve, is a matter that will be debated by this Assembly in due course. It is a proposition that the Minister for Treasury and Resources will be bringing shortly after this debate. It is a separate issue with regard to funding, but I will just touch on it because it is important. That is that of the top 6 banks in the Island should there be a failure among one of those banks, and should the bank not be supported by its home jurisdiction, which to date of course we have seen all governments around the world, or the majority therein, supporting their systemic banks. But if there should be a top 6 bank failure, then the liability, the first £65 million, would be met by the banks themselves. It would only be then that we would be called upon for up to £35 million. Indeed on top of that, if there were no recoveries whatsoever from that bank failure, there could be a further £10 million that would be levied from the bank itself. That is the total liability. Should it go to the £100 million, which Members are rightly concerned about, you would be looking at multiple bank failures of the largest banks in the Island. I would suggest we are probably then talking about something close to a Domsday Armageddon scenario of a banking system failure totally. Frankly, if that were the case we would have far more things to worry about. I do not think there is any doubt in Members' minds having listened to ... well, we have a sidetrack debate with all due respect to the good Constable earlier on. I understood what he was trying to do, but it is clear that Members are, broadly speaking, supporting the principles of a depositor compensation scheme. I would be surprised, having had the unanimous support in December of Deputy Le Claire's proposition, if it was not unanimous this time around. I think what we are arguing about is the scrutiny function and I can understand that. It has become almost a debate between the Executive and Scrutiny and lines have been drawn. Even the issue of depositor compensation scheme we have to be careful we do

not get mired in concerns that we are not allowing the due process of government. It is important and it is quite right that we should give very, very careful consideration to these factors. Scrutiny should, and must, be allowed to fulfil its function properly. I believe and I certainly hope the Economic Affairs Scrutiny Panel feel that we have an open dialogue. There has been some mention of the process that we have gone through and that information was not available. All I can say to Members is that we have tried to react as quickly as we possibly could to requests for information. There have been some issues over confidentiality. Part of the problems that related to confidentiality were that there were some members of the panel who were not comfortable with a confidentiality agreement, believing that that should not be necessary in open government and they should not have to sign confidentiality agreements, but I am afraid we are dealing with highly confidential information in this particular issue. We are talking about banking profits, banking commercial interests and issues and there are certain elements that are confidential and we have to, in these instances, respect that. But notwithstanding that, I believe that the information that my department has supplied to the Scrutiny Panel has been extensive and I believe largely timely. I am disappointed and I have expressed my disappointment to the Chairman myself that this matter could not have been dealt with slightly more quickly than indeed it has. I think it was perhaps Senator ... I was going to say Senator Shenton which I do apologise, Senator Breckon. He has been called a Deputy today as well. I think he is probably better as the Deputy in that respect, but we will leave that aside. Senator Breckon rightly pointed out, and this is not in any way a criticism, that largely they are a relatively inexperienced panel. I make that observation because simply they are largely new Members to the Assembly and so the processes of such things are slightly more difficult to deal with. I have, I believe, some confidence that should Deputy Southern and his former panel have been in place, as I believe Deputy Martin alluded to earlier, that perhaps they may well have been able to progress matters slightly more speedily. But, nevertheless, the suggestion by Senator Breckon to include, or allow to be co-opted on to the Economic Affairs Panel for this particular proposed review, somebody of experience, I would welcome. I think that is an excellent idea, but clearly that is a matter for the panel themselves to give due consideration to. I do not wish to make very much more comment on this at this particular stage other than myself to give one final plea to the panel in the interests of the Island, in the interests of what I believe is the mood of the House, overwhelmingly I sense, to allow this legislation to proceed **[Approbation]** to give further consideration to allowing that to happen. I will give an undertaking that we will co-operate in every way possible with the panel to allow their review to proceed over the coming months should they take that position. We will do any way, of course, but we would be very keen to assist them in reviewing the matter after the legislation if they should have a change of heart and decide to allow it to go through in the interests of the Island. I propose the principles and I leave the matter in the hands of the Assembly.

The Bailiff:

The appel is asked for in relation to the principles of Draft Banking Business (Depositors Compensation) (Jersey) Regulation P.86. I invite Members to return to their seats and the Greffier will now open the voting.

The Bailiff:

Deputy Higgins, do you wish to have this matter referred to your Scrutiny Panel?

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

My committee has met and we met with the Minister for Economic Affairs, but we are of the view that we wish to scrutinise it so we are going to take it direct to Scrutiny

POUR: 46		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				

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

The Bailiff:

Very well. That matter is then referred to Scrutiny. We need to fix a date, Deputy. You indicated earlier, I think, 20th October.

Deputy M.R. Higgins:

That is the date we realistically think we might be able to achieve. It is the fourth sitting.

The Bailiff:

Is that right, Greffier? That is the fourth sitting? Very well. This Assembly agrees 20th October.

Deputy P.V.F. Le Claire:

I realise this is probably going to be seen as a grave step on my part, but I would like to refer to Standing Order 80 and whether or not that can be applied in this instance or whether or not it will be ruled out of order?

The Bailiff:

What Standing Order are you asking to suspend?

Deputy P.V.F. Le Claire:

I am asking that the suspension of Standing Order be applied so that this does not get referred to Scrutiny, under 72.

The Bailiff:

I am sorry, Deputy, it is too late. Even if it were possible, it is too late. The matter has now been called in. That brings debate upon that projet to a halt. Senator Maclean, it seems to me that you have one more matter, Projet 87 which is clearly ancillary and dependent upon the Regulations. Do you agree that has to be deferred?

Senator A.J.H. Maclean:

Yes, I do.

The Bailiff:

I think the Minister for Treasury and Resources has, I think, 3 similar matters. Is that right, Minister? You have Projet 84, the strategy reserve matter; Projet 85, the draft public finances matter and the draft income tax amendment. They all refer to the regulation so I do not think they can be debated until the regulation is passed.

Senator P.F.C. Ozouf:

I agree, Sir. It is with enormous regret this state of affairs, which I do not think is the majority view of the Assembly. I wonder whether or not we should not be moving to dealing with the preambles of this in order that there is an automatic right to move forward with these debates rather than getting blocked in the way.

The Bailiff:

I think it is very difficult, Minister, because they refer to Regulations which have not yet been passed. I do not think it can be done and so they can all be brought back obviously for the same time as the debate upon the Regulations continues.

Senator T.A. Le Sueur:

Before we leave the depositor compensation scheme, I wonder if the Chairman of the Panel would be prepared to give an undertaking that they will extend their review to cover the matters contained in the other propositions of Senator Maclean and the Minister for Treasury and Resources at the same time rather than risk having this situation ... sorry, it is a different panel, but to the extent that the Economic Affairs Panel might want to scrutinise the depositor compensation regulations, that they would do that at the same time.

Deputy M.R. Higgins:

Without speaking to the rest of my committee, we will do everything we can to try achieve that. We will try and look at them and come back to States on them. We do not want any delay.

The Bailiff:

The point being put is you want to look at the package and only scrutinise the package once.

Deputy M.R. Higgins:

Yes, thank you.

Senator S.C. Ferguson:

Deputy Higgins has not replied to any of my emails about whether he should scrutinise 2 projects which are, in effect, part of my committee's remit. We, in fact, will be discussing this on Wednesday at our next meeting because our original understanding was that Scrutiny would be after the Regulations were passed and at this point in time I cannot say anything about that until I have spoken to my committee. I do not see how Deputy Higgins can give an undertaking to scrutinise those 2 projects until my committee has met.

The Bailiff:

Clearly he can only at the moment speak for those matters which fall within the purview of his Scrutiny Panel. The Minister for Treasury and Resources has asked to make a statement in relation to the Waterfront and I have given leave for that. Minister, would this be a convenient moment to make that statement?

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

2. Statement by the Minister for Treasury and Resources regarding Waterfront Enterprise Board:

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

I have committed to update Members as to the present status of negotiations between the Waterfront Enterprise Board Limited and Harcourt Development Limited in relation to the Esplanade Quarter. I have now received an update from W.E.B. (Waterfront Enterprise Board) which enables me to set out the position to Members. I am also, of course, conscious that Members are shortly to debate the proposition and the amendment of the Deputy of St. John in relation to the deferral of the development works by Harcourt Development Limited of the proposed Esplanade Quarter. Members will recall that W.E.B. entered into a development agreement with Island Developments Limited, a subsidiary of Harcourt Development Limited, in relation to the development of the former abattoir site on 14th October 2005. That development has progressed and through I.D.L. (Island Developments Limited) Harcourt has developed a new bus station for the Island, an apartment hotel, 85,000 square feet of fully let prime offices and now progressing with the final part of the scheme which involves converting the historic parts of the former abattoir and tourism building into a retail and leisure complex. W.E.B. understands that this scheme has cost approximately £50 million to construct. In July 2007 W.E.B. entered Heads of Terms with Harcourt Developments in respect of the development of the Esplanade Quarter scheme. Those Heads of Terms include financial terms which are attractive to W.E.B. and consequently to the States of Jersey. They contemplate not only the construction of considerable infrastructure at Harcourt's cost but also the payment by Harcourt to W.E.B. of £50 million, together with an uplift based on the achieved rental and sales. One of the fundamental provisions of the Heads of Terms is that the funding of the infrastructure works and the payments to W.E.B. should be backed by a bond to be issued by a bank or insurance company acceptable to W.E.B. in the sum of at least £95 million. I have previously advised Members that W.E.B. have been seeking appropriate confirmations from Harcourt and its funders that such a bond can and will be provided. While letters of comfort have been provided to W.E.B. by 2 potential funders they are not expressed in terms which provide W.E.B. with the level of commitment that W.E.B. is seeking. Harcourt have advised W.E.B. that the contractual document is not in a sufficiently advanced state for any major lending bank to provide the comfort that W.E.B. is seeking. W.E.B. does not accept this. The board of W.E.B. has given much consideration as to the present status of the negotiations on the

Esplanade Quarter development. The Board is aware that many of the dates set out in the Heads of Terms entered into on 19th July 2007 have passed and considers that the timetable provided by the Heads of Terms is no longer appropriate in the context of continuing negotiations on the project. As a consequence, the board has come to the decision that the Heads of Terms should be terminated as the framework for negotiations of the development documentation. According W.E.B. has terminated, with immediate effect, the Heads of Terms entered into between W.E.B., Harcourt Developments Limited, Esplanade Finance Centre Limited, Les Jardins Residential Limited, Les Jardins Leisure Limited on 19th July in respect of the Esplanade Square and the Les Jardins sites, now known as Esplanade Quarter. W.E.B. has indicated to Harcourt that it would be willing to continue negotiations, in particular agreeing the terms of the principal documentation which could be put to the States of Jersey for consideration with my support should Harcourt continue to provide the necessary unconditional bank guarantees and funding. W.E.B. have set a deadline of 4th September 2009 to agree the terms of the principal documentation. W.E.B. has asked Harcourt's banks to indicate the nature of their support for the funding of the development and to confirm that they are able to work within this timetable. I have previously committed to the Assembly that I will not approve the terms of any development agreement to be entered into with Harcourt until the States Assembly has considered and given its approval to the terms of the transaction. I reiterate that commitment now. The proposition of the Deputy of St. John, as amended, requests that the States agree that the development works by Harcourt of the proposed Esplanade Quarter and other areas of the St. Helier Waterfront should be deferred until there is a significant improvement in the economic situation in Jersey with clear indicators of economic growth. The Deputy confirms in the report to his amendment that it is his intention to exclude the former abattoir site from the scope of his proposition. No such development works can commence until the development agreement has been entered into which, as I have said, requires the approval of this Assembly. I have also previously explained that the development agreement will provide that the Esplanade Quarter development works will not commence until agreements have been entered into for the letting of at least 200,000 square feet of office accommodation. If potential tenants are identified for such a considerable area, that will be indicative to me of an improvement in the economic situation. On that basis I intend to support the Deputy of St. John's proposition. I think it is important for me to reiterate to Members that the delivery of modern office accommodation built to meet the needs of the Island's financial services industry is a fundamental requirement for the future economic success of this Island. I have previously said that meeting the requirements of such institutions is a material factor in seeking to persuade them to retain or expand their operations in Jersey. The Esplanade Quarter provides the Island with the ability to meet these requirements. In addition, it will also provide much needed additional residential accommodation on the Waterfront and public amenities.

2.1.1 Deputy R.G. Le Hérissier of St. Saviour:

Can the Minister, as a result of his statement, confirm that the offer to Harcourt has now been extended by W.E.B. to 4th September and can he confirm that he is absolutely convinced of the viability of the office development?

Senator P.F.C. Ozouf:

The offer has not been extended. The Heads of Terms have been terminated. That is a substantial change in relation to the contractual relationship. What W.E.B. have done because of their continuing relationship with Harcourt is to suggest that negotiations generally with Harcourt can continue. In relation to the office development the view is that this office space is needed for the growth of our financial services industry, for the consolidation of it and of course he asks about viability. If the 200,000 square feet pre-let space is identified, which is part of the development agreement, then it will be viable.

2.1.2 The Deputy of St. Mary:

We have been told in the previous debate that since May 2008 the change in the world situation is unprecedented, the world has changed, banks have been nationalised, the world has changed so totally that we must have a depositor compensation scheme. I do not understand why the world has not changed so totally that we no longer need 600,000 square feet of office space and I would like the Minister to comment on that.

Senator P.F.C. Ozouf:

I am deeply, deeply disappointed that we cannot offer our financial institutions and our local depositors the issue and certainty of a statutory scheme. The world has changed and we are marketing Jersey and efforts are out there to retain existing operations in existing banks and difficult discussions are happening. Moreover, in a more positive light, there are opportunities for a well regulated country such as Jersey to identify new lines of business. I believe in the future economic prosperity of Jersey. I want to give every chance for Jersey's long-term prosperity and giving indications of positive areas of modern office accommodation together with regulatory frameworks and a depositor compensation scheme is all part of the package. The Deputy does not seem to understand that.

2.1.3 Senator S.C. Ferguson:

I have 2 points. One, will the Minister confirm that he will ensure that W.E.B. understands that letters of comfort which I understand are almost impossible to enforce contractually will not be acceptable and will he confirm that there is no truth in the rumour that there are plans to put all States offices on part of the site?

Senator P.F.C. Ozouf:

Yes, letters of comfort are not acceptable to me in bringing the development agreement to the States and, no, there are no plans of moving all States offices or any substantial part of States offices to the Waterfront. Discussions have been happening in a number of different areas, but they have not had any political support thus far.

2.1.4 Deputy J.A. Martin:

Yes, and this is genuinely because I do not understand, the Minister has told us that W.E.B. has terminated the Heads of Terms and on the third paragraph down, W.E.B. has still got until 4th September to agree the terms of the principal documentation. Are we fiddling away to try and get out of some different agreement as we have terminated one heads of lease that we were quite comfortable with? I would really just like the Minister to explain exactly what the principal documentation is that they are now negotiating.

Senator P.F.C. Ozouf:

The Heads of Terms set out the general framework and have different obligations in it. The development agreement, if it were the case and I read, as I am sure other Members did, with interest Harcourt's interview in the *Jersey Evening Post* yesterday that indicate that they will come up with the documentation and can come up with the bank guarantees. I think what W.E.B. is saying, and I think they are taking absolutely the right stance in this regard, is if Harcourt do come up with all of the bank guarantees, not compromising in any way as Senator Ferguson has sought that undertaking, then that would be a good thing for Jersey. The deal that was previously negotiated is positive for the States of Jersey, as I have said in my statement, and if they were able to come forward with all of those criteria, I would bring the deal to the States and this Assembly would opine on it. I hope that answers the question.

Deputy J.A. Martin:

Just for clarification then, so if by 4th September everything is met, although today you are supporting the Deputy of St. John, will we have to wait for the other indicators in the upturn? I am a bit confused to the way forward now.

Senator P.F.C. Ozouf:

We will obviously come to the Deputy's debate shortly, but I think, and I have discussed the issue of the Deputy of St. John's proposition in detail, frankly it would be churlish to not accept it upon the terms I think that he is basically making clear. The economic upturn in Jersey will be indicative by people wanting to take space, 200,000 square feet seems to me strong evidence and, therefore, if that were to happen, if the documentation requirements were to be fulfilled, then I would bring the deal to the States, but the important point is the Heads of Terms has been terminated and that is significant as I am sure Members can understand.

2.1.5 Deputy M.R. Higgins:

Again, just for clarification, the Heads of Terms lease, the fact that it has now been terminated with immediate effect, does that mean that if another developer came along that negotiations could be entered into with them? You also mention further this other development agreement which again, providing they come up with the guarantees by 4th September, they can still go ahead on that one. What I want to understand is is it now open to anyone to come forward with proposals to develop the Waterfront if they wanted to or are you still wedded to Harcourt?

Senator P.F.C. Ozouf:

I do try and speak through the Chair and I wish the Deputy would learn States procedure. It is through the Chair, it must be. The approval in relation to the situation with Harcourt, the Heads of Terms gave effectively Harcourt exclusivity. The Heads of Terms are no longer in place. It must be to W.E.B. to take instructions from this Assembly which I thought was the clear indication of approval for the master plan and consider all options. That is a matter for the board of W.E.B. and they will report in due course. I am giving the update as to where the position is now. I am not going to speculate on what W.E.B.'s next position is going to be because I am dealing with the narrow point of the issue that Members are concerned about and the bank guarantees and my role in that.

2.1.6 Deputy G.P. Southern:

Does the Minister not agree that the level of 200,000 square feet of office space, finding a lessor for that, is rather low level of indicator at the return of economic growth and surely there are much more concrete and solid indicators such as, for example, 2 quarters of growth that would be a more reliable indicator that the recession was over?

Senator P.F.C. Ozouf:

The States has previously been accused of not responding to economic information and it seems that somebody characterised a previous States response to recession as when they see the temperature go down to zero, then finally they decide to turn up the heating. The fact is is the Deputy really suggesting that one would aim to see the actual economic growth of Jersey recovering? Would not one want to see the indications that there was an opportunity for growing financial services industry in terms of starting the construction and benefitting from the next rising tide which will inevitably follow?

2.1.7 Deputy M. Tadier:

Perhaps I can restate what I believe to be the question. While everybody hopes that Jersey will be able to regain, if indeed it has lost it, its economic prosperity, what we are saying I believe is that currently there is economic uncertainty. We have heard that on both sides so the point I believe that is being made is that surely it would be more prudent at a time when we do not where business is going, rather than to build X amount of new offices surely it would be more pertinent to build housing because we know that we have already taken a decision to increase the population. Would the Minister agree with that?

Senator P.F.C. Ozouf:

I think it has to be for W.E.B. to work with the Planning Department and other departments in order to work out what the best use of the space in the Masterplan is. It may well be that there is going to be a greater opportunity to put residential there. That is something for the board of W.E.B. to discuss and something I am sure they will take away from the comments the Deputy makes.

2.1.8 Senator P.F. Routier:

Recalling the Masterplan that this House approved and quite resoundingly supported, does the Minister recall that any development is a mixed use development, although there might be 200,000, whatever it is, number of office accommodation being built in practical ways there will also be residential accommodation within that same development?

Senator P.F.C. Ozouf:

I do, and I think that this Assembly overwhelmingly supported the Minister for Planning and Environment's fantastic vision for the Waterfront. A great place to work, to live and to have leisure facilities in open squares. That is the dream that this Assembly approved. Hopefully when the economy returns to a more positive outlook, we are going to get a developer which is going to be able to deliver that.

The Bailiff:

Very well. I am afraid that brings the questions to the Minister to an end. The next matter of public business then, as the Assembly agreed, is to return to the proposition of the Deputy of St. John. Before then, I had also given leave for the Attorney General to make a statement so I think this would be a convenient moment to do it.

3. Statement by The Attorney General regarding historic child abuse prosecutions

3.1 Mr. W.J. Bailhache Q.C., H.M. Attorney General:

I have made no statement about the 11 cases in which I have recently directed that there should be no further action at present and which were the subject of a media report last week. It is not generally my practice to comment in relation to decisions not to prosecute. That practice was only departed from recently because decisions had been taken in relation to cases which were already in the public domain. I do expect to make a sufficiently detailed statement, however, at the end of the investigation once all decisions have been taken and there can be no impact on potential prosecutions. As at present advised I expect that position to be reached by about the beginning of September. Members will remember my earlier statements that right at the beginning of the investigation I appointed an experienced private sector Crown Advocate to act for the prosecution. He had instructions to prosecute no matter who the prospective accused might be if the evidential test was met, unless he thought that there was some exceptional public interest factor that ought to be brought to my attention. However, if the independent lawyer thought the evidential test was not passed, his decision was not to be the end of the matter. He was required to submit a detailed written opinion which, with the appropriate case file, would be reviewed by a senior lawyer in my department with extensive experience in the Crown Prosecution Service in the U.K. The file would also have a high level review by me personally. The private sector Crown Advocate has invariably in these cases had a preliminary opinion from a barrister in London as well before he completed his work. In the 11 cases referred to, therefore, 4 lawyers have independently reached the view that the evidential test was not passed. Though it is not their decision in every one of those 11 cases, the police have agreed that the evidential test is not met and have agreed, therefore, with the decision not to prosecute. I put the system in place generally with regard to prosecution decisions in this investigation to ensure that those decisions were not only taken fairly but could be seen to be taken fairly. The same evidential test is applied here as in the United Kingdom. Prosecution decisions are taken dispassionately and not emotionally. It is not the case that complainants are entitled to their day in court at the expense of the public. The existence of the evidential test recognises that

beginning a prosecution is a serious matter for the witnesses, for the accused and for the public. If it is not more likely than not on all the evidence which is properly admitted before a court, that a conviction will be secured, it is not right to prosecute. I see an awful lot of negatives there. Perhaps I can put that the other way around. It is only right to prosecute if it is more likely than not, on all the evidence which is properly admitted before a court, that a conviction will be secured. Over the next 6 weeks I expect decisions will be taken in respect of the outstanding files, some of which are with my department, some with the independent lawyers and some still with the investigating police officers. This will take place during the recess, but that is by chance and I wanted to bring Members up to date with the position before the summer break is upon us. I would like to add this in relation to the question of civil claims as there appears to be some misunderstanding about my role in this respect. If there is civil liability on the part of the public towards a claimant, it is no part of a Minister's duty nor part of the attorney's duty to take steps improperly to defeat that claim and thereby save public money. Secondly, although I believe there was little risk of conflict in my office handling civil claims after the criminal cases had been concluded, I recognised in the middle of last year that there was a risk of mischief makers wrongly asserting that decisions in criminal cases had been influenced by our dealing with the civil claims. Accordingly, I spoke with, and later wrote to, the Chief Executive to ask him to procure private sector representation for Ministers facing such claims. This has been done. Thirdly, although the Council of Ministers had the historic child abuse investigation as a regular agenda item during its meetings last year, I almost invariably absented myself from those discussions. This was both because I thought there was nothing at that stage for Ministers to determine and partly because I wanted to keep my own role quite separate from Ministerial involvement. Finally, Ministers will need advice at some point, not on individual claims but on structural matters such as the terms of reference for any committee of inquiry or whether there should be established a redress board or a claims commission or some such. I do not see any conflict in the law officers giving this advice however, as I hope is obvious from what I have said already, the question of conflicts or perceived conflicts is kept under review and if, at a future date, that looks like causing a problem we will take steps to deal with the matter appropriately.

3.1.1 Deputy S. Pitman:

I will ask the Attorney General does he not see a conflict acting as a judge as to whether or not he should be pursuing States employees and former employees and then acting as chief adviser to the Council of Ministers?

The Attorney General:

I would ask the Deputy to repeat the questions. I just did not hear most of it.

Deputy S. Pitman:

The Attorney General has decided not to prosecute for various reasons any former or current States employee who has been involved in these child abuse cases. He is also chief adviser to the States. Does he not see there is a conflict?

The Attorney General:

I am not sure I have got much to add to the statement I have just made. No, I do not think there is a conflict because the decisions which have been taken in relation to prosecutions first of all have been taken in the first instance by the independent private sector Crown Advocates. Only if they have decided the evidential test is not met is it referred to my department where it is reviewed, first of all, by one of my senior criminal lawyers and then by me, personally, as a high level review. In the cases concerned so far, in every case not only have all 4 lawyers thought that the evidential test was not met, but also the police have thought the evidential test was not met. Insofar as that is concerned, it seems to me to be perfectly clear. As I am not advising Ministers on the civil claims, the second part of the Deputy's question simply does not arise.

3.1.2 The Deputy of St. Martin:

I draw reference to the third paragraph for the Attorney General where the Attorney General says: "I appointed an experienced private sector Crown Advocate to act for the prosecution. He had instructions to prosecute no matter who the prospective accused might be if the evidential evidence was met unless they thought there was some exceptional public interest factor that ought to be brought to my attention." Could the Attorney General explain what exceptional circumstances may lead to no prosecution being taken?

The Attorney General:

I think the statements that I have made previously were that if the evidential test were passed we could be satisfied that the case could go ahead. It would be very, very rare indeed that any public interest factor would determine that there should not be a prosecution, but I think the example I have given previously is that if one were faced with a person who, on established evidence, was in the last week or month of their life, it might not be appropriate to prosecute.

3.1.3 Senator B.I. Le Marquand:

Is the Attorney General able to confirm that the test as to whether not to prosecute namely the evidential test is a high test and whether it could not be defined as requiring more than a 50 per cent chance that 10 out of 12 jurors in the case of a jury trial will be sure that the person is guilty?

The Attorney General:

Yes, I thank the Minister. The test as I have always expanded it is more likely than not that a court or court would convict, but of course that does mean because of the rules of criminal trials that one has to persuade 10 of the 12 members of a jury in a jury trial, at least, that they must be sure, they must be satisfied beyond all reasonable doubt that events happened as the prosecution asserts.

3.1.4 Deputy M. Tadier:

First of all I would just like to thank the Attorney General because I believe the second part of his speech is effectively an answer to question 17 on the order paper yesterday which I submitted and which could not be answered due to a lack of time. So I do acknowledge that on the part of the Attorney General. The question I would like to ask though is in particular reference to 2 words which are slightly alarming on the back sheet, second bullet point. There is a reference to 'mischief makers' and it says: "Wrongly asserting that decisions in criminal cases have been influenced by our dealing with civil claims." There is a slightly different context. I would just like to get a confirmation from the Attorney General that he does not believe that anybody who questions a conflict of interest, be they a politician or a member of the public, or questions the process is necessarily a mischief maker?

The Attorney General:

I am certainly not been intending to accuse the Deputy by asking the question yesterday of being a mischief-maker, if that is the point.

Deputy M. Tadier:

It was not so much me, but just in general terms to emphasise that there can be more than one motivation for questioning processes.

The Attorney General:

I agree entirely that there are frequently more than one motivation. **[Laughter]**

3.1.5 Deputy R.G. Le Hérisier:

At the risk of asking the Attorney General to over-generalise, could he outline to the House, based on his review of experiences in other comparable jurisdictions, what are the factors that make for a successful prosecution in this particular category of cases?

The Attorney General:

It is well-known that historic abuse prosecutions are difficult because there frequently is any lack of direct corroborative evidence. Where one has an investigation these days for an offence such as rape, for example, usually you would expect to get some forensic evidence, DNA evidence, or whatever it happens to be, which is some independent corroborative evidence and of course if one is looking at an investigation of circumstances which took place a long time ago, that sort of evidence is unlikely to be available. It is possible that you can have what is regarded as similar fact evidence where there are a series of complaints by more than one person against the same suspect or accused, where the law allows the evidence given on one charge to support the complaint in relation to another charge, but those circumstances do not apply always and certainly in the cases we have looked at so far the lawyers have taken the view that it has generally not been possible to adduce similar fact evidence. When I say so far, in the cases where we have decided not to prosecute. So, the absence of any independent evidence is usually a prime difficulty and I put it that way because of the way the Minister for Home Affairs put it to me a moment ago, that you have to persuade 10 out of 12 jurors that they should be sure that the events happens as the prosecution claim because if one is left at the end of the day with a complainant who gives evidence very fluently that the allegations are correct, that the assault or rape or whatever it is took place, and the accused gives evidence just as fluently that it did not, and that is the only evidence which the jury have to face, it is quite difficult at that point to take the view that any reasonable jury could be sure beyond reasonable doubt that the accused had committed the crime. So, that is very often the problem which is faced in deciding whether or not to prosecute.

3.1.6 Deputy P.V.F. Le Claire:

If I can ask this of the Attorney General; this statement talks about non-prosecution of 11 cases. Could I ask, because I am a bit foggy on this and I am sure some Members probably are as well, there certainly have been some prosecutions in my understanding and I wondered how many there have been and how many were active.

The Attorney General:

There have been 3 persons charged so far. One of those persons was subject to 2 trials and was convicted in both trials. The second one changed his plea and admitted guilt, and the third one is coming up for trial in August. I cannot say, at the moment, whether there will be further prosecutions; there may or may not be. As I have indicated in the statement there are a number of files still outstanding either with the police or with the independent lawyers, or in my office.

3.1.7 Deputy M. Tadier:

I was going to ask the same question, but perhaps a supplementary on that basis. Could the Attorney General confirm whether the number is greater than those that have been dropped, or if it is significantly less, or perhaps even just give us an actual number of how many are outstanding. I believe it is in the public interest and that the public would like to know this.

The Attorney General:

I think there are about - so give me a margin of 20 per cent - 12 files outstanding.

3.1.8 Deputy R.G. Le Hérisier:

Could the Attorney General say that even though the evidence may not have met the tests that he has earlier defined, have there been instances where enough evidence has been brought forward that while it may not be put to a criminal trial it could be used, for example, in disciplinary proceedings?

The Attorney General:

The usual rule is that evidence which you obtain in the course of a criminal investigation is not available for other purposes, unless it is made plain to the witness, at the time of giving the

statement, that the statement might be used for other purposes. Of course there is no reason why the witness should not be approached again later and asked if they consent to that statement being used for other purposes, but there is an assumption that the witnesses will be prepared to assist the police for the purposes of criminal investigation, but might take a different view if it is in relation to another purpose and that is why the consent is, I think, an important part of that process.

PUBLIC BUSINESS

4. Esplanade Quarter and Waterfront development: deferral (P.77/2009).

The Bailiff:

We return to the Order Paper and to Public Business, and as agreed by the Assembly we revert to the proposition of the Deputy of St. John: Projet 77 - Esplanade Quarter and Waterfront Development Deferral. Deputy, do you agree that the proposition should be read out as amended by you, in other words subject to your own amendment? Yes. So, I will ask the Greffier to read out the proposition as amended.

The Greffier of the States:

The States are asked to decide whether they are of opinion to agree that the development works by Harcourt Developments Limited of the proposed Esplanade Quarter and other areas of the St. Helier Waterfront (including the sinking of the Route de la Libération) should be deferred until there is a significant improvement in the economic situation in Jersey, with clear indicators of economic growth, and to request the Chief Minister, in accordance with Article 22(a) of the Articles of Association of the Waterfront Enterprise Board Limited, to give directions to this effect to that company.

The Connétable of St. Peter:

Could I just declare a conflict in this matter, as a board director of W.E.B I do not intend to speak nor vote on this topic.

Deputy E.J. Noel:

I too am a member of W.E.B. and will not speaking or voting on this projet.

The Connétable of Grouville:

Sorry, I have to make the same excuses but hope that I will be able to speak and vote on it.

The Bailiff:

Yes, it is a matter for Members. I do not regard simply by being a director of W.E.B. representing the States that a Member has any direct or financial pecuniary interest, so it is perfectly open to Members who are directors to stay and to vote but they should obviously remind Members of their position.

Senator F.E. Cohen:

Having considered the matter carefully, as I have not finally determined the current applications I will not be speaking and will not vote in this proposition.

The Bailiff:

The Deputy of St. John will have a second go.

4.1 The Deputy of St. John:

About the 20th go to be precise! I am pleased that I have at least been able to convince the Minister for Treasury and Resources that I am worth supporting on this particular debate but I now have to convince 51 other Members whether they are going to speak or abstain or whatever, but I am sure

they can nudge one of their neighbours whether they think it is worth voting for. For some months I have had this proposition sitting in my pending tray before deciding to put it forward; I suppose in the hope that the Council of Ministers would have pulled the plug on the Waterfront development until such time as clear signs of economic activity was to return to the Island in the abundance prior to the credit crunch. Unfortunately the Council of Ministers has not been reading the signs from around the world that all is not well. We tell them that the public out there are reading the signs, we are in the period, and have been since last year; it is called the phoney war, when the build-up is happening, but nothing is visible but rhetoric. Well, as the months have passed and Europe and England started to feel the squeeze then we too will be affected and I am pleased to see that the Minister for Treasury and Resources has taken steps to spend the £44 million in pump-priming the economy and not pump-priming the Waterfront Enterprise Board. Much has and is being said in the media about the preferred developer across the world; from America to Ireland. Well, these are difficult times for all business houses and I will refrain from commenting further but to say I sincerely hope the abattoir site gets finished sooner rather than later as a drop-in centre, et cetera, is greatly needed by our youngsters. As for the tunnel, underpass, call it what you will, and the Esplanade Quarter, by putting this on hold until clear signs of active growth are seen is no big deal. Given the 7-year project, if started today they could end up being 10, 12 or 15-year projects and all that goes with the building sites. When we do have to move forward let it be in the right direction for the needs of the day because for sure whatever goes on this site in the future will be what is required at that time, not what was required in the past. There will be some people disappointed not to see the tunnel, but so be it. That might come in the future. Let us look at the overview and a few random areas on this particular topic. Construction period: one contract. It is estimated that the 2 floors of underground car parking, the buried road, drainage services et cetera will take from 2 and a half to 3 years to complete up to the podium slab. This is on the assumption that the entire basement would be built in one exercise and not phased. From these the above podium slab buildings will commence and if it falls all to within one area it is estimated that we could do this in 4 or 5 years to complete the entire project, but the best guess is construction could take 7 to 8 years. Disruption to Island life and traffic considerable, but probably it is acceptable for what we are going to get at the end of the day. But if we go down the road of a phased approach it would be possible but very disruptive to complete the basement and underground road in several phases so as to minimise risk and negate the cash flow. This is probably the way the developer will choose to go and if the report in the paper yesterday evening is anything to go by, Mr. Power's comments, that is basically what he said. If this is the agreed way to complete the project, the office blocks, residential winter gardens, et cetera, will then follow on in response to demand. As I said, this is what was said in the paper last night. It is impossible on this basis to foretell when the entire project will be completed unless the development agreement has a backstop date, which is enforceable. The result of unknown completion dates with building site, a gateway of Jersey, of up to 15 years and that is not acceptable. It is horrendous to think that we could have a building site for that long. The viability of the funding: in order to complete the basement car parking and roads in one hit it is estimated on current day costs the developer will need to spend upwards of £100 million to reach the podium, the podium being the area basically at road level. At this point commencement of the office, residential works, et cetera, could take place. This will then take a further 4 to 5 years with a potential spend of at least £250 million to £300 million. This scale of financial commitment is probably unfundable at the present time. Even if some bank funding was forthcoming the total project will need between £325 million to £350 million plus £75 million contributed by the States of Jersey. The banks will expect a developer to produce the first 30 per cent to 40 per cent of funding as equity up to and in the region of £150 million. Can any developer guarantee this in the present climate? The financial viability of the entire project is highly questionable at present. One needs only to look at the dire situation in the United Kingdom; commercial property sectors where around 45 per cent of the stock market value, amounting to billions of pounds, have been wiped off public limited property companies such as British Land, Land Securities and the like. Yields are now at around 7 per cent or 8 per cent from 5 per cent a

year ago and of course with increased yields the value of the completed projects is lower, making it even more difficult to fund such projects but easier to sell at a loss. Demand: offices. Having spoken to some of the leading agents in Jersey in relation to potential demand for the proposed nearly 700 square feet of office, their opinion is that in the present climate they cannot identify a single tenant who could commit to 100,000 square feet. The global financial and economic crisis is far from over with much future uncertainty in relation to new levels of regulation imposed on all financial sectors. A wait and see policy in respect of the Esplanade Quarter makes enormous sense in this context. The whole of the financial sector globally is in a period of great change. A probable reduction in the size of the number of banks; local banks such as Lloyds, HSBC, and RBSI will certainly be reducing their staff numbers, or almost certainly, and office space requirements. Other locally based banks such as UBS and Citigroup have lost billions in the last year and it is doubtful if such banks will have the appetite to commit to large capital costs in the current climate. As a guide just to fit out 100,000 square foot new bank will cost in the region of £12 million to £15 million. Such expenditure will not be seen as wise at present. There are at least 6 sites along the Esplanade in planning or design stage but upon which no development has commenced, due to lack of tenants. Some of these sites, including Swansons Hotel, which is 100,000 square feet, the Cosmopolitan, 80,000 square feet, CI Tyres, 80,000 square feet. The above projects are stalling mainly due to the lack of demand. There could be a 300,000 to 400,000 square foot build along the Esplanade. This area is designated for offices in the Island Plan but those sites will not be developed unless tenants emerge and yet W.E.B. and the developer are identifying a need, or have been identifying a need, for 700,000 square feet. Retail: you just have to look at the new abattoir; 4 years ago the development agreement was signed with Harcourt. None of the new retail units are completed and as far as we know no tenants have committed. This must speak for itself. There is a reluctance to move out of town and shops at the Esplanade Quarter could be empty for a long, long time; 2 retail outlets built on the Albert Pier flats and completed some 7 years ago, one is still not occupied and the other is occupied by a doctor's surgery. There is a large retail area to be included in the Castle Quays and this will probably take care of demand in the medium term. Residential: there are a significant number of residential projects, mostly flats, either just completed or in the pipeline. Examples: 14 Gloucester Street, the Portelet site, the Rex Hotel site, the Carlton Hotel, and Bouley Bay Sites, Wesley Street site, Fort d'Auvergne Hotel, and not least the Castle Quays. The number of units is staggering and yet W.E.B. and the developer are telling us they need more. Potentially I see a significant oversupply with falling demand in the buy-to-let market. States of Jersey offices: at a recent Institute of Directors lunch Senator Cohen announced an ambition to relocate a large proportion of States offices under one roof on to the Esplanade Quarter. This would require, according to Senator Cohen, something in the region of 150,000 square feet of net office space. This seems a very strange aspiration for someone who has constantly promoted the Esplanade Quarter as an international finance centre. Does it make sense in the current climate of falling revenues and black holes to contemplate spending an estimated £5 million per year on rent, including parking spaces? This of course would be subject to the States taking on a long lease with the usual full repairing and insurance covenants and upward rental increases every 3 years. The cost of relocation and fitting out such a space could, in addition to the rent, be in the region of £15 million to £20 million before moving in. I understand the ambitions of some of our Ministers to kick-start this development, but to put the States of Jersey on a plate as anchor tenant is a step too far in anyone's political ambitions. These same Ministers may well argue that they will not rent the space but will build offices themselves as part of the development. At least we will own the buildings, but note the capital cost of the buildings will be over £40 million plus fit out costs, as I quoted earlier. Again, I question if this makes economic sense in the current climate to spend £60 million. * The wider benefit to the Island: the current economic downturn, hence the Treasury's acknowledgement for the need for a fiscal stimulus package, concerns must be expressed as to the potential benefit to the local economy and community if another U.K. developer is approved for the development. The first part of the project consists mostly of civil engineering works and the probability is that these would be let to a large civil

engineering contractor, probably Irish, given the slump being expressed in Ireland. **[Interruption]** This has been the case with the Energy from Waste Plant, which is currently estimated to have an 80 per cent offshore content. It will also probably be argued by the developer that there will be considerable economies of scale if the construction of the building was also let to an offshore company. This will bring very little benefit to the Island in taxes, apprentice training, local jobs, et cetera. To date all of the works for the project has been at the behest of the Minister for Planning and Environment carried out by the U.K.-based architect, Sir Michael Hopkins. Planners, engineers, landscape designing, et cetera, again little benefit has accrued to the local professional firms with massive amounts of fees paid and all shipped off-Island without payment of local tax. These companies do not contribute to the community locally, do not employ locally and do not train locally. Of course W.E.B. will argue that the development agreement will contain provision for the employment of local firms, but this will surely be window-dressing. Take for example the current St. Helier Masterplan exercise, which is on the way. Initially planning only included 3 U.K. firms on the tender list but when local firms complained the U.K. firms were asked to work in association with local firms. The outcome has been the employment, once again, of Sir Michael Hopkins who is indeed working with a local firm, but when you examine the arrangements in detail I am sure you will find the local firm is there to add local flavour and in fact their proportion of the work would be minimal, as evidenced by the fee proportion. Perhaps Senator Cohen could comment on this and confirm what the proportions are, but I am aware he has already made comment so maybe his Assistant Minister might be able to comment. This is not about having a go at all foreign contractors, but rather about the need to support our local firms in the very difficult economic climate we have at the moment, hence the current policy: "Think twice, buy local" sponsored by the Trade and Industry. Unemployment at high levels looms and the construction industry, which employs 4,000 people, or 10 per cent of the workforce, will be badly hit unless great care is taken in the drafting of the development agreement so as to ensure as much work as possible is done on Island, should the projects proceed. Long term benefits: the promoter of this project argues that it is necessary for long-term benefit of the Island to have an international finance centre. I thought Jersey was an international finance centre and to my knowledge it still is. With some exception most finance houses seem to be satisfied with their offices, although there is plenty of potential to build up to 300,000 or 400,000 square feet on already designated Esplanade sites. I believe the aspiration of existing Island-based banks and the like, including future expansion, can be met from these sites. We therefore need to ask the question, who is to occupy nearly 700,000 square feet of additional space at the Esplanade Quarter; New businesses and banks? If so, where are they to come from? To the best of my knowledge W.E.B., after 2 years of actively seeking interest, has not secured one single commitment from any tenant for any of the space. Even if the space were to be partly filled, what does this mean? It means that to fully occupy nearly 700,000 square feet of offices a total of around 5,000 office workers would be required. Some of these may come from existing businesses who move to the site, but conservatively at least 3,000 could be new to the Island. This is 3,000 workers which could translate into 7,500 people. Yes, the 3,000 new workers will pay tax, but all we will be doing is creating greater demand on the environment and existing infrastructure of the Island in respect of schools, hospitals, roads, drains of course, services, transport, et cetera. We will be running to stand still. In conclusion, (1) the current global and Island economic financial outlook is very uncertain with the current recession predicted both in the U.S.A. (United States of America) and Europe to stretch it to 2011, maybe longer; (2) the future size and structure of the financial industry but not its existence - and I repeat that, not its existence - is very uncertain; (3) the disruption of Island life, if the project goes ahead in phases, would be considerable for a long period of time. Phasing the project should be avoided; (4) the project in its final form is probably unfundable without States assistance in the form of taking on a significant amount of space and thereby contributing to the cost; (5) the standing of the developer of unquestionable pedigree has not been proven and doubts over their financial strength persist; (6) there is no proof of pent-up demand for any of the space, offices, commercial or residential; (7) if new office space were to be required by the existing or new finance firms it could be built on the

current designated sites along the Esplanade; (8) for the States to contemplate housing estates of Jersey civil service and new buildings in order to kick-start the project is crazy in the current economic climate; (9) States offices should not be situated in such a location; (10) the viability of the project at present is doubtful, with the potential for a failed developer leaving the States to pick up the pieces; (11) a performance bond is not necessarily the full answer unless it is an on demand bond and there are many opportunities for the bondsman to dodge responsibility; (12) the signing of any development agreement should be deferred for a considerable period of time so that the Island can assess whether or not the project is really necessary for our future financial well-being, whether it is 2 years, 3 years, 18 months. This will not cost anything in terms of lost opportunities as we do not see any evidence of new businesses knocking on our door at the present time; (13) before closing, let me remind Members what we currently have on this area; probably the best of all our parking areas in St. Helier, a landscape car park laid out and returning revenue to the States that is servicing the commuters of St. Helier. It is not waste land. Also, a site next to Radissons which could accommodate several large developments of office space if the demand was to be urgent for up to 150,000 square feet of building, but I do not think the demand exists at present. This area can be grassed over so as to add to the land bank until needed and in the meantime could be used for functions such as the Summer Fair, French market, ice skating, boat shows. Nothing would be lost. Finally, let me repeat; when we do move forward, let it be right for the needs of the day because for sure whatever goes on this site in the future will be what is required at that time and not what was required in the past. I will repeat that. When we do move forward let it be right for the needs of the day because for sure whatever goes on this site in the future will be what is required at that time, not what was required in the past. I make the proposition.

The Bailiff:

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

4.1.1 Deputy P.V.F. Le Claire:

I will not be supporting the proposition. I think the proposer seemed at times to be speaking against the Masterplan rather than the actual developments proceeding and raised concerns that have been dealt with in a period when the Deputy was not in the States. There may be a need to revisit the Masterplan if some of his concerns are shared by the majority of Members. I may not be a graduate of an economic school, but I certainly have taken on board some lessons in my time around the world and that is wherever there is a thriving economy you can tell by the number of tower cranes there are in the city, and the more construction that is going on the greater the economy is and the greater the prospect for the economy is. Now, in a period where the economy is booming, is there really the rationale to crank it up? The economy certainly is not booming and there are indications that the global economy will be taking a strategic sidestep in the future when the U.S. economy and the U.S. dollar ceases to be the currency that we all base our economies upon. I think fundamentally if we are going to see ourselves through the next 10 to 20 months and survive as a finance jurisdiction, and come out of this recession in step or ahead of our competitors, which is where we would need to be to survive consolidation issues, now is the time that we should be making sure that other areas of the economy and the construction industry in particular have work, not only for the companies but also for the employees and for the other ancillary benefits that those types of construction projects have. I believe there is a strong argument to subdivide up the Waterfront development and proportion it according to bids that could be set in train under the new terms that W.E.B. is going to diversify itself so that local construction companies could develop small areas such as they did in Malmö, so I differ from the Deputy; I do believe it should be phased, I do believe there is opportunities for local construction companies if it were to be that way, and I really did not and do not believe that one developer should be conducting a scheme of this nature entirely on its own because when you put all your eggs in one basket, as I said 18 or 20 months ago, then you get the results that we are starting to see now when one developer, or one group of developers may not necessarily be able to finish things on time or start things in a timely

manner. If there are small businesses, small developments, and different architects that are approved through the Masterplan, through the Planning and Environment Departments, then we can achieve a waterfront that would be something to be proud of. The Masterplan has set out something that we can be proud of and it is just really a way of delivering it that counts, in my opinion, and in my opinion, for what it is worth, that should include local construction companies. Local construction companies should be able to bid upon this work. There should be a new process, not changing the Masterplan and not halting progression of the development of the Masterplan, but opening up the development of this Masterplan to local construction companies, who in conjunction with approved architects, working collectively with other construction companies, can draw upon experiences and reach economies of scale. We have seen it, we have been away to Malmö with Deputy Duhamel and the Environment Scrutiny Panel, we have all been there to look at the different systems that they have employed and what they have achieved, integrated transport systems, sustainable developments, environmental benefits and areas that are open and accessible to all with world class residences. Now, the argument about whether or not this 200,000 square feet of office is needed is a bit subjective, I admit, but then I look at town and I scratch my head when we do not have anywhere to build houses and most of the offices I see and most of the shops I see in town are houses. We have hundreds of houses in town that are occupied by businesses and the second and third floors of these houses are taken up by coat hangers and empty shirts and empty trousers. It is ridiculous. We have a beautiful town. The vast majority on the first floor we have forgotten because of all of the activity, but when you take your eyes above street level you see the vast majority of town's properties are housing. So, with new regulations which are in place for new businesses and modern offices to be funnelled into designated work areas and serviced transportation systems where work should be occurring, we could free up some of that housing that is currently occupied and negate the need to build in the countryside and give people housing in Jersey that is first class because the vast majority of this housing I am talking about is much more than we are currently producing. Some of the things I am seeing coming through on this Planning Applications Panel are not even meeting minimum amenity sizes and they are getting passed. We recently had one the other day; 2 2-bedroom and one 3-bedroom on the Eagle Tavern site or something, cramming into St. Helier the housing on these small plots and trying to restrict in the future development in the countryside. If we do not have proper development on the Waterfront in a timely fashion there will be nowhere else to put people but in the countryside because the policies, I am afraid, that seem to be coming forward and the schemes that I am starting to see are causing me grave concern. Town is, from an experience perspective, crammed as it is. If we are going to cram more in we need to have new areas to bring those developments and the Waterfront is one where it is needed. I also believe, and I am not getting into it now, but I also believe Deputy Martin's proposition needs supporting for Ann Court and we need to think more along the lines of spaces that we can use 24 hours a day and there are schemes that we have seen in the U.K. where offices and residences are intermingled, where you can take advantage of the different sunshine to work in your office during the day and the back half of the building to live in at night, reducing the need to commute, and making best use of the buildings. So, I could go on for hours; I am not going to. I am going to finish now and just say I think he Deputy of St. John's proposition, hats off to him for bringing it, but I do not think now is the time for us to start cranking down the construction industry. I am very concerned about the signal that might be construed from today's decision on the depositor compensation scheme for the finance industry. In light of what is coming up in the next 10 to 20 months within a global perspective and the realignment of economy across the globe, listening to people who know what they are talking about, and I certainly do have the ability to understand when somebody knows about these things is speaking, I listened last night and what I heard worried me from a global perspective and Jersey had better make sure that it is firing on all cylinders because otherwise we are not going to get over this hill.

4.1.2 Senator T.A. Le Sueur:

Over the past couple of weeks I have been in discussion with the Deputy of St. John because there is a large measure of agreement between us as to what we want to try to achieve and I understand and appreciate his motives in bringing forward this proposition. I think it encapsulates the concerns of many Members, both about the nature of the development and the nature of the proposed developer, but I have to say that despite trying to get the proposition improved I have concerns both with the proposition in its original form and its amended form. I alluded to this yesterday and I discussed it with the Deputy and I have made one of those concerns quite clear which I would like to raise again now just for the benefit of Members and that is that in the present wording of the proposition it could be interpreted as also putting a halt to any work on the abattoir site as well. Now, I am sure that is not the proposition of the Deputy of St. John and it is not my intention either, but I think because the proposition is worded that way we need to make it quite clear to the Members of the House that the proposition would be interpreted not to include such a site and perhaps the Deputy of St. John would like to confirm that that was his intention also.

The Deputy of St. John:

If the Member would give way, Sir. Yes, Chief Minister, I wholly concur with you; it is not my intention to stop work on the abattoir site, as you have just mentioned.

Senator T.A. Le Sueur:

My original concern with the proposition was that it was too all-encompassing and that as well as the development to be undertaken by Harcourt Developments Ltd, it also included other areas of the Waterfront sites such as the Castle Quay site and Radisson site and so an amendment was lodged by the Deputy to include the words "by Harcourt Developments Ltd" and that certainly eliminated that particular concern but I think it may have inadvertently raised another one because we now have a proposition which reads: "To agree that the development by Harcourt Developments Limited of the proposed Esplanade Quarter ... should be deferred" and what the proposition also goes on to do is to ask me, as Chief Minister, to give instructions to the directors of Waterfront Enterprise Board. That is a duty which I am more than willing to do, but in the interests of the company and those directors, I have to give them clear instructions as to what they should be doing and I feel that what I am faced with at present is a certain lack of clarity. No doubt totally unintended by the Deputy but reading the proposition that I do it does give me that lack of clarity and I will try to explain. The basis of the proposition appears to be that we should wait until the economic climate improves. Now, that to me is a very subjective decision; as Deputy Le Claire says some people might say that a better time to do this development is in the time of economic downturn rather than in boom times when labour may be at a premium and costs are high, but if there is this obligation to await a significant improvement on the economic situation, why is that only applied specifically to Harcourt Developments Ltd? In other words, this proposition does not tie down W.E.B., should they choose perhaps for reasons that Harcourt lose interests, to go on to another developer and that developer suggests that this is the right time to develop then that developer is perfectly entitled to go ahead with the proposals because this proposition does not constrain any other developer except Harcourt. It constrains W.E.B. but my difficulty is in giving W.E.B. clear instructions as to how they might proceed in the future because I think if one reads the statement from the Minister for Treasury and Resources this afternoon the existing heads of terms no longer apply, so we are in at least a different ball game. I do not know how different yet at this stage, nor I am sure do the directors of W.E.B., but if they are going to proceed they need to have clear instructions from the States and in this proposition from me, as to how they should proceed. I do not, at the moment, see that clarity. Why is it that Harcourt are precluded but any other developer could continue? That may not be the Deputy's intention. It may have been that he would prefer, as the original proposition said, that no development should continue until the economic situation changes, but the way it is worded it is now restricted simply to that of Harcourt and so I think while solving one problem he has created another one and I would like, maybe in his summing up, for him to explain how we can easily get out of this one because, frankly, unless I can

give the directors of W.E.B. clear directions there is a danger to this House that W.E.B. directors, in the absence of clear directions, will take a perfectly reasonable decision, based on what they think they are being asked to do, and then find that it was not what some Members expected them to do. So, it is my duty to give the directors of W.E.B. clarity. I have, for example, to give them clarity because it would be their decision as to when the economic situation has changed and when there is signs of economic growth and in the absence of anything to the contrary I shall rely on the definition given by the Minister for Treasury and Resources in his statement. But clearly, again, that is a subjective matter, a matter which really if Members are going to give me instructions to give to the directors of W.E.B. I need to have that clarity from the Members themselves. I feel at the moment that this proposition is a bit unclear in that respect and I would hope that during the afternoon I can hear from other Members and in his summing up from the Deputy of St. John greater clarity if I am going to make such an instruction to that company.

The Greffier of the States (in the Chair):

If I can just say, Chief Minister, I think the proposition is crystal clear. Whether it would be helpful to W.E.B. in the way you have described I do not know, but I do not think it is unclear as a proposition. The proposition is very clear; whether you feel that would make the instructions difficult is a separate matter, I think, but I do not think the proposition itself is unclear. Does any other Member wish to speak?

4.1.3 The Deputy of St. Mary:

I shall be moderately brief. I do support this proposition wholeheartedly. I think it is a very important proposition and the short version is that we are proposing to put 600,000 square feet of additional office space on the Waterfront. This will involve increasing the population, as the Deputy of St. John pointed out. There will certainly be an additional 5,000 workers by his calculations, plus dependents and many of those will be incomers. Part of the proposal is a 1,400 space car park underground and Members may have forgotten, but I certainly have not, that a part of the proposal is also an extra 2 lanes of traffic outside the Grand Hotel, giving us a grand total of 8 lanes of traffic. I do not know that the Jersey people want to see Jersey becoming more like Birmingham than it already is in certain parts and it is definitely the wrong way to go and so to defer this scheme is an excellent idea. It is likely that later on we will get Ministers casting aspersions and saying that any doubt about the future ... which as Deputy Le Claire so eloquently said, the future is an extremely doubtful place at the moment, but anyone who says: "Well, maybe we do not need 600,000 square feet of additional office space" gets the charge of negativity and doom saying. Well, no, population growth, is that really what people want? Is extra traffic really what people want sucked into town? Is there not a better use of the site? I think that the Deputy of St. John's emphasis on what will be right for the needs of the day is really important and when Deputy Le Claire pointed out there is a real issue of town and where people live and decanting more and more people and more and more pressure on to the little sites that remain and then we have this huge site available to us which we are not maximising for the good of the Island, in my view. So, I think that those are important issues but the wider issue is that the accusation that was in fact levelled at me in the previous debate, but I think it is likely to come up again, is that those who oppose this kind of growth-oriented strategy, this kind of faith in an old future, is somehow to lose your grip on reality. Now, I am sorry, but I would say that it is proposers of schemes such as this ... and remember we are talking about digging out a completely new underpass with contaminated land fill, so God knows how that is going to be sorted out. We are going to have a £350 million investment. The figures are completely mind-boggling and yet we live in a time we are told of utter uncertainty and I just wonder where the reality lies. I would like to refer Members to the latest speech of our heir to the throne. I gave it a quick read through last night and not all Members will have had it. I think it is a restricted mailing list that Mr. Tony the Prof sends his things to, but he does select, and it is a very good and apt speech for this debate. What he is saying is that obviously the prospect of endless economic growth is no longer viable, that the model of

capitalism which we have had over the years has served, in some respects, to bring benefits like longer life, better health and so on, but that its time is now over; that the costs simply exceed the benefits and that if you look at the effect of our lifestyle, the way we live - and of which this project is an absolute classic example of a vast investment predicated on endless growth - it simply does not wash. He gave the example of what he said, that we are now beyond the life supporting capacity of the planet. We simply cannot go on like this and it is humanity itself which is at risk because we are damaging our life support systems beyond the point of no return. To come back now to little Jersey. It is important to put these things in context and one or 2 speakers have been doing that. Just to add a little bit of detail, he mentioned what is happening in the Arctic and he mentioned the rate of deforestation and at present rates we are finished; we cannot go on like this. So, to come back to little Jersey, the Waterfront is proposing to provide hundreds of thousands of square feet of extra office space and the Deputy in his introduction showed just how dubious that prospect is when there is empty space, or rather space that is projected to be built, and is simply lying there. So, there is a real doubt about whether this is a realistic proposal anyway. Then he cast doubt on the financing, and I will not repeat what he said. That seemed to me to be very, very doubtful and then this appalling prospect of a building site which would go on for an indefinite length of time, any length of time really, maybe 15 years, and I am reminded of the phrase about a motorway building site; the noise and disruption of a construction period that seems endless. That is what is facing us and I just do not think it is a prospect that is worth the candle. So, just to recap, 600,000 square feet of office space, who is going to fill it? How on earth is that viable in the present climate, let alone the climate in the medium term? All bets are off, frankly. We are in a new world and we have to face up to it one day, so why not face up to it now? This proposition is part of that move towards sanity and towards looking the future in the eye.

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

I will be brief. I am absolutely delighted that the Deputy has brought this proposition because it was one of the platforms I stood on in the election and 600,000 square feet of office space; who is going to occupy it? Well, I will tell you who is going to occupy most of it, the States, and that is what I am afraid of. The other thing that I was afraid of is I heard lots of people talking about the very good Masterplan and I have to say I might be in the minority, but I thought it was appalling. I thought it was unimaginative and frankly I could have done something ... and I am not an architect, I am a caterer, but I could have designed something similar on the top of a cake when I was icing it. If it goes ahead in its present format, take a trip to London, go down to Docklands at the weekend, that is what we have, a deserted site at the weekends. So, I will be supporting this proposition and I will be urging the directors of W.E.B. to use the time to come up with something really imaginative, really exciting, and something that is good for Jersey.

4.1.5 Deputy J.M. Maçon:

Just quickly, I will raise a concern because as the Deputy of St. John has raised in his opening comments, he seems to have figures from various sources that state that the States could allocate up to 150,000 feet of the proposed site. So, that means that in order for the Minister for Treasury and Resources to turn around and say that this site is viable it means that there is only 50,000 feet that private enterprise needs to find in order to supply this. Unfortunately I was not able to ask my question towards the Minister for Treasury and Resources, which was similar to that of Senator Ferguson's but not the same in that Senator Ferguson asked whether all the States offices would move into the Esplanade Quarter. I just wanted to ask the Minister whether there was plans to move some, which is different, or any, into the proposed development. But in response to the Deputy of St. Mary's questions, I can say that the people in my district definitely do not want more traffic, and I think that is something which we should all consider; unless of course we get our crossings.

4.1.6 Senator P.F.C. Ozouf:

I think that I should probably deal with the issue of States offices on the Waterfront because it is something that Deputy Maçon and other Members have raised. Members will be aware that there is a need to consolidate very dramatically the States of Jersey property portfolio and also to drive efficiencies by having a single office for administrative functions. A lot of the office accommodation in the States of Jersey is not fit for purposes and is expensive and is effectively costing the taxpayer too much money. The difficulty that Property Services have had is to try and find an appropriate efficient economic location in order to find offices. Certainly Property Services - and my Assistant Minister looks after this area - have looked at a number of different sites. In evaluating sites I was asked and the Chief Minister was asked whether or not we would support in principle an idea to move the States offices on the Waterfront. I have to say that for all the reasons that other Members have expressed, there is considerable reservations about that because it is not exactly the symbol of what we wanted to deliver in terms of the financial district, et cetera. So, effectively, it has not been progressed. It has to be said that in the event - and now we are dealing with a very different situation because effectively I think the heads of terms have been suspended - it was in the overwhelming interests on a cost ground of the States to find its office on some reorganised Waterfront plan that would be very different, then it would be wrong for it to be completely ruled out because it could be in the overwhelming economic interests. But that, I would just say, is not the preferred solution and is not the way to kick start the Waterfront in the way that I think the Deputy of St. John realises. So I hope that clarifies to Members the fact that it is by no means the preferred solution and it must all be for the reason of developing our financial services sector. I am going to support the proposition, as I said in my statement to the Deputy of St. John, because I do not think it constrains ... I see no good reason why it should not be supported. What, however, did concern me was the suggestion ... and I would not want to, in pressing the pour button for this proposition ... maybe to get some brownie points with the Deputy of St. John as obviously I have been in a little trouble with him in recent days. I would not want to align my support for the proposition to those Members who I think do not want to see the Masterplan progress and are wanting - I am not saying the Deputy of St. John wants to but some Members - really to rescind the Masterplan, which cannot be done because it has been adopted. But effectively rescind the previous States decision. I do not think that is the message that I am certainly sending out. I am happy ...

The Deputy of St. John:

Will the Minister give way? Yes, if you look at the report ... through the Chair, Sir, sorry, in fact it mentions the word “deferral” and that is exactly what I mean, it is a deferral.

Senator P.F.C. Ozouf:

I think the words of the proposition are clear. The amendment of the proposition is that it says that works by Harcourt Development Limited should be deferred. I am taking that to being exactly what it ... I think the plain English definition of what works are, which is effectively digging and starting a scheme. I do not think that sends the signal to W.E.B. that we are putting the whole development on hold, rather it is to send a message of maybe support to W.E.B. that they should progress matters of the development of the Esplanade, maybe in a different way, maybe in looking at a higher degree of residential accommodation, maybe in a slightly different configuration which is true to the Masterplan and progress that. I do not think that we should be at all sending out the message that we are effectively scrapping this scheme, putting on hold any discussions or supporting the discussions by W.E.B. to find solutions, in no way compromising the financial guarantees that have been made, et cetera. So it is on that basis that I certainly am supporting the proposition. I was concerned with a number of the quite strong statements that a number of Members, including the Deputy of St. John, made about the development itself. I just would be grateful for his confirmation that he is saying that he ... I think what the proposition says and what he means is that he does not want works, physical works, by Harcourt to be progressed until there is clear evidence of an economic upturn and that W.E.B. is given the signal to continue to keep under

review the development of the Waterfront and consider all options in order to bring forward to the States for the progression of the plan. I will just give way to the Deputy.

The Deputy of St. John:

I can confirm to the Chamber that that is my thinking.

Senator P.F.C. Ozouf:

That is fantastic, if I may so, and I will be supporting the proposition on that basis. I think that is a clear statement of confidence to W.E.B. and a clear direction to Members.

Deputy P.V.F. Le Claire:

Can I ask a point of clarification from the Attorney General on a legal matter, please?

The Greffier of the States (in the Chair):

If it is a legal matter, yes.

4.1.7 Deputy P.V.F. Le Claire:

If the proposition is approved and we defer the development, in particular to Harcourt, does the deferral decision by the States passed in essence to the W.E.B. board mean that Harcourt will be kept on the bench and required to be kept on the bench for future development and therefore would not be able to be removed?

4.1.8 The Attorney General:

I am not sure if that is a matter of law but my understanding of the position is that negotiations between W.E.B. and Harcourt will continue and therefore it will be a matter for W.E.B. to determine whether those negotiations should come to any form of fruition and the Minister has given his undertaking to bring the matter back to the Assembly in relation to the Esplanade Quarter. The legal position in relation to the abattoir site, as I understand it, is that contract will continue to fruition. That is what I understood the position to be. Sorry, perhaps I should have added, and the passing of this resolution, this proposition, will not have any impact on it.

4.1.9 Deputy R.G. Le Hérisier:

In a sense, it was a matter of clarification. The Minister for Treasury and Resources has had a very good day today, I should add, in terms of dealing with issues. He said: "Has that clarified matters?" Well, of course, it totally obscured matters. What I was intending to ask, or to make the point, was, are we seeing the beginnings of a movement where if the finance industry does not move to the Waterfront the States are the default tenant of the Waterfront?

Senator P.F.C. Ozouf:

Would the Deputy give way? No, absolutely not. That is a separate issue and certainly we should not regard the States potential occupation of any site as being the kickstarting of economy, as the Deputy of St. John said. It must be a separate matter of where the best financial interests of the States are. But certainly I would not regard this as being linked in any way. I just wanted to reserve, as I think the Deputy would understand, the position of Property Services to make the decision for the future efficient use of offices in Jersey to be in the best financial interests of the States. It would have to be absolutely cracking deal for the States to move to the Waterfront. I cannot see that at the moment, I have to say.

4.1.10 Senator P.F. Routier:

When I first saw this proposition I thought to myself: "Well, that is fine" because what we currently have with the process we are going through, with negotiations with W.E.B. and Harcourt, is that the development would not go ahead unless there was sufficient economic reason for it to happen. So the process ... it would not happen unless there was a good economic basis within the Island. So to

me the proposition was just a foregone conclusion so it was something I could quite easily support. But I have to just pick up on something that the Minister for Treasury and Resources has just commented on about some of the speeches which have been made, because it appears that there are comments that are being made which are totally against the Masterplan, and I do take the assurances which the proposer has given, but I really want to make it very clear in supporting this proposition that in no way am I saying that I do not approve of the Masterplan. In fact, I hope we will soon be in a position where a developer does find that the economic circumstances are suitable this development to go ahead.

4.1.11 Deputy S. Power of St. Brelade:

I will not be long. It might be useful to remind Members the evolution of Harcourt on the Jersey Waterfront. Their first company was a company called Island Developments Limited who delivered the redevelopment of the old Island site and did the delivery of the Liberation Station. Then, as Members will be aware, last summer - and new Members would probably have watched - there was a dispute between the original directors of Island Developments and the current directors of Harcourt which resulted in a court case in Dublin. Deputy Green made some points that I would like to expand on. That is the prospect of a States pre-let on the Waterfront. In other words, that the States would get into bed with a developer, whether it is Harcourt or somebody else, and enable a development on the Waterfront which would then be used for States offices. I think this is probably one of the worst scenarios that the States could do. I think the States need to stay away from any involvement in any office design, office occupation, pre-let or anything else because it could be construed as enabling a development, whether it is Harcourt or whether it is not Harcourt. The States have got to stay away from this kind of pre-let. No matter how attractive it may seem. There are potential sites in St. Helier for a States campus, for a States office campus, for want of a better phrase, and I think the Waterfront is not one of those sites. It was pointed out to me last summer that the fixed costs of the underpass were impossible to finance. It was also pointed out to me last summer that the development of the Masterplan in its present form was almost impossible - at that stage, this is going back a year ago - to finance. We are where we are today. The Waterfront has seized, it has come to a halt, I think for all the wrong reasons. I am glad it has come to a stop at the moment. I think that when the Waterfront Enterprise Board, the States directors, the non States directors get back to discussing what are the possibilities of development on the Waterfront, I think the whole thing will have to be rethought. Certainly, in my limited experience of development, any project that sinks £80 million into an underpass right now and for the next 3 or 5 years are facing a zero return and almost definitely a loss. That, to me, is the straw that breaks the camel's back as to where we are right now. So, I also will support the Deputy of St. John. I think we need to draw back, take a breath, review the whole thing and see what happens to this beautiful piece of ground that is down there at the moment - some of it undeveloped and some of it being used, albeit on a temporary purpose - and remind ourselves that whatever we do towards the St. Helier Waterfront we must not repeat what happened in 1995 and 1996 with the pool complex, the multiplex cinema, fast food restaurants and that kind of thing. That was an absolute unmitigated mistake in my view. So we must learn from the mistakes we made 13 years ago, I think it is. Ten? Well, I think it evolved long before that. What we must do is regard our Waterfront, our St. Helier Waterfront, as an absolutely scarce resource, a hugely scarce resource. The States must stay away from any kind of temptation to go down there and we will probably have to rethink the whole thing.

4.1.12 The Deputy of St. John:

I note Deputy Le Claire's concerns and I am sorry he will not be supporting me. As for the Chief Minister, I think the Chair explained the report and proposition. The Deputy of St. Mary, I thank you for the manner in which you supported me.

The Greffier of the States (in the Chair):

Deputy, you have been in the Assembly a long time and you know to speak through the Chair.

The Deputy of St. John:

Yes, Sir, absolutely right. I will speak through the Chair wherever possible [Laughter] and I will take my hands out of my pockets. One, 2. Deputy Green mentioned Docklands, and he is quite right. We want what is right for the Island and we do not want a barren land after 5.00 p.m. in the evening. Senator Ozouf, I meant what I said when I interjected and I will not go any further. In fact Deputy Le Hérisier was speaking across the Chamber to the Minister for Treasury and Resources so I will not comment on that. Senator Routier, thank you for your comments. Deputy Power, we do not need to make the mistakes of the past, I quite agree with you. I must thank all Members who spoke on this proposition from both sides of the debate. It was important that this debate happened given that many doubts have been circulated about the Waterfront in the last 12 months since the start of the credit crunch. Can I remind Members what is being asked for is a deferral for a period of time so the Island can gather its thoughts, given the economic climate we find ourselves in. When you go to press the button to vote for or against, please pause for a second and think: “Am I doing right by my children, my family, the people of Jersey who voted me into high office to look after our Island?” For many in this Chamber who are of ageing years, like myself, we may not be around to see what has been left behind for the next generation. Would it be better to allow a delay so that we can look at all the requirements for the Island when the climate is more certain? We certainly have a green line around a car park on this space which is returning revenue to the Island, probably the best designed car park anywhere. Secondly, there is a large empty site next to the Radisson Hotel which still has to be developed and this could accommodate probably several thousand square feet of building when the demand picks up. In the interim, grass this over and use it as a function area, as I have already said. Finally, let me repeat, when we do move forward let it be right for the needs of the day because for sure whatever goes on this site in the future will be what is required at that time, not what was required in the past. I make the proposition and ask for the appel.

The Greffier of the States (in the Chair):

Very well, the appel is called for on the proposition of the Deputy of St. John as amended by his own amendment. If Members are in their seats, the Greffier will open the voting.

POUR: 37		CONTRE: 4		ABSTAIN: 3
Senator P.F. Routier		Senator T.J. Le Main		Senator T.A. Le Sueur
Senator P.F.C. Ozouf		Connétable of St. Ouen		Connétable of Grouville
Senator A. Breckon		Connétable of St. Clement		Connétable of St. Peter
Senator S.C. Ferguson		Deputy P.V.F. Le Claire (H)		
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				

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

5. Draft Foundations (Amendment) (Jersey) Regulations 200- (P.88/2009)

The Greffier of the States (in the Chair):

Very well, we come now to the Draft Foundations (Amendment) (Jersey) Regulations 200- in the name of the Minister for Economic Development. I will ask the Greffier to reads the citation.

The Deputy Greffier of the States:

The States, in pursuance of Article 52(1) of the Foundations (Jersey) Law 200-, have made the following Regulations.

Senator A.J.H. Maclean:

Thank you, we have power. These Regulations are proposed to be made under the Foundations (Jersey) Law 2009. This law was passed by the States on 22nd October last year, 2008, and has now received the approval of Her Majesty in Council. It will come into force on 17th July this year. The law will introduce a new type of wealth management vehicle to be known as a foundation. A foundation will be a distinct legal entity like a company but unlike a company it will not have shareholders. It will have easily recognisable liabilities and accountabilities openly recorded on a public registry in the same way as a company. It will hold assets in its own name for the purposes set out in its constitutive documents. For clients and authorities originating in jurisdictions not familiar with the concept of trust, a foundation may be a more acceptable offering. As well as being used for wealth management and estate planning, foundations may also have applications in more specialised area. These could include long-term charitable aims or securitisations where it is desirable that property be given a legal entity and applied for specific purposes. As with companies and trusts the use of foundations will be subject to compliance with the Commission's policy on sensitive activities. These Regulations make 2 small amendments to the law. The first of these relates to Regulations appearing next on the Order Paper which set out a mechanism for foundations to migrate in and out of Jersey. In order to facilitate this, a clarification is needed for the term "body corporate". Since this term will be applied in relation to foreign jurisdictions which may not use the term currently. A new definition of this term will therefore be inserted to make clear that for continuation purposes the term includes a body or entity incorporated or established outside of Jersey, whether by registration, endowment or otherwise and whether or not having a legal personality. The second amendment is an unrelated point which has been raised by industry representatives since the original law was lodged. This makes clear that the business address of a foundation is to be taken as its place of administration unless the contrary is specified in the foundation charter. The point of this amendment is that the concept of the place of

administration is used in certain jurisdictions for determining residence. I propose the principles of the Regulations.

The Greffier of the States (in the Chair):

Are the Regulations seconded? **[Seconded]** Does any Member wish to speak on the principles? I put the principles. Those Members in favour of adopting kindly show. Against. The principles are adopted. This matter falls to the Economic Affairs Scrutiny Panel. Chairman, do you have room in your schedule for this one?

Deputy M.R. Higgins:

No, we are very busy, Sir, we will defer this one, thank you.

The Greffier of the States (in the Chair):

Very well. Do you move Regulations 1 to 4, Minister?

Senator A.J.H. Maclean:

Yes, Sir.

The Greffier of the States (in the Chair):

Do you wish to speak to them or are they self-explanatory?

Senator A.J.H. Maclean:

There are only 2 substantive regulations, the effect of which I have already described.

The Greffier of the States (in the Chair):

Very well, are the regulations seconded? **[Seconded]** Does any Member wish to speak? I put Regulations 1 to 4. Those Members in favour of adopting, kindly show. Against. The regulations are adopted in Second Reading. Do you propose them in Third Reading, Minister? Seconded? **[Seconded]** Does any Member wish to speak? I put the Regulations ...

Deputy P.V.F. Le Claire:

Can we have appel, please?

The Greffier of the States (in the Chair):

Yes, the appel is called for for the Regulations in Third Reading. If Members are in their designated seats the Greffier will open the voting.

POUR: 28		CONTRE: 0		ABSTAIN: 3
Senator T.A. Le Sueur				Deputy M. Tadier (B)
Senator P.F. Routier				Deputy of St. Mary
Senator P.F.C. Ozouf				Deputy M.R. Higgins (H)
Senator T.J. Le Main				
Senator A. Breckon				
Senator A.J.D. Maclean				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				

Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy L.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

6. Draft Foundations (Continuance) (Jersey) Regulations 200- (P.89/2009)

The Greffier of the States (in the Chair):

Very well, we come now to the related Regulations, the Draft Foundations (Continuance) Regulations. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

The Draft Foundations (Continuance) (Jersey) Regulations 200-. The States, in pursuance of Article 56 of the Foundations (Jersey) Law 200-, have made the following Regulations.

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

This is another set of Regulations relating to foundations, making a provision for foundations to migrate in and out of Jersey. These migrations are known as continuances because a foreign foundation can continue as a Jersey foundation or vice versa. In additions these draft Regulations make provision for Jersey companies to convert themselves into foundations. It was envisaged at the time the Foundations Law was passed that the States would make Regulations dealing with these matters. The relevant enabling provisions were included in Article 56(1) of the law which is set out in the report to the Regulations. One of the driving principles behind the Foundations Law has been to give founders the maximum possible degree of flexibility to establish a vehicle fitted to their needs. It is consistent with this principle to allow foundations to move from one jurisdiction to another in response to changes in circumstances. It is also hoped that these Regulations will attract business to Jersey in the form of foreign foundations which will take advantage of the opportunity to relocate to Jersey. The provision for companies to convert into foundations has been included because arrangements may have been set up in the past which would have utilised the foundation structure had that been possible in Jersey at the time. Given that foundations did not exist a company structure may have been used instead and it would be helpful to allow such companies to convert into foundations. As a safeguard for shareholder interest, this will require the unanimous consent of the company shareholders. In order to protect Jersey's reputation all continuances will be subject to approval by the Jersey Financial Services Commission. I propose the principles of the Regulations.

The Greffier of the States (in the Chair):

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

6.1.1 Deputy J.M. Maçon:

Just quickly. Despite what happened today I would like to extend my congratulations to the Economic Development Department. I think that these Regulations will provide a competitive edge for Jersey and I hope that all States Members will be supporting this.

6.1.2 Deputy R.G. Le Hérisier:

To continue or not to continue? I wonder if the Minister could explain in very simple terms, as we are very simple people, what the benefit is to a company of having a foundation. I do not think we had the outlined at the very beginning and I wonder if he would be kind enough to do that. Secondly, it says they are bodies without shareholders. We read that on page 3, yet when we look at page 4 we are told in order to safeguard shareholder interest such a continuance will require the consent of all shareholders. Is that a reference to its previous form, so to speak, as a company? So am I to assume, therefore, once it is transformed into a foundation that shareholders just vanish, so to speak?

6.1.3 Deputy G.P. Southern:

I wonder if the Minister can confirm or otherwise whether the Jersey foundation has already attracted the attention of the E.U. (European Union) Commission and is or will be made subject to the E.U. Savings Directive.

6.1.4 Senator A. Breckon:

I wonder if the Minister could give some comfort as to who will regulate the flow of these things coming in and out, just to make sure all is level and above board. If it is a wealth management vehicle, just to make sure that there is nothing suspicious about this. Could he confirm, for example, it comes under the Financial Services Commission because I think with some of these things there has been a requirement for more sets of eyes rather than less, just to make sure that everything is okay. Of course, it is only when things go wrong that questions are asked, who was doing, who was looking and who was the regulator and why were safeguards not put in place? So I would if he could give some comfort to the House in that regard.

6.1.5 Senator S.C. Ferguson:

On the same lines as my good friend Senator Breckon, I wonder if the Minister can confirm that there will be proper due diligence done on foundations that come in from certain jurisdictions.

6.1.6 The Deputy of St. Mary:

I was not here in this House at the time the original legislation went through so I would like to add a further couple of questions to Deputy Le Hérissier, whether the Minister in simple language could explain what a foundation is in reasonably short paragraphs. Also, an additional question to what Deputy Le Hérissier asked, why would somebody want to move a foundation to St. Kitts and why would someone want to move a foundation from St. Kitts to Jersey? I am interested in the same sort of area as Senator Ferguson. What exactly are the compliance risks here? A further question is where do these stand, and where do these movements stand, in relation to T.I.E.A.s (Tax Information Exchange Agreements) which we have been signing many of recently?

6.1.7 Senator P.F.C. Ozouf:

I am sure the Minister for Economic Development will answer all of the questions raised by Members. I rise because could have also responded to the questions raised by the Deputy of St. Mary and Deputy Le Hérissier when taking the original proposition on foundations to the Assembly. I might just remind Members on that day too there was a little discussion about whether or not the matter should have been called in for scrutiny. It was, as Deputy Maçon said, and he is quite right in saying, a welcome addition at a time of economic uncertainty, an additional product and service which was going to be of benefit to our financial services industry. Indeed, since passing that legislation it has attracted, and is attracting I am advised, a number of new business opportunities for Jersey. Because Jersey is regarded as a well regulated jurisdiction, because we have got an established track record of regulating trusts which will be replicated for foundations, unlike other jurisdictions Jersey is regarded as an ideal place. The question of what a foundation is compared to a trust, it is not a company and it is not a trust and it is run by a council. In very simple terms, a number of jurisdictions and a number of nationalities do not like or do not accept the concept of the trusts and foundations is something which is well established in a number of

other jurisdictions. It is particularly relevant and particularly of interest to, for example, certain Middle Eastern investors and certain other European nationalities. It is effectively something that is going to run alongside the existing well regarded and highly regulated trust law that has been one of the foundations - to coin a phrase - of our finance industry since it was enacted in Jersey in the 1980s. Why would a trust want to move from St. Kitts to Jersey? Well, because of the strength of regulation. Because of the approach that Jersey has taken in relation to regulation and, if I may so, because of the excellent way that the court service in Jersey, and in a number of important judgments that have established certainty in terms of trust law and, I am sure, in foundations to Jersey. Jersey is regarded as a leader, as a world leader in trust and I am sure is going to be regarded as a world leader in terms of foundations. That is the regulations, that is the environment, that is the services in terms of the financial services industry, of servicing the activities of the foundation, and also the importance of the judgments of the courts in dealing with resolution. The issue of the Savings Tax Directive, Deputy Southern knows the answer to that question. He knows that the Savings Tax Directive does not cover anything else than personal cash deposits. He is aware of that and if international standards change then no doubt this Assembly will give consideration to that in time.

6.1.8 Deputy I.J. Gorst:

I believe it is important that we pay tribute where tribute is due and I would like to join with Deputy Maçon and pay tribute to the Economic Development Department. I have often, throughout the last year, complained that sometimes we as a government do not respond quickly enough with financial products to the needs of our main industry but here, I am pleased to say, the Economic Development Department is proving that they can, with a fair wind, respond proactively. There are institutions who are looking to deport foundations to this jurisdiction and it does disappoint me sometimes to hear Members wondering why it might be that international entities want to move to Jersey. Are they not aware of the work that this Assembly and our main industry have undertaken over the last number of years of improving their regulation, in meeting international standards and raising their game to allow them to play at the highest international level? I think they should be congratulated for that and those departments that have been involved should be congratulated in that. Also, I have to say, I try not to be personal but it does slightly disappoint me that the Chairman of the Economic Affairs Scrutiny Panel felt the need to abstain on the last piece of legislation and yet did not feel it was necessary to scrutinise it. I am not certain exactly what that was about but I believe that we should be supporting the Economic Development Department in this particular regard and I wish to record my congratulations to them.

6.1.9 Deputy M. Tadier:

I also would be interested to hear a bit more about this whole idea that foundations have a mobility which other entities do not have. It seems to me on the one hand that can be of benefit in the sense that it can bring a business in very easily but it also seems that they can be moved out of the Island, so I would like to hear a bit more about that. I would also like to point out that it is ... in one sense to congratulate the Economic Development Department for being proactive, as was mentioned with the last speaker. I almost fell into a trap because I was going to ask a question whether this piece of legislation was more so to safeguard our competitive edge or whether it was just basically to make us more ahead of the game. Then I realised what I was doing. I was using the word "us" and I had fallen into the classic trap of using "us" instead of the finance industry, which obviously I have been in the States too long and I have adopted the ... or was at risk of adopting the group think. So what I should have been asking is will this benefit the finance industry because it seems, once again, that here we have been very proactive and very fast and swift to act - and quite rightly, it has to be said - to safeguard our position in the financial markets in the local context. But it also seems that when it comes to terms of social legislation, and we can take 2 examples of civil partnership and the anti-discrimination law which has been dragging its heels for a very long time, we know that other more advanced democracies, you could argue, have had civil partnership legislation in

for years and we have not got that. Presumably that is also damaging our reputation. We have heard in a talk ... and I know that Senator Ozouf and a few other Members were at the Arts Centre when we heard a very good presentation on civil partnerships. Some people at the meeting made the case that there were some very good bankers or people in all aspects of the industry who are being put off coming to Jersey because they cannot bring their partners with them, for example, because they do not fit into the conventional heterosexual relationships. But this is something that we turn a blind eye to. So what I would do here is obviously congratulate once again the Minister for Economic Development but I would ask that he would also give his support to other areas where we have been dragging our feet because Jersey is not synonymous with the finance industry. The finance industry is simply one of the industries in Jersey. We must all be careful that we do not talk of ourselves as if we are that industry or it is us because there is a whole lot more to Jersey than that I would suggest.

6.1.10 Deputy T.A. Vallois:

I, too, welcome this law but I would like the Minister for Economic Development to touch on how allowing these entities within the Island has an effect on our tax structure going forward. Whether it is a positive, negative, and how it sustains our economy.

The Bailiff:

I call on the Minister to reply on the principles.

6.1.11 Senator A.J.H. Maclean:

I will try and briefly address the issues raised by Members outside of those that Senator Ozouf seemed to touch on. First of all, briefly if I could just thank those Members who offered congratulations and tributes, that always is very welcome with regard to any form of new legislation. This is really all about opportunity, it is about ensuring that the finance industry, the very important finance industry that we have in the Island has another string to its bow. It is about flexibility. Deputy Le Hérissier asked the question about benefits and, as I was saying, it is all about flexibility, the ability to add foundations which have, Members may not be aware, been around for more than 1,000 years as a vehicle here in the West. In Jersey, in the U.K. and elsewhere we have companies, we have trusts but foundations are a structure very similar to a trust, in fact, and all we are doing is opening up the opportunity for the financial services industry to benefit from this particular structure. The differences between a company and foundation; effectively a company is wealth creating whereas a foundation is wealth distribution in a similar way to a trust. Deputy Southern's question, I think I will simply answer that by saying that - and he may be interested in this - the E.U. is working on bringing in a European foundation and hoping to improve the concept. I think that in itself will give some reassurance for the fact that the opportunity is being recognised far and wide. Senator Breckon and Senator Ferguson were asking about the regulation. The Jersey Financial Services Commission will approve all foundations in and out of the Island. That is exactly as it should be and the standard, as Members will be aware, from the Jersey Financial Services Commission, is extremely high. The Deputy of St. Mary asked a number of questions. Some of which I hope I have already touched on with the comments that I have made about foundations, the purposes of them, the purposes in relation to companies, the differences between companies and foundations. It is an opportunity for the financial services industry to have a new string to its bow and I think flexibility, which I mentioned ... I think the Deputy was asking the question of why a foundation was being allowed to move from Jersey to St. Kitts and vice versa. Again, it is flexibility of opportunity. Moving into Jersey ... there are many places around the world which see and recognise the opportunity of the very high level of regulation within the Jersey and the high level of quality services available. That is attractive and that is why the financial services industry in the Island has been keen to add foundations as a tool to its marketing box. T.I.E.A.s, I think, was another point that the Deputy of St. Mary raised. Any agreement we have signed up with any country with regard to exchange of information then that

would be as relevant to whatever the body happens to be, whether it is a trust company or anything else. It is all relevant to the agreement that has been signed up. I think that answers most questions the Members have raised. I would like to maintain the principles to the Regulations.

The Bailiff:

Very well. Is the appel asked for? The appel is asked for then in relation to vote on the principles on the Draft Foundation (Continuance) (Jersey) Regulations. I invite Members to return to their seats and the Greffier will open the voting

POUR: 40		CONTRE: 1		ABSTAIN: 1
Senator T.A. Le Sueur		Deputy G.P. Southern (H)		Deputy of St. Mary
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisser (S)				
Deputy J.B. Fox (H)				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

Deputy Higgins, do you wish this matter to be referred to your Scrutiny Panel?

Deputy M.R. Higgins:

No, Sir, we do not. Thank you.

The Bailiff:

Very well, so how do you wish to take the Regulations, Minister?

Senator A.J.H. Maclean:

I will take them *en bloc*. Part 1, 1 and 2 together. Which is interpretation and Minister may designate bodies corporate to be recognised entities. I propose that.

The Bailiff:

You are just proposing part one? I beg your pardon, I thought you were going to propose part one and part 2. Part one, very well is that seconded? **[Seconded]** Does any Member wish to speak on part one of Regulations 1 or 2? All those in favour of adopting Regulations 1 and 2 kindly show. Those against. Those Regulations are adopted. Part 2 then, Minister?

Senator A.J.H. Maclean:

Yes, part 2 *en bloc* if I may.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations 3 to 22. All those in favour of adopting those Regulations kindly show. Those against. Regulations 3 to 22 are adopted.

Senator A.J.H. Maclean:

I think, as we are speeding through this, I will take parts 3, 4 and 5 in one block if that is all right.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on any of the remaining Regulations, that is 23 to 34? All those in favour of adopting those Regulations kindly show. Those against. The Regulations are adopted. Do you propose the Regulations in Third Reading? Seconded? **[Seconded]** Does any Member wish to speak on Third Reading? All those in favour of adopting the Regulations in Third Reading kindly show. Those against. The Regulations are adopted in Third Reading.

7. Draft Companies (Takeovers and Mergers Panel) (Amendment of Law) (Jersey) Regulations 200- (P.91/2009)

The Bailiff:

We come next to the Draft Companies (Takeovers and Mergers Panel) (Amendment of Law) (Jersey) Regulations, projet 91, lodged by the Minister for Economic Development and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Companies (Takeovers and Mergers Panel) (Amendment of Law) (Jersey) Regulations 200-; the States in pursuance of Article 8(4) of the Companies (Takeovers and Mergers Panel) (Jersey) Law 2009 have made the following Regulations.

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

Takeovers and mergers in Jersey have for some time been regulated by the Panel for Takeovers and Mergers, a body which is based in the U.K. The panel historically regulated takeovers in both the U.K. and the Crown Dependencies on an informal basis. Although this is considered to have

worked well in practice, the European Union's Takeover Directive 2004 required that the panel as a designated supervisory authority should be recognised by national law. The implementation of the directive in the U.K. national law was included in the Companies Act 2006. Now that the panel has been placed within a statutory framework in the U.K. they do not consider it appropriate to continue to administer takeovers in Jersey unless an equivalent framework applies here as well. On 16th July 2008 the States passed the Companies (Takeovers and Mergers Panel) (Jersey) Law 2009 to set up such a framework which has now received the approval of Her Majesty in Council and came into force on 1st July of this year. Similar statutory arrangements have been made in Guernsey by the Companies Panel on Takeovers and Mergers Ordinance 2009, which was passed by the States of Guernsey on 29th April 2009 and which also came into force on 1st July 2009. This ordinance introduced a new part and schedule 6 into the Companies (Guernsey) Law 2008. The Guernsey schedule 6 is a schedule of permitted disclosures. There are similar schedules in both the Jersey and U.K. laws so that the panel has consistent powers in all the jurisdictions where it operates. These schedules must all allow for the same disclosures. For this reason on 12th May 2009 the U.K. passed the Companies Act 2006 (Amendment of Schedule 2) Order 2009 amending the U.K. schedule to include Jersey and Guernsey provisions. This order also came into force on 1st July 2009. These very short Regulations amend the Jersey schedule so as to also incorporate by reference the Guernsey schedule. I propose the Regulations to be taken together. I propose the principles first.

The Bailiff:

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

7.1.1 The Deputy of St. Martin:

Two questions for the Minister; one is why has it taken a year to come to fruition? It is past a year ago, obviously been up to Her Majesty in Council and also been to the Royal Court, but also I thought I heard the Minister saying it came into force on 8th July and yet on page 5 it says: "These Regulations shall come into force 7 days after they have been made" so have they already been made, that is why they are in force, or are they going to come in 7 days after today?

The Bailiff:

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

7.1.2 Senator A.J.H. Maclean:

I think I said, to answer the Deputy's question, they came into force on 1st July.

The Deputy of St. Martin:

If it helps the Minister, page 5, Regulation 2(2).

The Bailiff:

It cannot be that these Regulations came into force on 1st July because they have not been passed yet.

Senator A.J.H. Maclean:

I am just looking at my notes, it was the arrangements to align us with Guernsey and the U.K.

The Bailiff:

All those in favour of adopting the principles kindly show. Those against. The principles are adopted. Deputy Higgins is chairman to the relevant Scrutiny Panel and is not in the Chamber, nor is the Deputy of Grouville who is 'malade'. Is there any other Member of the Economic Affairs Scrutiny Panel here?

Deputy J.M. Maçon:

No, thank you, Sir.

The Bailiff:

You do not wish this referred to them? Thank you very much, Deputy. Do you propose the 2 Regulations, Minister? Seconded? **[Seconded]** Does any Member wish to speak on either of the 2 Regulations. All those in favour of adopting Regulations 1 and 2 kindly show. Those against. The Regulations are adopted. Do you propose them in Third Reading, Minister? Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading please show. Those against. The Regulations are adopted in Third Reading.

8. Draft Income Support (Amendment No. 4) (Jersey) Regulations 200- (P.93/2009)

The Bailiff:

We come next to the Draft Income Support (Amendment No. 4) (Jersey) Regulations, projet 93, lodged by the Minister for Social Security. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Income Support (Amendment No. 4) (Jersey) Regulations 200-; the States in pursuance of Articles 5 and 18 of the Income Support (Jersey) Law 2007 have made the following Regulations.

8.1 Deputy I.J. Gorst (The Minister for Social Security):

The Income Support legislation requires the Minister for Social Security to bring forward any proposals to changes to the rates of components of income support for consideration by this Assembly. These component rates must be reviewed at least once a year. Income support benefits have been increased 3 times since January 2008 when the scheme was introduced. In May 2008 components affected by G.S.T. (Goods and Services Tax) were increased by 3 per cent to coincide with the introduction of G.S.T. In October 2008 components and fixed disregards were increased by 3.7 per cent, and in February 2009 a variety of increases were made to component rates, fixed disregards and percentage disregards as a result of the Le Fondré proposition. Improvement to income support benefit can be achieved in 2 ways. The value of components can be increased. This is simple to implement and allows a percentage to be applied across the board. Alternatively, the value of disregards can be increased. Disregards are applied to different types of income and savings. Some are provided as a fixed amount. Others are percentage disregards. In order to implement increase in benefits on 1st October component rates and disregards must be finalised by the end of August. In reality this means that component rates which are set by regulation need to be approved by this Assembly before the summer recess. Disregards can be amended by Ministerial order and can be set in August. These Regulations provide for component upratings which use about two-thirds of the budget given to the department, and they are explained in detail in the report, which I am sure Members will have referred to. The other one-third I intend to use to improve incentives in 3 specific areas. Firstly, the earnings disregard; secondly, capital disregards; and thirdly, pension disregards. I hope that Members will agree that with these I strike an appropriate balance between increasing the basic component and improving the incentives. I hope that Members have had time to look at the in depth numbers, and I maintain the Regulations.

The Bailiff:

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

8.1.1 Deputy G.P. Southern:

Of course these upratings are to be welcomed but they are not a substitute for some fundamental reform of the income support scheme in the longer term, and must not be used as an excuse to

avoid more radical action which is required. In particular, as the Minister will well know, no single pensioner, no single person, with one or 2 exceptions, has been lifted out of poverty by income support. The fundamental structure of income support was undermined as a support mechanism when the Crisp Report of minimum standards were abandoned back in 2006, I believe, and so the whole scheme requires fundamental review. In particular, the mechanisms around savings and incentives to work require fundamental root and branch reform to ensure that we can get people back into work in the longer term and thereby save our outgoings in the longer term by improving incentives to work in the shorter term. Nonetheless, as I said at the beginning, these amendments are to be warmly welcomed but not taken as a substitute for bigger reform further on.

8.1.2 Senator P.F. Routier:

Obviously I am going to support this uprating in the income support benefits. I just wanted to perhaps, as per usual, take exception to something which Deputy Southern has said. Really he mentioned that not one single pensioner has been lifted out of poverty. Well, I am afraid he has forgotten to think about those pensioners who were not claiming income support at all under the welfare system. They did not want to apply for welfare and we now know that there are many people who do come into the Income Support office. I am glad the Deputy is nodding his head and acknowledging that situation. One of the other comments I would like to make is that today we have seen the R.P.I. (Retail Price Index) figure ... of a decrease in the R.P.I. figure for a year, going down by 0.4 per cent. I would be interested to know what the proposer of this proposition thinks on how the increases will benefit people in the coming months compared to the R.P.I. reducing.

8.1.3 Senator A. Breckon:

I wonder if the Minister would like to comment on the housing component and what is contained in the information there, because it is saying: "The Housing Department is completing a major review of social housing policy which is likely to have significant implications for the manner in which rents are set in the public sector in future. Until the review is published and the recommendations discussed it is premature to make any significant changes to the current levels." I wonder if the Minister could give us some indication of what the sentiment or the implications of that may be. Further down, it says: "The Housing Department intends to increase rentals by 2.5 per cent." We have just heard Senator Routier say about the cost of living being negative at the extent of 0.4 per cent. It goes on to say: "... and accordingly the housing components within income support will rise by the same figure on 1st October." Is this not a bit of merry-go-round that we are trying to get away from where one department is raising money to give to another which will have a real cost to people in the rental sector because as night follows day, if we move the benchmark then the private sector rental market will do the same. I wonder, in view of that 2.5 per cent that has been ... and I must say I declared an interest and did not take part in pay discussions, but when the House has had no problem in zero increases or negative increases for the people who work for us, then are Members comfortable to look at a 2.5 per cent increase on rentals, and the question is where does that money come from if people have not got any extra money in their pay packet?

8.1.4 Deputy R.G. Le Hérisier:

We did have some information yesterday about the additional funds required for Social Security but I wonder if the Minister could tell us, and it is very difficult because we do not talk of people, we talk of components, but I wonder, in terms of the significant components that constitute people, could he tell us where his department is estimating the pressures will arise and what percentages they are allocating to those pressures as the recession bites? Where does the department feel the pressures are going to land on the various components?

8.1.5 Deputy A.K.F. Green:

Just a couple of questions for the Minister really and I hope he will forgive me for not being able to quote the exact figure, but I have just lost my contact lenses so I cannot see what I have written

down. **[Laughter]** The 2 questions I have for the Minister are in regard to the future, inasmuch as could he please look at the capital allowances for single people because I believe it to be inequitable, and I will give an example of a case that I know of ... obviously I will not name the person. A single person gets an allowance of around £7,600, something like that, capital allowance savings; a married couple gets an allowance specifically higher than that, but if you are single mother who has responsibility for children you still only get the same capital allowance as a single person with no responsibility for children. Now that might seem not that important but actually it is extremely important when you consider settlements in divorce and such like where a mother might be left with a small amount of money following the sale of the family home, still be on income support for whatever reason, but that money that she could have used to support her children is discounted, and yet if it was a married couple with no children the allowances are higher, if you know what I am trying to say. The other thing is I think that the presumed interest rate on capital allowances is far too high. I always thought it was high when we were in a stable economic situation. I think it is far too high now. I wonder if the Minister could look at that as well some time.

8.1.6 Deputy J.A. Martin:

It is just a question for the Minister on the addendum. He sets out some examples and obviously, as most people have said, it is always welcome to see that the benefits are going up, but when you lay down some figures, we have got 3 households here with the total incomes and where they could be living, and it is in the States place so I can only go by what the rental is on the States place. Take the first 2, the couple with 2 children and the one child in a 2-bedroom flat and the couple ... what I am asking for the Minister to clarify, the income in the first family is £551, out of that do they have to pay their £191 rent and, again, on the family with the 2 children, the £667, do they have to pay their £251.72, because under the old scheme, and this is what we have always been trying to work, I know we are not comparing like with like, it used to be if anybody asked me their earnings I could say in rent you would pay roughly between 25 and 27 per cent. These are if they are paying the full rent out of these figures are over one-third of their income. Now to me that is already a very big movement in what Housing used to do. Can the Minister very plainly explain, because we have asked it of Housing and Social Security many times, is it, as Senator Breckon says, does any money in this roundabout actually pass hands or are Housing just putting the rents up, encouraging the private sector to put the rents up, and then it goes round in an accounting ball? Because if so, I mean, it is quoting Senator Ozouf, he says that people will be getting less money and they will be going to their landlord and they will have to say: "This is what I can pay for that accommodation" rather than their landlord effectively getting the money by subsidy from the States. So what message are we sending out? I have those serious concerns and I really wish when the Ministers do talk together they start singing from the same hymn sheet because the private sector have just said: "Right." It is not just 2.5; from October they have gone up 6 point something per cent from 2.5. It is nearly 10 per cent since income support was introduced with the rate of inflation of practically anything at the moment. So what message are we sending out to private landlords, that is what I would like to know?

The Bailiff:

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

8.1.7 Deputy I.J. Gorst:

I am slightly disappointed with Deputy Southern's comments. I thought yesterday we had reached a new entente cordiale but obviously it was extremely short lived. I am not sure whether I want to prolong the agony or not. Other than to say, Deputy Southern has recently produced a report looking at income support. As I said yesterday I was disappointed that he felt the need to make a statement in the way that he did because a number of his recommendations, as I am already on record as saying, we are considering a number of them, we are already working on some of them,

as he admitted yesterday, under questioning from Senator Routier were perhaps not as accurate as they might have been in what they said benefits were available, and others where he persists, and he has done it again today, he uses the term “fundamental restructure” it give me no pleasure to say this but in fact when the Deputy uses the term “fundamental restructure” what he means is he would like to see more money put into it so there is more money given out through the system, and he would like the system rolled out to more people by a reduction of the number of years that it takes to qualify. I do not wish to be too negative. There are areas that can be improved. I have admitted that. We are working on it. But be in no doubt whatsoever that when we hear this term “fundamental restructure” what we are talking about is ploughing considerably more money into income support running, I am afraid to inform Members, into millions of pounds. That will have to be a decision which is made by this Assembly and not by me as a Minister down at La Motte Street. If I could pick up the point that Senator Breckon made, and was picked up again by Deputy Martin, I am aware that we have had a number of debates and this sort of comment has been made previously in this Assembly. What are we doing by increasing housing rents? All that is happening is that I and the previous Ministers are having to increase the rental component into income support. Ever one to try to be obliging it will not surprise Members that I asked my officers to look at this quite thoroughly because I did consider not increasing the housing component. If Members look at the report they will see that when other uprates were made in May 2008 the housing component remained unchanged. Yes, it was increased and then it remained unchanged again. There has been an increase but not always has the housing component been increased. What was my rationale for asking for it to be questioned in considering whether there should be no increase at all? It was just that. Because if I increased the rate, Housing increase their rate, and therefore the knock-on effect one could expect, although it will not necessarily be the case, is that there will be a rise in the demand in the private sector as well. I did consider whether it might have been quicker, easier and more economic for me just to pay a whole lump of money over to Housing and avoid perhaps this rising level of rental inflation. Deputy Martin talked about an accounting ball with no money passing hands, that is not my understanding. My understanding is that the money does go into Housing’s coffers. I inherited the situation that I find myself in and that is that Housing have in their budget for this period a rise of 2.5 per cent, and they have budgeted upon that rise and therefore it was not unfortunately appropriate for me to unilaterally say: “I am not going to make this rise in income support”, but needless to say I will be discussing this with the Minister for Housing to see if it is an appropriate way forward in the future. I was reassured by my officers, and I hope that Senator Breckon and Members have been reassured, that we are looking forward to this all singing all dancing report from the Housing Department and I hope that we can perhaps make some progress in this area. Deputy Le Hérisier talked about the component increases and the percentages in relation to the economic downturn. I cannot tell him exactly which components and which increases ... the percentages of the components which have been affected. As I said, we have seen the number of recipients increasing and we have seen the recipients’ level of income decreasing, but I do not have the breakdown that he is requesting of me, and I am not sure that if I were to give him a commitment that I could go away and find it, but I will certainly ask the question to see if it is easily available, and I will leave it like that. Deputy Green made some interesting points about capital allowances and the fairness of a single individual and a couple in relation to capital allowances. It is normally, I have got to say to the Deputy, the other way round. A married couple would say: “Why can they not have double the allowance of a single individual.” Unfortunately whichever way one cuts the cake one is going to be accused of perhaps being fair or unfair to one. However, the point that he does make, which is valid, is in relation to the deemed rental with regard to capital disregards, and I hope when I was making my main introduction I said that one of the incentives I wished to improve, and will be improving with the remaining third of the budget that I can do by Ministerial Decision, is just that, the capital disregards, and I will have to make a decision. Perhaps I can do both, but whenever I am using money my intention is to try and create the greatest benefit to the greatest number of people. It is my understanding that increasing the capital disregard would provide that greater benefit rather than improving the

deemed income from the excess capital amounts. But I will certainly make sure that we get those figures and satisfy the Deputy that that is the correct way to go.

Deputy A.K.F. Green:

Would the Minister give way for just a moment? Thank you for that, but can I just clarify my question. Actually I was referring to the fact that single people have a capital allowance, married couples have a higher one, and that is equitable in my mind. What I was trying to get to, and maybe I did not make it clear, was that a single person with no children has the same allowance as a single person with children. That is not equitable. That is the point I was trying to raise.

Deputy I.J. Gorst:

I appreciate the point that the Deputy is making but that individual does get extra components for those children. As I said, unfortunately sometimes it comes down to a matter of where we slice the cake and there is only a limited cake. If the Deputy would like to speak to me further about that, then I am more than happy to consider it and, as I say, I still have the Ministerial Decision to make with regard to the other third of the budget. I think that leaves me with just one unanswered question and unfortunately I cannot answer it because I do not know whether it does or it does not, but I certainly will find out for the Deputy. I hope I have answered everyone’s questions. As I say, I have tried to strike the balance and I almost feel like a mini Chancellor because I will be giving a bit of money here and a bit of money there. I have tried to strike the balance and create the best possible good for the greatest number of people with the limited resource that I have this year and next year for the uprating of income support, and I hope that Members will find their way to supporting these Regulations.

The Bailiff:

The appel is asked for in relation to the principles of the Draft Income Support (Amendment No. 4) (Jersey) Regulations, projet 93. I invite Members to return to their seats and the Greffier will open the voting

POUR: 45		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				

Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

This is a matter which falls within the remit of the Health, Social Security and Housing Scrutiny Panel. Senator Breckon, do you wish this matter to be referred to your panel?

8.1.8 Senator A. Breckon (Chairman, Health, Social Security and Housing Security Panel)

No, Sir.

The Bailiff:

Thank you very much. Minister, do you wish to propose the Regulations *en bloc*.

8.2 Deputy I.J. Gorst:

Yes, Sir. They are straightforward. I hope Members have had the opportunity to have a look at them. I would like to propose them *en bloc* and perhaps I would like to thank Deputy Southern for supporting the proposition.

The Bailiff:

Are Regulations 1 and 2 seconded? **[Seconded]** Does any Member wish to speak on Regulations 1 and 2?

8.2.1 Deputy G.P. Southern:

Just briefly to say that I will always support that which is good in whatever the Minister brings forward.

The Bailiff:

All those in favour of adopting Regulations 1 and 2 kindly show. Those against. The Regulations are adopted. Do you propose the Regulations in Third Reading?

8.3 Deputy I.J. Gorst:

Yes, Sir, if I could. I would like to take this opportunity to thank my Assistant Minister for her input and help into deciding what we felt were appropriate ways to apportion this money and I would also once again like to thank my officers who have been under particular pressure of late and

have, at very short order, managed to produce these Regulations and the addendum, and I thank them generally for all the hard work that they have put in in the department. **[Approbation]**

The Bailiff:

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

9. Jersey Financial Services Commission: appointment of Chairman (P.101/2009)

The Bailiff:

We turn then to projet 101, Jersey Financial Services Commission: appointment of Chairman 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 in pursuance of Article 3 of the Financial Services Commission (Jersey) Law 1998 to appoint Mr. Clive Stanley Jones as chairman of the Jersey Financial Services Commission with effect from 18th September 2009 until the expiration of his current term as a commissioner on 22nd October 2010 in place of Mr. Geoffrey Colin Powell C.B.E.

The Bailiff:

Under the law this matter has to be debated in camera and therefore I would ask the usher to clear the gallery.

[Debate proceeded in camera]

The Bailiff:

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

POUR: 45		CONTRE: 0		ABSTAIN: 2
Senator T.A. Le Sueur				Connétable of St. Mary
Senator P.F. Routier				Deputy of St. Mary
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				

Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

The adjournment is proposed and therefore the Assembly will reconvene ...

Deputy R.G. Le Hérisier:

We have this proposition that has just arrived of no confidence. When is it intended to debate this?

The Bailiff:

It has not in fact been lodged yet because it did not contain the financial implications as required by Standing Orders, so it will have to be lodged tomorrow. The Assembly stands adjourned until 9.30 a.m. tomorrow morning.

ADJOURNMENT