

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 12th JULY 2011

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[9:00]

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

Deputy J.A. Hilton of St. Helier:

I notice that we have got 19 items of business left to complete this week and also 19 items of business laid down for next week. I was wondering whether the Chair of the P.P.C. (Privileges and Procedures Committee) had given any consideration at all to how we are going to get through this amount of business. We have important legislative matters to deal with and so I was wondering whether the Chair had given any consideration to that, how best to proceed to try and get through the important matters that we have to get through.

The Deputy Bailiff:

Apart from Members exercising the greatest self-restraint. Yes, Chairman?

Connétable J. Gallichan of St. Mary:

I have given a great deal of thought, worry and time to wondering how we will get through the business and I have to be honest, on past performance I honestly do not think we will get through all the business in the time allotted. I would like to set a marker in the sand. I did ask Members to let me know if there was any business they were willing to defer. I, for my part, will be moving back the Privileges and Procedures P.77 from the next sitting, hand-held devices, to show some, I hope, leadership and hope other people will do the same. I am always very keen that we follow the Standing Orders on lodging of business and taking of business wherever we can but this is an extraordinary situation and Members will have had circulated something from Senator Ozouf last night. Although I cannot speak for how Members will feel about it, it does seem to set the facts out. We have a lot of legislation that has been on the table for a long time that must go through and it seems to me that we need to give priority to that in the hope that, in the second half of each sitting, the rest of the business will be dealt with efficiently.

The Deputy Bailiff:

Chairman, I understand the Chief Minister wants to propose his nomination for the Minister for Planning and Environment and that there are a number of candidates for that post so that is bound to take some time. I wonder if it would be helpful if, early this afternoon, the Privileges and Procedures Committee might propose a revised consolidated agenda for the next 2 weeks?

The Connétable of St. Mary:

We will do that.

The Deputy Bailiff:

Chief Minister, I understand you wish to make a nomination for Minister for Planning and Environment?

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

1. Election of the Minister for Planning and Environment

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

Yes, having announced earlier in this sitting the resignation of Senator Cohen, I would now like to propose Deputy Robert Duhamel of St. Saviour as Minister for Planning and Environment. **[Seconded]** Are there any other nominations?

1.2 Deputy C.F. Labey of Grouville:

I would like to nominate Deputy Noel from St. Lawrence.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Yes, Connétable?

1.3 Connétable D.J. Murphy of Grouville:

May I nominate the Deputy of St. Peter?

The Deputy Bailiff:

Is that seconded? **[Seconded]** Are there any other nominations?

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

May I nominate Senator Francis Le Gresley?

The Deputy Bailiff:

Is that seconded? **[Seconded]** Very well. Are there any other nominations? All right, well as is the procedure set down in the Rules, the candidates are permitted to address the Assembly for up to 10 minutes and will then be questioned by Members for up to 20 minutes and while a candidate is speaking or being questioned, other candidates must withdraw from the Chamber to a place where they cannot hear the proceedings in accordance with Standing Order 117(6). The candidates will speak and be questioned in the order that they were nominated and, accordingly, I would ask Deputy Noel, the Deputy of St. Peter and Senator Le Gresley to withdraw as Deputy Duhamel was the Chief Minister's nomination and the first nomination. I give notice to all Members before they go, Senator Le Gresley, Deputy of St. Peter before you go and I am sure you will be able to advise Deputy Noel as well, that there will be a 9-minute warning bell sounded by the Greffier in pre-emptory fashion which will give you one minute's notice of the time when you are going to have to bring your remarks to a close.

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

I am grateful to the Chief Minister for nominating me and would to thank him for his kind words. My interest in planning and environmental matters is well known by Members. Over these last 18 years as a Member of this House, I have amassed a sizeable amount of experience by sitting on numerous committees, all of which have particular relevance to the Planning Ministry function. I have sat on 3 Planning Environment Committees, 2 Housing Committees and Public Service Committees, as well as others. I have spent 3 years as the Chairman of the Environment Scrutiny Panel and our reports on the planning process and 2 reports on the design of homes were accepted by the Minister at the time and incorporated into his policymaking, in particular with design of homes in terms of space standards and further amenities. As Assistant Minister for the Environment for just over 2 years, I have dealt with a whole range of environmental responsibilities and I think I have done the job pretty well. I have also had the privilege to represent Jersey on environmental issues both with the British-Irish Council and with the Commonwealth Parliamentary Association and we have discussed, in Jersey's name, various things like climate change and energy and fishing agreements. Just recently, I chaired a Planning Improvement process which is on your desks at the moment, R.81, and the report was circulated yesterday and this report specifically was to review the new Minister's decision-making powers and perhaps to curtail them. Overall, I should say a few words about my commitment and underlying vision. I believe that a wise use of resources is the key to everything, sustainability in its true sense. I have a natural respect and support for the environment. I head the Ramsar Management Group. I support the French proposals at the moment for a marine nature park.

[9:15]

I support the coastal national park and I do give strong protection to our green zone. Much of the work that was undertaken by my department I had an input to for the Rural Economy Strategy which was to provide a sustainable countryside and access to that countryside. I also support high quality urban living, integrated planning, local masterplans, scrutiny reports, design of homes and,

in particular, innovative social housing. The Minister who is elected today will be in post for about 4 months and I think we all need to be realistic about what can be achieved. Over the next 4 months, these are some of the things that need to be finished before we can move on to do other things. In terms of environmental policy, there are 3 major ongoing projects that I am already closely involved with. A new energy policy is being developed that will help the Island fulfil its international commitments and we are aiming to publish this report for further consultation by September. I have also been working on our Air Quality Strategy and this should also be published before the election. With the Ramsar Group as Chair, we completed one management plan, another one is almost finished and that just leaves one final piece of jigsaw to be put in place. With the Island Plan, the main policies supporting the Plan were overwhelmingly approved by the States a few weeks ago. This was a tremendous vote of confidence in the Island Plan process and the hard work undertaken by the officers in its preparation. As Assistant Minister over the years, I helped to develop the policies behind the Plan and naturally would like to see them brought to fruition. On the Planning side, the biggest project is to ensure that the follow-up work from this Island Plan is undertaken effectively so that the new Plan is well bedded in by the end of the year. For example, the department has already started to draw up the Supplementary Planning Guidance notes and the Land Management Plans. Uniquely, I have been interested in Housing and over the last few years, I have visited several European cities and sponsored other Members' interests to see firsthand those housing programmes which are at the forefront of social and environmental sustainability. During those visits, I have talked to planners and architects to understand how it is possible to provide good quality and affordable housing. I visited Vienna, Stockholm, Copenhagen, Malmo and London, to name a few. We now have 2 years to deliver affordable homes or we will need to rezone more countryside and urban regeneration will have failed. In particular, we need to get agreement between the Planning, the Housing and the Treasury functions and Ministers to make sure that our commitments to provide affordable homes is quickly turned into reality. Many Members of the House have already put their names forward to help provide the political steer to assist this project. I want to make sure that more emphasis is placed on ensuring that planning applications give sufficient weight to the placing of the proposed development within the landscape context in which it sits. I think it is important that buildings are built to a good standard and good design principles applied but, as we live in a beautiful Island, it is also vitally important that the building does sit well within the landscape and complements its surroundings. This is an area that the department has not really done much with and it really needs to be turned around. One of the key functions of the Minister for Planning and Environment is to take the final decision on planning applications of particular significance and he is assisted by the Planning Applications Panel. This panel plays an important role in considering complicated applications and as the new Minister I would hope that the existing Members would wish to continue with their current role. I have participated in planning decisions, both as a member of the previous Planning Environment Committees and Planning Applications Panels. I also attended U.K. (United Kingdom) Local Authority training on planning decision-making, something that is to be reintroduced by the department as part of the planning improvement process. I have a good working relationship with the senior officers in the Planning and Environment Department and also work well with the civil servants in both Housing and Transport and Technical Services. I will therefore be able to work effectively when dealing with planning applications over the short period of time. If returned to the House following the forthcoming October elections, I will seek nomination to continue as Minister for Planning and Environment and will then set out my policies for the next 3 years in greater detail. To sum up, I will end as I began. My interest and experience in Planning and Environment is well known. I am prepared to devote all of my energies to the effective running of the Environment Department for the next 4 months. I hold my opinions honestly and openly and if elected, I will serve the public of the Island to the best of my ability. I ask for the support of this House.

The Deputy Bailiff:

Thank you. The time is now open for questions.

1.5.1 Deputy R.G. Le Hérissier:

I wonder if the candidate could say what he sees as the most pressing matters that need reform within the Planning and Environment Department?

Deputy R.C. Duhamel:

I think we have already made some inroads into doing what I consider is vital. For years and years, we had planning. It was the Island Development Committee and specifically the functions of the department and committee were to really look at building and some building control, although in a previous form it was the Island Natural Beauties Commission. What I think is absolutely vital is that, having changed the name to the Environment Department, we seek to place Environment in built-up area context. So for my mind, that means ensuring that when buildings are built in the landscape they do blend in well and they are not seen as eyesores. Deputy Le Hérissier knows that we have set out the changes to the improvement process and we have got a measure of support from the previous Minister because the report is published in an R form so I think those 2 things will probably occupy a great deal of time.

1.5.2 Deputy S. Power of St. Brelade:

If the candidate was elected Minister, how would he propose to unlock the logjam at either 12 Homebuy houses at Clos Vaze and does he think Homebuy and Deferred Payment has a future in affordable housing?

Deputy R.C. Duhamel:

To answer the second one first, I think Homebuy and Deferred Payment Schemes only represent one way of dealing with affordable homes and this is why the previous Minister, Senator Cohen, introduced within the new Island Plan another plank, if you like, to our policies to assist in affordable homes. What we are seeking to do is to unlock States-owned sites which in general have not, if we are all truthful, provided the best opportunities for the people who are living there and certainly have not given people the opportunities to purchase those homes at truly affordable prices. Homebuy, I think, as I say, just goes so far. Any Deferred Payment Scheme really still locks us into paying for other people's houses. I think I am committed to people paying for those houses themselves but the key to doing it is to ensure that they are really and truly affordable.

Deputy S. Power:

I asked him to comment on Clos Vaze, the logjam.

Deputy R.C. Duhamel:

Clos Vaze, the logjam, will be something that I will need to look at and, as mentioned earlier, there are some 10 or 12 Members who are seeking to assist in the formation of the policies for providing affordable homes and I am assuming that that will be one of the issues that will be closely looked at in our first meetings.

1.5.3 Deputy J.A. Hilton:

Can the candidate explain what measures he will take to resist pressure from some Members who propose we build on greenfield sites?

Deputy R.C. Duhamel:

I think I am quite happy, as I voted for the Island Plan, to support the interest and the will of the House in this matter. By a very large majority, this House agreed to set out new proposals whereby we would seek to achieve affordable homes within the next 2 years which in itself would mean that we would not have to have a wholesale release not only of the few sites that were mentioned but

indeed a whole set of other sites. Let us make no mistake; the sites that were being spoken about within the Island Plan are not in themselves sufficient to provide the affordable homes that we have all been talking about so extra fields and extra rezoning would be necessary. We have given ourselves 2 years. We are going to hit the ground running. This is why it is absolutely vital in my mind that we have a new Minister for Planning and Environment who is prepared to continue the work that this House has specifically endorsed.

The Deputy Bailiff:

Deputy, can I advise you that there are some 14 Members who have indicated they wish to ask you questions so you may wish to take that into account in the way you answer.

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

With the ageing population, will the candidate give his support to the over 55s lifelong homes which follow the Joseph Rowntree model?

Deputy R.C. Duhamel:

Absolutely, and I would probably go further than that to seek to improve on that model.

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

Will the candidate be moving away from iconic architects and if so what will he put in its place?

Deputy R.C. Duhamel:

Iconic architects? The mind boggles. Do you mean architects with stature? I think the previous Minister was absolutely right in what he did to raise the bar for increased design standards but that said I think the general opinion is that there has probably been an over-reliance on a very small number of particular architects. I think we should seek to use all our talents locally before we go off Island.

1.5.6 Senator T.J. Le Main:

What would have been the 3 main policy matters or decisions made by the previous Minister that you would or could change and your reasons for doing so?

Deputy R.C. Duhamel:

In 30 seconds, that is a tough one. I am not sure I could single out any particular 3 but I think what I perhaps would have done would have been to have sought to engage an even wider consultation because I think the consultation that worked was not really done at the correct level. I think although it did engage interested parties, what it did not do was seek to lay down the opportunities for people to be engaged in their own micro plans or local level planning, as indeed the U.K. Designers and Builders is suggesting, and I think this is what people want. I would need to give that some thought. I think that is probably the biggest one and, because it is a big one, that probably counts for 2 and a half.

1.5.7 Senator S.C. Ferguson:

What does the candidate understand by sustainability?

Deputy R.C. Duhamel:

Sustainability I think is wise use of resources and if we look at the natural world, everything that is produced by one thing is used as an input to another even down to dung from elephants. We have elephant beetles that build their homes in them and I would not be suggesting that we do the same thing but that is the point. Wise use of resources is really the key to sustainability.

1.5.8 Senator A. Breckon:

Does the candidate believe that it is beneficial for Ministers to have served on Scrutiny and if yes, why?

Deputy R.C. Duhamel:

Yes, I do, I think Scrutiny provides a very important function as a training mechanism for new Members and indeed for old Members. I think one of the things that the old committee system did was to allow more people to be involved in the decision-making than the fewer persons that we have got under ministerial government. That said, I think there is a training function and Scrutiny is absolutely vital. I do not know whether we should make it compulsory though because many Members do not really go along with compulsory anything.

1.5.9 Senator J.L. Perchard:

The Planning Law makes much reference to the functions of, the responsibilities of, and reference to the Minister. In this respect, how does the candidate interpret or define “the Minister”?

Deputy R.C. Duhamel:

The Minister at the moment is the political representative of this House in the Island as supported by his officers and the other States Members.

[9:30]

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

Does the candidate believe that the 11 greenfield sites that were assigned development rights in P.75 before approval for increased density should be subject to the H1 and H3 Revision Policies?

Deputy R.C. Duhamel:

Yes, absolutely, but not before we have attempted to solve the problem in the way we have all agreed.

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

Would the candidate give us his views on infilling where somebody’s back garden is built on or, as I witnessed last night, 2 domestic garages destroyed and replaced with a house?

Deputy R.C. Duhamel:

Infilling used to be known as a back land development. It is not something that is supported by the Planning Department or indeed planners anywhere. It probably goes against the concept of proper integrated planning and you tend to end up trying to squeeze in as many units as possible to make a hefty developer’s profit, which is not advisable.

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

Does the candidate consider the outgoing Minister’s progress on reducing red tape, for example the recently published relaxation on additions like conservatories and small extensions, an appropriate way forward and does he have any thoughts on whether these can be extended further and if so, what are they?

Deputy R.C. Duhamel:

I think the General Development Orders relaxation was a good idea but it does carry within the policy a little bit of a sting in the tail which means that it has to be applied in a critical fashion. I will give one example. Although it is suggested that extensions will not require planning permission generally in most of the zones, we would not want to allow that particular relaxation to open the back door literally to encourage houses to turn into single houses, to double houses or triple houses. So I think, although it is beneficial because it means there is a lesser workload and

the public are not paying for things that they do not generally need to, it will have benefits but we have to keep an eye on it.

1.5.13 Connétable D.W. Mezbourian of St. Lawrence:

What are the candidate's views on the architecture of the approved Portelet development?

Deputy R.C. Duhamel:

Which one? There are several. I will give you my views. Overall, I think that the Portelet in my day was better than the Portelet of today, sadly. I think time is the great healer and that is why I think it is a fundamental plank of my particular take on things to seek to encourage a landscaping improvement which will at least begin to soften the somewhat strident kind of architectural forms which might look better in other places but certainly do not necessarily look best in this particular bay. The other thing that has tended to happen with Portelet is the use of the beach has tended to be squeezed out by the building of residential accommodation in the area and no tourism. It is something that we need to look at.

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

The Energy Strategy, the Air Quality Strategy, the only report on the environment including peat coal and climate change and their impacts on States policies, where are they and what would the candidate do about it?

Deputy R.C. Duhamel:

In all 3 instances they are in the pipeline. They are about to be presented. They have all had their own individual problems from lack of staffing to lack of investment to late stage changes ,because in some instances we are dealing with the next 30 years and it is absolutely vital if you are going to be planning for that period of time that there is a short-term delivery of things which will have some effect on the long-term proposals. So the questioner can be comforted that that is one of the things that will be delivered within the next 4 months under my ministerial leadership.

1.5.15 Connétable M.K. Jackson of St. Brelade (The Minister for Transport and Technical Services):

Could the candidate tell Members what his architectural vision is?

Deputy R.C. Duhamel:

My architectural vision. I do not particularly support any particular architect. I think I prefer more of an eclectic mix. I think for me it is not so much important as to have a building whose sculptural qualities are the only thing that we look at. For me, Planning and Environment is about the 2 other realms, which is how those buildings fit together within the landscape, as I have mentioned earlier, and secondly, it is the internal space and how well it is organised to suit the needs of the people who are living in it. I think for a long time we have tended to concentrate on the outside facades to the detriment of those other 2 areas.

1.5.16 Connétable P.F.M. Hanning of St. Saviour:

Could the candidate explain how he would split the decision-making process between the Minister and the Planning Panel?

Deputy R.C. Duhamel:

I think that has all been outlined in R.81. The intention is that the Minister will mainly deal with ministerial appeals through the hearing process and he will spend most of his time in securing the planning guidance notes and the local masterplans to ensure that planning is brought to the public in a wider form.

1.5.17 Deputy R.G. Le Hérisier:

Other than those contained in the Planning and Development Control document, what lessons does the candidate think we should learn from Reg's Skips?

Deputy R.C. Duhamel:

I do not think there are any other lessons other than the ones that the many bodies that have undertaken the review work have come forward with. In essence, I think this House, if it does support a policy to deliver in a particular area, really has to pull out all the stops in order to deliver it. I think perhaps with Reg's Skips, there was a failure with the left hand and the right hand perhaps and people with hands in the middle not necessarily all pulling together. For me, that is something that can easily be rectified if you put the right people together under the right leadership.

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

As Assistant Minister, the Deputy had a specific responsibility for the environment. Could he say what his top 3 personal achievements were in environment and how will he continue to support that there is a segregation of duties between Environment and Planning?

Deputy R.C. Duhamel:

Again, things come in 3s. The speaker must be a civil servant. On the environment, I think because environment is not fixed, there are a whole load of things that take a very long time to put together, so for me, some of the highlights would be the work that is being undertaken at the moment to put tidal power and energy resources into place. The second thing is the work that has been undertaken by the Ramsar Group to pull people together, in particular, to find ways to improve the marine environment in terms of perhaps creating an even bigger string to our bow in terms of diversification for the economy through sustainable fishing. As the third one, although we had some difficulties with staffing arrangements in terms of air quality, by individual members leaving the department to have children, which is to be expected, I think we are back on line now and the Air Quality Strategy will deliver in a new form the things that we have all been wanting to improve our air which is a right to breathe for every person.

Senator P.F.C. Ozouf:

Were they his personal ones, his personal achievements?

Deputy R.C. Duhamel:

Personal? I do not go round claiming the limelight for the things that I do. It is not my style. I am not particularly keen on plastering my name over the *J.E.P. (Jersey Evening Post)* front page, that is assuming that they would want to put it there, and I would much prefer working in the background getting people to work together to deliver the aims which, in most cases, can only be delivered by working together. [Approval]

1.5.19 Deputy J.A. Hilton:

Does the candidate support the provision of one parking space per unit in new developments within the ring road?

Deputy R.C. Duhamel:

I think elsewhere in the world it has gone down from 0.7 to 0.5, but I think in Jersey perhaps it is right to realise that we are a little bit special. Perhaps one might be the minimum to be going for. I think more importantly is to not take away a person's option to use the right form of transport for the right type of journey that he is going to make and I think it is wrong to try and use the planning mechanism to limit the number of cars and force people on to buses or whatever. I think a better way is to encourage them to use the right form of transport for the right distance they are going to travel so you walk walkable distances, cycle cyclable distances, take the bus for the bus distances.

We have not got a train so you cannot do that and if you need to use a vehicle, a car-type vehicle, then make sure that it is one of these cleaner versions and you do not overuse it.

1.5.20 Deputy P.V.F. Le Claire:

What percentage of the department's budget was cut in the C.S.R. (Comprehensive Spending Review) proposals and how damaging was that, in your view?

Deputy R.C. Duhamel:

That is a bit of a difficult one because, as a team player, as the Minister for Planning and Environment has to be, all departments were asked to offer up Comprehensive Spending Review savings. Our department is offering 13 per cent. It is at the forefront of the savings that have been put forward and if they were met at that level by all the other departments then indeed you would not need to go in some directions for the particular taxation measures that we have taken. We might have gone a little bit too far but only time will tell and certainly we have got a budget coming up. Everything is fixed for next year and as we get to the following year, I think these things will begin to be reappraised.

1.5.21 Senator A. Breckon:

Does the candidate believe he is a team player and what positively can he add to the deliberations of the Council of Ministers?

The Deputy Bailiff:

Well, the question was put but the time is now up, I am afraid. All right, the next candidate is Deputy Noel and perhaps I could ask Deputy Duhamel to withdraw and Deputy Noel to come in. All right, Deputy Noel, while you are getting your breath back, I can just confirm, because I think you were out of the Chamber on the last occasion, that you have 10 minutes and a bell will sound after 9 minutes, if you are still going, to warn you that there is one minute yet to come. There are 20 minutes thereafter for questions and your time now starts.

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

In putting my name forward as Minister for Planning and Environment, I would first like to take the opportunity to thank Senator Cohen for all his work over the past 6 years.

[9:45]

In Planning, perhaps more than any other role, we cannot please all of the people all of the time. To many in this Assembly, the job is seen as a poisoned chalice. Senator Cohen has taken us through a period of great change and development. We have seen the integration of the Agriculture and Fisheries Department into the Planning and Environment Department; the introduction of the Eco-Active programme; the development of higher standards in architecture; the introduction of a Percentage for Art programme that has started to build a new chapter in our Island's heritage and I believe that this can be expanded to provide community-based benefits other than art. We have seen the construction of the Planning Applications Panel and the development of the Jersey Architecture Commission. Senator Cohen has recently delivered a change in the regulations that simplify planning permissions for minor works, making them cheaper for homeowners while maintaining quality. Above all, 2 weeks ago we collectively delivered a new Island Plan together with the North of Town Masterplan to see us through the next 10 years. The chalice, therefore, has been turned into a cup and that cup is more than half full. If elected, I intend to continue with these developments and take them on to a new level. During my time in the States, I have applied the same principles of hard work, integrity and rigorous delivery as I have throughout my professional life. I have spent over 20 years in the finance industry, both as a partner in a firm of chartered accountants and as a director and shareholder in a number of trust companies. This is important because the implementation of that key document, the Island Plan, needs someone who will listen,

who will act with integrity and someone who will deliver, someone who will bring the different elements and strands of this Assembly together and weave them into a workable solution for all Islanders. As for my green credentials, my proposition was one of the very first to be approved by the Eco-Active Standards and my family had started reducing, reusing and recycling long before 1999 when we made a Millennium pledge as part of the Channel Television celebrations for the Millennium. I want to go further. I think it is important for all of us to see Jersey's environment holistically. The department has a task of overseeing our Island environment, the air that we breathe, the water we drink, the sea that we bathe in and the places where we live and work. Together, these make up our environment. They are what makes Jersey special. They are our U.S.P. (unique selling proposition) in an ever-increasingly competitive world. However, I believe now that we have to concentrate on delivering affordable homes but to do so in an imaginative way, embracing new technologies which help reduce the cost and increase the environmental qualities of the homes that we build. Indeed, I have had some experience in building an eco home and in doing so I have proved to myself that it need not be more expensive, it just needs to be better. It is only natural that young Island families want to take those first steps on to the property ladder and that we, as their elected representatives, should assist them in doing so. This Assembly's view is that affordable homes must be delivered on brownfield sites to protect our countryside and prevent rezoning of greenfield sites wherever possible. That is a commitment I first made in 2008 in my manifesto and I will honour it. We need to look at using States-owned land to deliver affordable, environmentally friendly homes. This has to be included in our consideration of the H1 and H3 Supplementary Planning Guidelines, ensuring that the accommodation is of a high standard, providing lifelong homes with adequate amenity space for all ages to enjoy. Of course, this is not my task alone. The delivery of affordable homes is in partnership with the Minister for Housing and the Minister for Treasury and Resources and, most importantly, the Constables. They have their part to play as well. It is therefore my intention to continue with the group of Members who have expressed a wish to participate in delivering these S.P.G.s (Supplementary Planning Guidelines) and indeed I would welcome any other Members who have an interest in this in joining these political discussions. We will also need to involve the professionals outside of this Assembly in delivering these ambitions and I would welcome the involvement of the Association of Jersey Architects and the Jersey Construction Council, both of whom will be vital in a successful delivery of our built environment. Like most Members, I stood for election to make a difference and this is my opportunity to do just that. The Minister for Planning and Environment has a huge responsibility for overseeing environmental development of our land and of course it is not an easy job and no job that is really worthwhile ever is. Advice needs to be sought, people's feelings need to be considered but in the end action needs to be taken. I now have the opportunity to firsthand combine my business knowledge with the executive experience I have gained over the past 2 and a bit years as Assistant Minister for Health and Social Services and in Treasury and Resources but, of course, the Minister for Planning and Environment cannot act in isolation. To ensure an open and transparent planning process, planning decisions must be taken, in my view, by a Planning Applications Panel continued, hopefully, to be chaired by the Constable of Trinity. I would like to see this panel's area of remit increased to look at all appropriate planning applications. This will leave the Minister to be involved, along with others, in the appeals process and if elected, I propose to bring forward a Green Paper to make the appeals process simpler and more accessible by the end of this year. I will support the officers in their current drive to improve the I.T. (information technology) systems in the Planning Department, to allow applications to be made on line and plans to be viewed at the click of a mouse. Make no mistake, as an Assembly, we have a direct responsibility to take forward the decisions made during the Island Plan debate and turn them into reality. I am here today because I believe I understand what this Assembly wants and I believe I have proved I have practical management and personal experience to make it happen. I could hit the ground running to deliver before December in 3 key areas and they are the delivery of the H1 and H3 S.P.G.s, a Green Paper on the reviewed appeals process and the delivery of the enhanced

I.T. systems. The policy is set. What we need now is for someone who will listen, who will act and who will deliver and I am asking Members to give me the opportunity to do just that.

The Deputy Bailiff:

Thank you. The question time will now start and I call on Senator Le Main.

1.6.1 Senator T.J. Le Main:

What were the 3 main policy matters or planning decisions made by the previous Minister that he would or could change if he could and his reasons for so doing?

Deputy E.J. Noel:

That is a good question, 3 ones that I would change. It was in the remit of the previous Minister for Planning and Environment but it would have been nice to have done something different, report it, but again that was not in his gift. I would have liked to see things progress a bit more swiftly in redeveloping our town and, thirdly, I wish we would have had more affordable homes sooner.

1.6.2 Deputy M. Tadier of St. Brelade:

Would the candidate be willing to build on more greenfields if it meant the Island could attract more 1(1)(k)s as a result? [Aside] [Laughter]

Deputy E.J. Noel:

Oh, that is an easy one. Definitely not. I have been consistent throughout in my manifesto in 2008. If we have to build on greenfields, it is after we have developed every brownfield site and redeveloped the existing urban areas that we have. Greenfields, in my view, are the last resort and to be used purely for a form of social housing, be it Homebuy version whatever it will be, be it social rented houses or be it just normal first-time buyer homes but certainly not for 1(1)(k)s, no matter how much I like them.

1.6.3 Deputy S. Power:

How would the candidate deal with the logjam that is the 12 unallocated Homebuy houses at Clos Vaze and how would he propose to advance the Homebuy Shared Equity Deferment Scheme and give his views on those schemes?

Deputy E.J. Noel:

I will deal with the second point first if I may. The Homebuy scheme I think we need to get a group of us together to come up with something that is more palatable so that is how I would deal with that one. In regard to the logjam of those houses on the outskirts of St. Helier, to be honest with you, I do not know the details so I really cannot answer that but obviously I would be happy to get those details if I was elected and to sort out those issues.

1.6.4 Deputy R.G. Le Hérissier:

What thoughts does the candidate have on the structure of the Environment Department at Howard Davis Farm, in particular the split responsibility for Agriculture and Fisheries?

Deputy E.J. Noel:

I am not particularly happy and I know there are plans already in place but I think the 2 sides of the department, the Planning and the Environment Department, should be under one location. They should be working together with lots of synergies and cross-fertilisation of ideas and it would be a good thing. In regard to the difference between Agriculture and Fisheries, there is always scope to hopefully not rearrange the deckchairs but trying to eke out a more efficient way of working.

1.6.5 Deputy J.A. Hilton:

My question on greenfield development has been asked so I will ask another question. What personal qualities does the candidate believe he has that he will deliver the H1 and H3 policies within the 4 months he will be in office?

Deputy E.J. Noel:

I think I have covered that in my speech in many respects. I am prepared to listen. I will take on people's other ideas and together collectively I think we can come up with a solution in the timeframe. I only make promises that I believe I can keep. That is one thing that I have had throughout my life so if I say that I can produce this by the end of the year, then I truly believe I can do that.

1.6.6 Senator A. Breckon:

Does the candidate believe that it is beneficial for a Minister to have some direct experience serving on Scrutiny and if not why not?

Deputy E.J. Noel:

To be honest with you, Senator, I do not know the answer to that because I have not served on Scrutiny so I do not know if it would be beneficial or not but I have spent a lot of time of my life as a non-executive director of various organisations and that is a similar role in many respects. So, yes, I do think it is important that whoever is Minister has experience in questioning and probing and getting at the facts and the details.

1.6.7 Senator J.L. Perchard:

The Planning Law makes much reference to the functions of, the responsibilities of, and how matters are referred to the Minister. I note that during his speech the candidate said that the Minister for Planning and Environment cannot act in isolation. Therefore I am interested to know how does the candidate interpret or define "the Minister"?

Deputy E.J. Noel:

I define the Minister as the principal person heading up the group that sets the policy. We are here as politicians to set policy and I will leave it to the managers to manage. They have got to be held to account but I leave it to them to manage. I hope that answers the Senator's question.

1.6.8 Senator S.C. Ferguson:

How will the Deputy cope with the perceived conflict arising from his membership of S.o.J.D.C. (States of Jersey Development Company)? For example, suppose, theoretically of course, it appears that S.o.J.D.C. is pushing for its planning applications to get priority. How will the candidate deal with this?

Deputy E.J. Noel:

Firstly, if I was elected I would no longer be a States Director of S.o.J.D.C. Secondly, I believe that the majority of planning applications should go via the Planning Applications Panel and hopefully by the end of the year we will have a Green Paper that would make the Minister's role more that of chairing an appeals process. We do something similar in Health and Social Services in some areas where, for example, on the overseas patient policy, I sit as Assistant Minister with finance officers and particular clinicians and we look at cases where people are looking to seek access to our services. If those individuals do not like the decisions that we make they then have the ability to go to the Minister as a form of appeal.

1.6.9 Deputy P.V.F. Le Claire:

My H1 and H3 policy questions have been answered so I would like to ask does the candidate believe that the role of a Minister, particularly Planning and Environment, should be held by somebody on an Island-wide mandate?

[10:00]

Deputy E.J. Noel:

In an ideal world, I do, but in an ideal world, you would have at least 20 Senators because in an ideal world, Ministers would be Senators and the heads of Scrutiny would be Senators. We are not in an ideal world. For some reason, we have reduced the number of Senators from 12 to 8 so I cannot see how it would work. What is more important is that people have got the right skills to be Ministers and not their title.

1.6.10 The Deputy of St. John:

As accountants are renowned for not being good businessmen [Aside] [Laughter] what experience can the candidate bring to running a department so diverse as Planning and Environment?

Deputy E.J. Noel:

Firstly, the Minister does not run the department. The Minister sets the policy; the managers run the department. Some accountants are better businessmen than others are.

1.6.11 The Connétable of St. Lawrence:

It is interesting that the candidate just mentioned policy because he touched on that a lot in his speech. I would like to know his view on architecture and the architecture of the Portelet development.

Deputy E.J. Noel:

I am quite open-minded to architecture. I believe traditional buildings are suitable in the right setting. I believe modern buildings are also suitable in the right setting. If my Connétable was going to push me on an answer on Portelet, I believe it is a stunning building. It is not necessarily in the right place in my opinion [Laughter] but it is a stunning building.

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

What would the candidate do as Minister to take forward in some practical way the North of Town Masterplan which took so many years to develop?

Deputy E.J. Noel:

Where we can move forwards is on the States-owned sites and I would work closely with my colleague the Minister for Treasury and Resources and my colleague the Minister for Housing because I think the States have to lead by example and we have to develop our own sites first and encourage private developers to do their bit as well in the longer term but I think the States should lead.

1.6.13 Deputy K.C. Lewis:

What is the candidate's opinion on infilling where people's gardens or sometimes their garages are sold off for development?

Deputy E.J. Noel:

I just built a house on an infill area so I cannot really say anything against that. In the appropriate setting, it is the right thing to do but you have to look at these things on a site-by-site basis.

1.6.14 Deputy A.E. Jeune:

Does the candidate consider the outgoing Minister's progress on reducing red tape an appropriate way forward? For example, you can put up a shed, a conservatory, a small extension. Does he have any thoughts on whether these can be extended further and if so, what are they?

Deputy E.J. Noel:

The latter part of the question I would like to answer first. We have just in the last 2 weeks had a relaxation of the planning application process for minor works. I would like to see that bed in. I would like to see how that works and then make a decision on whether or not it needs to be enhanced or changed in any way.

1.6.15 The Connétable of St. Brelade:

Will the candidate elaborate further on the answer he gave to the Connétable of St. Lawrence regarding his vision with regard to architecture in Jersey?

Deputy E.J. Noel:

I am vision neutral in that. I believe that what we need to have and what we have got are excellent architects in the Island now. I do not believe that the Minister for Planning and Environment should really express a bias one way or the other. We need to build appropriate buildings in the appropriate setting.

1.6.16 Deputy D.J. De Sousa of St. Helier:

What does the candidate consider to be suitable density in town?

Deputy E.J. Noel:

I do not know the exact figures of the town site, but at the end of the day we need homes that people are going to want to live in and stay in for an extended period of time. So, for example, if we are looking at one-bedroom homes for the elderly, I do not think there should be one-bedroom homes. I think they should be one and a half bedroom homes to allow for the latter part in life if they maybe need a carer to come and stay with them during the night. So it is a difficult question to answer in terms of the numbers because I do not know the numbers but I believe that people should live in homes that they can stay in lifelong.

1.6.17 The Deputy of Trinity:

With an ageing population, would the candidate give his support to the over 55s lifelong homes which follow the Joseph Rowntree model?

Deputy E.J. Noel:

Yes, I would but I would try and extend it because it should not necessarily be cut off at 55. I think lifelong homes are lifelong homes and I do not think there should be any necessarily minimum age limit because some people may need adaptable suitable accommodation at a much earlier time than that.

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

It was mentioned earlier about the problems with Homebuy and there is apparently a logjam in a few houses outside St. Helier. Could the candidate assure this House that he would not proceed along the old lines of the Homebuy Scheme which potentially lost the taxpayer millions of pounds?

Deputy E.J. Noel:

I have already given a commitment that I think that the next Homebuy Scheme needs the input of Members of this House to work together to come up with something that picks up from the lessons that we have learned from Homebuy 1 to ensure that going forward we have a mechanism to get families into partly home ownership.

Deputy J.A. Martin:

Under the last Homebuy Scheme, it was not brought back to this House. Would he commit to bring the Homebuy Scheme back to this House?

Deputy E.J. Noel:

I believe there already is a commitment to bring back the Supplementary Planning Guidelines in that area and, yes, I think it does have to come back to this House.

1.6.19 Connétable J.L.S. Gallichan of Trinity:

Does the candidate agree with me that there are too many small one-bedroom flats being built in St. Helier?

Deputy E.J. Noel:

I do not know the exact numbers of how many are being built but I do not think we should be building just one bedrooms. We should be building, as I have mentioned before, at least one and a half bedrooms to provide people with that bit more space so they can live a more fulfilling life, to be honest with you, because we spend a lot of our time in our homes and they need to be appropriately designed.

1.6.20 The Connétable of St. Saviour:

Could the candidate explain how he would resolve the conflict that we have got in the Island Plan with the aspiration of raising architectural standards but increasing exemptions and therefore reducing control on small extensions?

Deputy E.J. Noel:

I have not studied the new small extensions in detail but I believe there are criteria in there to protect listed buildings and buildings that are of architectural merit. I think it is quite appropriate that people can change their windows or can convert a garage without seeking planning permission. I think it is a sensible way forward. Maybe at some point after the relaxation is bedded in we could see maybe if it needs revising in any way, perhaps involving the Parish Constables in a district or perhaps not.

1.6.21 Senator J.L. Perchard:

The candidate said in an earlier answer that, and I quote: “The majority of planning applications should go by the Planning Applications Panel.” Can he clarify what he meant by this specifically? Does he intend to intervene to determine certain applications and if so, why?

Deputy E.J. Noel:

In an ideal scenario, I would see the Minister to act as heading up a group of people as an appeals process, because at the moment we have a system where it is almost a quantum leap between the planning application going in and asking for reconsideration and then your only real course is the Royal Court and there needs to be something in between that that is accessible. So I would prefer to see the Minister involved in that role and not getting involved in specific applications.

Senator J.L. Perchard:

I will vote for the candidate if he answers my question. Does he intend to intervene to determine certain applications?

Deputy E.J. Noel:

I thought I made it clear. My intention would be not to intervene wherever possible but we have to move between from now until the Green Paper turns into a White Paper to get the planning application and planning appeal process set up. So there may be circumstances between now and then where the Minister, for whatever reason, has to get involved but it would not be out of choice.

1.6.22 The Deputy of St. John:

Will the candidate be moving away from the iconic architecture that we have seen under the former Minister for Planning and Environment and if so what will he put in its place?

Deputy E.J. Noel:

I believe that iconic architecture or whatever you want to call it, I believe architecture needs to be good design and it is fundamentally I think that is what has been achieved over the last 6 years. I believe that our local architects are producing good designs. I think it was 3 weeks ago that we had Architecture Week. I do not know how many Members took the opportunity of going down to Liberty Wharf and seeing the displays that our architects had produced. They were outstanding. We have some good architects in Jersey. We should celebrate that and continue to encourage them to produce buildings that not only we like but future generations will like.

1.6.23 Deputy R.G. Le Hérissier:

Does the candidate approve of the suggested plans for the Esplanade Quarter and the Waterfront and what planning impact does he think it will have on the remaining part of town?

Deputy E.J. Noel:

I broadly support the Esplanade Quarter. I believe that it should be done in phases and not in one big development and so I would like to see us move on the Esplanade Quarter with the first phase.

Deputy R.G. Le Hérissier:

The impact on the remainder of town?

Deputy E.J. Noel:

The impact on the remainder of town is going to be difficult to establish but I believe that our finance sector will drift towards the Esplanade. This will allow us to redevelop properties that they vacate maybe for other uses or maybe for secondary office space. I think each building as it becomes available will lend itself one way or the other.

1.6.24 Deputy J.A. Hilton:

Does the candidate support the provision of one parking space per unit in new developments within the ring road?

Deputy E.J. Noel:

Even if people live in town, they are likely to have a car and I would prefer to see them park that off the street.

The Deputy Bailiff:

Deputy, we will never know, at least not today. **[Laughter]** I will now ask Deputy Noel to leave the Chamber and the Deputy of St. Peter to be called.

Deputy P.V.F. Le Claire:

In the intervening period, could I ask you a question, Sir?

The Deputy Bailiff:

This is not Question Time, but yes.

Deputy P.V.F. Le Claire:

I wonder if you might give some thought about the proposed phased development of the Waterfront? **[Laughter]** We recently had a decision by the Assembly that we would not proceed with the phased approach from a proposition that was tabled by the Deputy of St. John and through

States of Jersey Development Company, we have seen a preference to advance Phase 1 and I am wondering what procedure needs to be in place before that can approved?

The Deputy Bailiff:

Deputy, that has come completely out of left field. I do not think it is appropriate that I make any comment this morning and, if I may say so, that is a political statement put into a question which I do not feel able to answer. I am sure it is a matter that can be dealt with at a later stage.

[10:15]

Deputy P.V.F. Le Claire:

It is a matter of procedure, Sir. I am asking your opinion as to whether it should be done or not. I am asking what procedure needs to be in place before anybody can ... given that we have had a proposition approved, I am asking what the process is.

The Deputy Bailiff:

With a little notice and bringing me up to date with all the various points involved then I would no doubt deal with it in Chambers if you ask me to do so and I am not prepared to do it just now. The Deputy of St. Peter has returned to the Assembly to make his address. You have 10 minutes, Deputy. After 9 minutes, the Greffier will ring the bell which signals that you must stop in the minute thereafter, so would you please start.

1.7 Deputy C.H. Egré of St. Peter:

I address this Assembly to submit my case for being entrusted with the responsibility in the role of Minister for Planning and Environment. I am nearing the end of my third term as a States Member. During my first 3 years I served as a member of both the Home Affairs and Harbours and Airport Committees. I hope that Members who were in the Assembly at that time would agree that I played an active and positive role, both in committee and as a representative in the public arena. During the last States sessions I was Vice Chairman of the Corporate Services Scrutiny Panel and served on sub-panels dealing with the siting of telephone masts, proposed sale of the Jersey College for Girls' site, migration and also chaired the panel reviewing the proposed setting up of the Jersey Enterprise Board. I think I chaired that on 3 occasions. In addition, I also served as Vice Chair of P.P.C. More importantly, since 2007, I have served on the Planning Applications Panel. I now serve, as you know, as the Assistant Minister for Planning. I have always seen my role as a fulltime States Member and I remain free of any other external commitments, other than to those charities and organisations that seek only to provide support and care for residents in our Island. I have stated publicly that to take on this role at the present time is a very important task. It is not something I am entering into without a great deal of thought and confirmed support from my family members, members of the public and, indeed, colleagues from within the Chamber. I therefore offer my commitment to the task as Minister and if chosen by my colleagues for this post I will give it my full attention. Some sections of the media, and indeed some colleagues, have described the Planning and Environment service portfolio as a poisoned chalice. I do not believe this. I believe that this does a disservice to those who so diligently work within the department to ensure that both our built and natural environments are safeguarded for future generations. We have just completed 2 weeks of close debate with regard to the Island Plan. The outgoing Minister leaves us with that legacy. Furthermore, he leaves us with the legacy of his Eco-Active stance, the fact he has raised the bar with regard to development of architecture and also the sustainability of our housing stocks. I have, as mentioned earlier, served on the Planning Applications Panel and that has given me huge experience with regard to how Planning and Environment work. I have to say that should I take on this role as Minister, I will be fully supportive of the Planning Applications Panel's role. I also feel that that role should be extended because it is my view that the Minister should hold a few yards back from the actual process of agreeing with a particular plan. Adding to that, it brings me to the point of appeals. By doing that, the Minister is in a position where he can

be first call on appeal, which is a very cheap way of dealing with an issue. Having taken on the role as Assistant Minister, I did get involved with a direct appeal which came to me and I reviewed it and on that particular occasion went against the views of the panel and that was based on information which was discussed within the department with the Chief Executive and it was agreed that possibly inappropriate advice had been given to the panel at that particular time. I have made a point over the last few months of making close contact with all the staff in the Planning Department. Coming from a military background as a Squadron Leader, I have been posted to look after staff, to lead staff, and I hope I have shown that skill over the last few months. Apart from the view of being an action man as a military man, hopefully in that 3 months, I have been a man of action. One of the things that I found which saddened me is that part of the town regeneration, mainly the Charing Cross area, had been on the backburner for 15 years. I can tell you now that particular development is on the front burner and is boiling up well. In fact, I had a meeting last Friday at the Planning Department with the Channel Island Co-operative and department officers with the intention possibly of bringing a plan forward by the end of August. This is an area which has been sitting, disregarded, as something of an eyesore in the town for a long time. Furthermore, in the last sitting, as you will be aware, the Deputy of St. Martin brought forward a question regarding the High Hedges Law. In answering those particular questions, I made it absolutely clear that I had instigated a review in the cost effectiveness of people having to pay a huge fee, the general public having to pay a huge fee to engage in serving them well with a particular law which should have been supporting them. I have also been involved with overseeing the current development of a computer system which I look forward to seeing developed within the Planning Department because at the moment we are sitting behind a technological curve. From a public perspective, I do feel the public should be able to access planning information and pass comment on planning applications using modern systems. In a former life, to use an over-worn phrase, I was a C.E.O. (chief executive officer) of a web development company so I am in the good position to look and make sure that what we produce is suitable for purpose. I have also been taking a keen interest in what goes on at the Environment Department. I have been asked a few weeks ago to oversee the review in the Met Office. I think that may have something to do with my past as a professional pilot and professional air traffic controller. Again, as I mentioned earlier, the outgoing Minister has left us with the legacy of Eco-Active. I have been also involved in facilitating an engineer from the U.K. who has come up with what would appear to be an innovative way of saving energy with regard to lighting and has been involved in the lighting of the Millennium Dome. He has now met with officers of both departments, Environment and Planning, and also I believe T.T.S. (Transport and Technical Services). If, as is possible, the view is that it could give us a saving of up to 50 per cent on lighting energy bills, this has got to be reviewed in a positive light. In promoting the Eco-Active strategy, it is important that we educate our children and the Eco-Active element in training in schools is imperative in that it is educating our children in all the things that we are trying to succeed in doing now. Also the States may be aware, or not as the case may be, that there is a review of the energy waste being carried out, an infrared scan of the whole of the Island which is going to indicate where we are losing energy. This review hopefully will give us some ideas as to how we can put forward further energy saving processes. Hopefully, I will bring a cool head to this role, a non-partisan outlook to liaising with other departments and between departments within the ministry. It is time to start delivering the planning and environment commitments to our Island and both the demands that it deserves. We must not fight about who is to blame for the past. I believe that I am the candidate who can achieve this without forgetting or failing to learn from the lessons of the past. The decision as to who takes on this very important role is now in the hands of this Assembly.

The Deputy Bailiff:

Very well, we come to questions which start now.

1.7.1 Deputy S. Power:

How would the candidate deal with what is perceived to be the logjam on the 12 unallocated houses in the Homebuy Scheme at Clos Vaze and could he express his views in terms of the future of Homebuy Deferred Payment and Shared Equity Schemes?

The Deputy of St. Peter:

I have some concerns about the way Planning interacts with Housing. One of the concerns that I have is that what we should see in the tin is what is written on the tin. I do feel that the strategy that sits around Housing within Jersey should sit firmly within the Housing Department. I feel that the Planning Department should be a facilitator in the way we produce houses.

1.7.2 Deputy K.C. Lewis:

The candidate mentioned he was promoting the redevelopment around the Charing Cross Co-operative. Does this include all of the cottages and shop fronts in Dumaresq Street up to and including the Foot building?

The Deputy of St. Peter:

Part of the negotiations that went on with the Co-op and are still ongoing is that it is essential that the historical buildings in Dumaresq Street, Pitt Street and Hue Street are maintained and it is the Co-op's intention that all those buildings should be refurbished and that the Foot shop, which is loved by a lot of Jersey people, should be re-established and that the His Master's Voice sign should be redone on the wall. So in answer to the question, yes, they are part of the negotiations being tied down to the refurbishment of those buildings.

1.7.3 Deputy J.A. Hilton:

Can the candidate explain what measures he will take to resist pressure from some States Members who propose we build on greenfield sites?

The Deputy of St. Peter:

The pressures were resisted very clearly during the debate of the Island Plan. As the questioner will know, the intention now is to develop States-owned sites and not greenfield sites. But going back to the point that I made earlier, it is, as far as I am concerned, for the States Assembly to decide what our requirements are for housing and should we not be able to facilitate the amount of housing required as directed by this Assembly, then obviously one would have to look in the long term at developing other sites, not necessarily greenfield.

1.7.4 Senator T.J. Le Main:

Can the candidate explain the 3 main policy matters or decisions that were made by the previous Minister that he would or could change and his reasons for so doing?

The Deputy of St. Peter:

I have said 3, so I go with number one. The possible insistence on having specific architects to develop specific sites. We have very good architects in Jersey and I think they are well capable of dealing with good architecture. The other policy would be the consultation with the Constables in what goes on in their parishes. There was talk of a possible veto that a Constable could have for what goes on in certain areas of development. I know I would not accept a veto but what I would say and move from where St. John has gone, it would be important and I certainly would take heed of what the Constables have to say with regard to developments within their own parishes.

[10:30]

1.7.5 The Connétable of St. Lawrence:

The candidate mentioned that Senator Cohen has raised the bar on architecture. My question is: did he do so at Portelet and, in the candidate's view, what development has the greatest merit under the former Minister if Portelet does not?

The Deputy of St. Peter:

I like the last comment: "if Portelet does not." I have my own view of Portelet, which would not coincide with the view of the outgoing Minister. The argument that has been made by him has been very well rehearsed and we all know it: "It is better than what was going to be there before." I do not regard that, necessarily, as a good argument. Also, the other argument was used that it was developed by an architect of great fame. Again, I have made the point as to where I regard that. The question of what would I see as an example of good development: well, I can tell you lots of examples of what I do not see as good development and I think you could list them for me. The development on the Waterfront, which I regard as positive at the moment, is the one that is being carried out on Castle Quay. I have had a look around that. That is a very good development and I would see that as a very big positive. The building that sits beside it, I will make little or no comment on. I also like the El Tico development. I have made a joke about the view of the back end of it, but that is one of my jokes. It is nicely designed, serves us well and, I have to say, I go there very often.

1.7.6 Deputy R.G. Le Hérisier:

Can the candidate give us his views on what he sees as any reform or change that is needed in the Department of the Environment and refer particularly to the management of agriculture and fisheries?

The Deputy of St. Peter:

At the moment, within the department, there is still an active research element and, I have to say, I did go up there yesterday to have a look at what was being done. One of the things that they are looking at that, being a former farmer's son, I found of most interest was their work on eelworm; the fact that they are creating plants now that make out they are potatoes but they are not. If they plant these out in a nearby field the eelworm will go to the root system but will have nothing to feed on and it reduces the level of eelworm. So the agricultural is moving forward. When it comes to fisheries, I know that an awful lot of work has been done with the Fisheries Department to get statistics and I think, from the quote I had yesterday, over 30 years of statistics of how the fisheries are developing. Certainly with the increase in quality of our ore supplies around the shores, it would appear that our fish stocks are improving and certainly the lobster catch is getting a lot bigger, but there is no definitive scientific proof that that is caused by the better waters.

Deputy R.G. Le Hérisier:

Are there any proposals for reform of that particular side of the department?

The Greffier of the States (in the Chair):

There are a lot of Members waiting. I think we should move on.

The Deputy of St. Peter:

Just a quick answer to that one because the question was asked; having discussed it, I do not see any need for any major reform in what they are doing at the moment.

The Greffier of the States (in the Chair):

There are a lot of Members waiting, Deputy. Perhaps you could try to be slightly more concise.

1.7.7 Deputy D.J. De Sousa:

I was very excited to hear the candidate stating that, at last, Charing Cross will move on and those wonderful properties renovated. I wonder if the candidate could state what he would consider is suitable density in town?

The Deputy of St. Peter:

I do not wish to keep ducking the issue, but I will because I still believe that the density is a housing issue. The quality of housing for our people should sit firmly in the hands of the Housing Department. As Minister, if I were to have that position, I would be there to facilitate that requirement. At least now we are looking at buildings and rooms that are of a size plus 10 per cent of minimum. I do not like people saying: "plus 10 per cent of minimum." It does not do any good at all. I want to know what Housing wants and I want to be a facilitator for those functions.

1.7.8 The Deputy of St. John:

If elected will the candidate undertake not to allow any work on the sunken road Esplanade Quarter until this House has debated the pros and cons of the sunken road?

The Deputy of St. Peter:

Yes.

1.7.9 The Connétable of St. Brelade:

Would the candidate outline to Members his architectural vision for Jersey?

The Deputy of St. Peter:

One of the legacies still is having an Architectural Commission. I have spoken to a few of the Members and I have some confidence in the work that they do. I have a vision, but that is for me. That is my subjectivity, as architecture is. I would leave it to the consensus of a group that knows more about architecture than I do.

1.7.10 Deputy P.V.F. Le Claire:

What is the candidate's position on the increased density of the 11 greenfield sites that have been approved and P.75 being subject to H1 and H3 revisions?

The Deputy of St. Peter:

As the questioner will be aware, we are putting together groups - and I think he has been invited on those groups - to look at the H1 and H3 sites and I would be listening very carefully to what comes out of those groups before I make any comment.

1.7.11 The Deputy of Trinity:

With an ageing population, will the candidate give his support to the over-55 lifelong homes which follows the Joseph Rowntree model?

The Deputy of St. Peter:

Yes.

1.7.12 Senator J.L. Perchard:

Will the candidate confirm that, if elected, he will not intervene under any circumstances to bypass the Planning Applications Panel in order to determine certain applications himself?

The Deputy of St. Peter:

Yes, I think I made that clear earlier on. I would see, now, my role sitting behind the panel and I would be trying to get everything that I could in front of the Planning Applications Panel rather than being dealt with by an individual, which I think is a very dangerous exercise.

1.7.13 Senator A. Breckon:

The candidate mentioned in his speech the previous role he had in Scrutiny. Does he believe that it is essential for a Minister to have had Scrutiny experience?

The Deputy of St. Peter:

In my background in the Royal Air Force we used to have to write documents which looked at either essential or desirable. It is not essential but it certainly is desirable.

1.7.14 The Connétable of Trinity:

Does the candidate agree with me there are too many small one-bedroom flats being built in St. Helier?

The Deputy of St. Peter:

I dare not say no.

1.7.15 Deputy A.E. Jeune:

Does the candidate consider the outgoing Minister's progress on reducing red tape an appropriate way forward - for example, letting you put up sheds, conservatories, little extensions and the like - and does he have any thoughts on whether these can be extended further and, if so, what are they?

The Deputy of St. Peter:

I will take the advice of the officers as to whether or not we should be able to extend these exemptions further. What I would say and just remind people is that these exemptions do not exempt people from building control. There is a perception that it is a free run. It certainly is not. The one thing I would say that has concerned me is that it is a fact at the moment that an application for a small job is set at a 13-week turnaround, which is exactly the same 13-week turnaround we would offer for a big job, say, of building 5 or 6 houses. There must be some way - and I will make sure that that way is developed - that we can deal with small applications far more quickly than the 13-week turnaround.

1.7.16 Senator P.F.C. Ozouf:

Can I just challenge the candidate on saying that density is not a matter for the Minister for Planning and Environment? When I was Planning President he gave me a very hard time on a St. Peter's site. Does he regret anything that he said in relation to that and what is he going to do about H1 delivery?

The Deputy of St. Peter:

No, I do not regret the debate that we had regarding the St. Peter's site and, as I recall, I won it. One of the problems in that particular development was the mis-measuring of the field, as I recall. There were 3 mis-measurements of the field, which did make a huge error in the actual density figures that we were given. I just want to check on the other part of his question.

Senator P.F.C. Ozouf:

How is he going to deliver H1 as a part of it?

The Deputy of St. Peter:

As I said earlier, we have set together groups to review the H1 and H3 policies and I will until I hear the outcomes of those groups before I make any comment.

1.7.17 Senator S.C. Ferguson:

Does the candidate not think that more spacious flats should also be defined as first-time buyers' houses and that the current definition as 2 or 3-beds, garage and garden is unrealistic?

The Deputy of St. Peter:

I think a lot the unrealistic perceptions do exist. When I bought my first house I started low and built up and I think, as a result of a lot of, dare I say, media hype, there are lots of programmes on television inviting people to take on houses that have big gardens, have big rooms and this is something that you build up to. It is not something that one should expect that one is going to achieve straightaway.

1.7.18 Deputy R.G. Le Hérisier:

What are the candidate's views on the proposed plan for the Esplanade Quarter/Waterfront and what impact does he think, if these were to proceed, they would have upon the rest of St. Helier?

The Deputy of St. Peter:

I have great concerns about the development of the Waterfront, its past history and the way we are moving forward. The full development of the Waterfront on the plans that were initially outlined by the outgoing Minister looked quite exciting, but we are nowhere near getting them on the move and that is a great worry. I do not see the finance leaping out to start these processes and the longer we leave them the more expensive they get. I await a real overall picture, which may come out of S.o.J.D.C., about where we are taking the Waterfront.

1.7.19 Deputy K.C. Lewis:

Would the candidate continue to protect buildings of local interest and, if so, how?

The Deputy of St. Peter:

As the questioner may be aware, a review is being carried out on listed buildings. I have a B.L.I. (Building of Local Interest) myself, a 17th century cottage in St. Peter, and I believe that they should be protected. We do not want to lose that heritage.

1.7.20 Senator P.F.C. Ozouf:

The candidate did not explain the answer to the question about ... he cannot, surely, duck the issue of density being a responsibility of Planning, not Housing?

The Deputy of St. Peter:

I have been well-taught by the questioner in how to deviate from the question that is being asked. [Laughter] As I said, and I stick to what I said, the actual density is to do with how people live in their houses, what the quality of that house is, and I would want the Minister for Housing to bring forward the density levels he thinks are appropriate either in town or in the countryside. Again, Planning should be the facilitator.

1.7.21 Deputy P.V.F. Le Claire:

J1 is a proposal by Le Masurier to develop a substantial office site within St. Helier. Currently it is awaiting planning approval. That possibly might negate the development of phase one on the Waterfront. What priority will the candidate, if appointed Minister, give to looking at this proposal?

The Deputy of St. Peter:

I am not fully aware of that proposal in any great depth. What I would have to do now is research it and then come back to see whether I think it is appropriate to give it the high priority, which I will do.

Deputy P.V.F. Le Claire:

It is £45 million of private investment, possibly the largest site that is coming forward. So I am surprised the Assistant Minister is not aware of it. It has been in the *J.E.P.* It is published. It is a

contender for the building for the finance industry. Does he now know which one I am talking about?

The Deputy of St. Peter:

Yes, I do.

Deputy P.V.F. Le Claire:

Does he love the Odeon building?

The Deputy of St. Peter:

I have to say I have no personal relationship with any building.

1.7.22 Deputy R.G. Le Hérisier:

Can the candidate outline, particularly in light of the committee he just sat on, how the planning process can be strengthened but the pressure put upon individual members can be mitigated?

[10:45]

The Deputy of St. Peter:

Deputy Le Hérisier knows full well that I sat on the same group as he did on that one. I would emphasise the point I made earlier. I do feel the role of the Minister should be set back from the role of the planning-making decision because, as I said earlier, in that particular case it allows the Minister to be a party to any appeal that may follow and I think that is important.

1.7.23 Deputy P.V.F. Le Claire:

The Air Quality Strategy and Energy Policy are 2 and a half years adrift. What does the candidate propose to do about getting them into place?

The Deputy of St. Peter:

I did not realise they are 2 and a half years out of drift on this one and I shall certainly look to figure out why and take it forward as quickly as I can.

1.7.24 Deputy J.A. Hilton:

Does the candidate support the provision of one parking space per unit in new developments within the Ring Road?

The Greffier of the States (in the Chair):

I am afraid we will never know, Deputy. I will ask the Deputy of St. Peter to withdraw and ask Senator Le Gresley to be invited to the Chamber.

Deputy J.A. Martin:

Could I just a point of procedure, please? It is about the debate. The procedure: 3 of the candidates are Assistant Ministers already - so I would say they are in the ministry - and one is not in the ministry. What will happen with the actual people if the person who is not in the ministry is elected? Will we have to get rid of a body or just a name?

The Greffier of the States (in the Chair):

Well, Deputy, the States of Jersey Law provides that there can never be more than 13 Members serving as Assistant Ministers. There are 13. So if there was someone who is not currently part of the 23 total, there would have to be a change in number of individuals involved. Very well, Senator Le Gresley has caught his breath. I invite you, Senator, to address the Assembly and the Greffier will ring a bell after 9 minutes and a final bell after 10.

1.8 Senator F. du H. Le Gresley:

With my background in community work and, prior to that, banking, I might not seem an obvious candidate for Minister for Planning and Environment. However, I believe that I have a particular skill set which would suit this role. I consider myself able to relate to people from all walks of life. I enjoy working and leading teams. I care passionately about protecting our natural environment. I am interested in modern architecture but, equally, the preservation of our historic buildings. I am thorough in my work and not frightened to make decisions or speak out on issues that I feel strongly about. I have no business interests and I am not, and never have been, a private developer or speculative landowner. I think that it is particularly important for the Minister for Planning and Environment to have an Island-wide mandate as planning decisions are invariably controversial. I believe that the staff at the Department of Environment needs a period of stability and a Minister who will help them bed down the new Island Plan and put into place the various Supplementary Planning Guidance Notes required. The Department of Environment is possibly the one States department that has the most impact on people's lives. It is staffed by highly-skilled professionals and led by a very capable Chief Officer, in my opinion. The new Minister must concentrate on policy matters and not become involved in day-to-day operational issues. Under my stewardship I would ensure that all staff feel valued and motivated to deliver the very best service to the public of Jersey. One of my roles as Minister would be to help senior management look for efficiencies while ensuring that services are maintained and, where possible, enhanced. Immediate priorities include improving customer I.T. accessibility, co-location of the Planning and Environment teams to new premises and implementing the recommendations in the *Development Control Process Improvement Programme* report and the *Reg's Skips* Committee of Inquiry reports. Having been a member of the working party looking at the role of the Minister and States Members in the determination of planning applications, I see the Minister's main duties in this area to be guiding pre-application discussions on major schemes, development masterplans for key regeneration areas and only becoming involved in planning decisions which are of an Island-wide significance or departure from the Island Plan. I think the Planning Applications Panel should be the main decision-making body for non-delegated decisions. In my opinion, decisions on controversial applications are best taken by a panel or committee. The work of the panel was praised by POS Enterprises Ltd, the operational arm of the Planning Officers Society, in their recent report on the development control process. I think the Minister should always sit with his Assistant Minister and the Chair of the Planning Applications Panel when determining applications at ministerial hearings so that the process is transparent and fair to all parties. The ministerial protocol recommended by POS Enterprises should be adopted by the new Minister. I understand there is currently a backlog of applications which need to be determined. This is understandable due to the changes at the department but, by the same token, unacceptable. I would expect the turnaround targets for dealing with minor applications to be 8 weeks rather than the current 13 weeks. Planning fees have been increased significantly over the last few years and applicants and their agents expect and deserve better value for money. I would prioritise the introduction of an independent appeal system to deal with refusals and the imposition of unreasonable conditions. Guernsey has recently established an appeals body to review the planning merits of decisions and we could do no better than mirror their scheme. I am not convinced that having an Assistant Minister with specific responsibility for the environment is necessary. The 2 business units within the department should work more cohesively once they are co-located to new offices. Sixty per cent of the department's budget is environment related, so it makes sense for the Minister to provide overall political direction. Members will wish to know my views on topical issues over which I would have political responsibility. Providing new affordable homes for young Jersey couples, for purchase or rental, is vitally important, but I have serious reservations that States-owned sites and proposed H1 sites will deliver these in sufficient numbers. I support the rezoning of the Samarès Nursery site for Category A housing and, if elected, I would include this site in the H1 sites to be brought back to the States for rezoning in preference to Field 1219. I believe that the planning inspectors were absolutely correct to recommend this site above all others. The building industry's concerns about Policy H3 in the new Island Plan need to be resolved if we are to achieve the target of delivering 1,000

affordable homes by 2020. I would consult with the 2 groups of politicians set up by Senator Cohen once the department and law officers have had sufficient time to review the concerns of Members expressed in the Island Plan debate. I would like to have a more in-depth understanding of the activities of the States of Jersey Development Company and, in particular, the role of the Regeneration Steering Group. I think it is vital that the Minister for Planning and Environment keeps his independence and sets the policy for development of States-owned sites via planning briefs. I will need convincing that the time is right to start building offices on the Esplanade car park when private developers seem ready and able to satisfy current demand. I am excited about the North of Town Masterplan and keen to see rejuvenation of this sadly neglected part of St. Helier. Producing masterplans for other key regeneration zones will help to ensure cohesion in planning decisions. I believe that the provision and enhancement of open space in the built-up area is vitally important if we are to increase the density of housing within the town area. The policies within the new Rural Economy Strategy need to be implemented in conjunction with the Economic Development Department. I am particularly keen to see Policy PE3 (Access to the countryside) pursued now that we have zoned areas of our Island within the Coastal National Park and agreed in principle to a new Country Park for St. Helier. I would also prioritise work on a landscape management strategy which was promised in the Island Plan 2002. I would be the first to admit that I have a lot to learn about the diverse responsibilities of the Minister for Planning and Environment. However, I believe that I can rise to the challenge. If elected, I would choose Deputy Le Hérissier as my Assistant Minister. I would like to finish by thanking my proposer and seconder for having faith in me and I now seek the support of my fellow Members.

The Greffier of the States (in the Chair):

Very well, there are now 20 minutes for questioning.

1.8.1 Senator T.J. Le Main:

What were the 3 main policy matters or decisions made by the previous Minister that you would or could change and the reasons why?

Senator F. du H. Le Gresley:

Firstly, I think the emphasis of the department in the last 5 and a half years has been to accommodate developers and architects of renowned importance, or whatever, and I believe that we need to give the department back to the people of Jersey and that we should not be seen to be perhaps accommodating large developers without detailed inquiries. I think that is something I really feel passionately about. I have a whole lot of respect for what Senator Cohen has done in his time and I think he has improved the quality of architecture, but I do question things like Percentage for Art. While this may be something valuable, I would rather see, on large developments, something given back to improve the quality of the environment for the neighbours who live in these areas, whether it is street improvements or soft landscaping or whatever. But, for me, Percentage for Art is something that I would seriously look at. The third one: I think that the department has been on a rollercoaster with the former Minister because he has involved himself in many planning decisions. I would not choose to do this. I would very much delegate planning decisions to the panel, as I said, in my speech, and I think that the department would benefit from a Minister who is committed to policy rather than trying to make lots of planning decisions.

1.8.2 Deputy S. Power:

How would the candidate deal with what is the perceived log jam in the 12 unallocated Homebuy houses at Clos Vaze and would he enunciate his views on Homebuy schemes, deferred payment schemes and shared equity schemes for affordable housing?

[11:00]

Senator F. du H. Le Gresley:

Very similar to the current Minister, I think Homebuy 1 or Homebuy 2, whichever form it becomes, is the way now to enable young people in this Island to acquire property. I think first-time buyer that we used to think of with houses that are £440,000 is just a dream. It will not happen for many young people. So Homebuy is the way forward, or some form of shared equity. If there is a log jam then that is something I would certainly devote early time to looking at the current houses that are sitting waiting. I believe that there is a legal aspect to this which is being looked into and so one would obviously have to respect that the law officers would have to have an input here. I am sorry, I forgot the last part of the Deputy's question.

Deputy S. Power:

He has answered them.

1.8.3 Deputy J.A. Hilton:

Does the candidate support the provision of one parking space per unit in new developments within the Ring Road?

Senator F. du H. Le Gresley:

Quite simply, yes. I think that it may not be possible on some sites, but I am not one of these people who believes that we can do away with the cars and expect people to catch buses, cycle or walk. I do believe that people living within the Ring Road deserve the opportunity to have car ownership and obviously so they can visit our Country National Park or go about their business. I think it is ridiculous to expect people, because they live in the town area, not to have a parking space.

1.8.4 Deputy R.G. Le Hérissier:

What issues does the candidate see with the Department of the Environment? What changes would he wish to make, both in structure and objectives of that department?

Senator F. du H. Le Gresley:

Well, I said to myself before I came upstairs: "I will be completely honest when I answer questions." I will be honest and say I do not know a lot about what the Department of the Environment does. In the short time that I have made my decision to stand as Minister, I have had a long meeting with the Chief Officer but, unfortunately, we have not got into the depths of what the Department of the Environment does. So I have to be completely honest and say that it is an area that I would need to look at but, for me, protecting the environment, Jersey's natural countryside, is the key task of the Minister for Planning and Environment on behalf of the Island. So it is an area that I would have to look at very carefully.

1.8.5 Deputy K.C. Lewis:

Would the candidate continue to protect buildings of local interest? I am not referring to the Odeon, which is a wonderful example of 1950s architecture. I am referring to Victorian and Georgian buildings which are very strictly controlled with windows and treatments, et cetera, but huge carbuncles are allowed to be built next door?

Senator F. du H. Le Gresley:

The Deputy will know that the Minister has arranged for a system of listed buildings to replace our S.S.I. (Site of Special Interest) and, as I said in my opening speech, I feel passionately about preserving our history and our historic buildings. I think what is in the Island Plan, and possibly not enough attention has been drawn to it, is the importance of setting and having ... where you have a new house being built, perhaps replaced, that it has to fit in with the streetscape, with the other properties, particularly if they are properties of architectural merit. There is nothing worse than a new out-of-place carbuncle being built in a row of beautiful houses.

The Greffier of the States (in the Chair):

We have 14 Members waiting, Senator, so I am sure you will try to be as concise as possible.

1.8.6 The Deputy of St. John:

Senator, on your entry into the House I invited you to join my Environment Scrutiny Panel. Do you think you were remiss in not taking the position now that you are standing for Minister for Planning and Environment, as my panel are the panel with responsibility for the oversight of Planning and Environment?

Senator F. du H. Le Gresley:

I am sure I was remiss, Deputy, but I do feel that I have filled my time in the House quite well. I have got a broad knowledge now of many issues. I sat on 2 Scrutiny Panels where there was a particular issue to be looked at. I brought a number of propositions. I have done a lot of research. I think I have used my time very wisely and I would welcome working with you if you were the Scrutiny Chairman and I was the Minister.

1.8.7 Deputy M. Tadier:

Would the candidate join me in inviting all Members who made such a fuss over the reduction in Senators to now show their support for the role by voting for someone with an Island-wide mandate for the position of Minister for Planning and Environment?

Senator F. du H. Le Gresley:

That would be a good idea.

1.8.8 Deputy A.E. Jeune:

Does the candidate consider the outgoing Minister's progress on reducing red tape an appropriate way forward - for example, with the small extensions, replacement windows, conservatories and that sort of thing - and does he have any thoughts on whether these can be extended further and, if so, what are they?

Senator F. du H. Le Gresley:

Yes, absolutely, we need to reduce the amount of time that minor applications spend in the department. As I alluded to before, 13 weeks' turnaround is just not acceptable. The General Development Orders that the Minister has recently introduced is a step in the right direction, although a lot of those are still subject to building control permits and quite rightly so. As far as reducing red tape, in the very short time I have been on the Planning Applications Panel I have noticed that some applications tie up time for the panel because there is at least one person or neighbour objecting. I believe that we would bring in a system whereby the officers can determine applications where there are no more than 2 neighbourhood objections and this would speed up the process. It is certainly done in other countries.

1.8.9 The Connétable of St. Lawrence:

I think the candidate touched on this briefly, but he mentioned in his speech that he is interested in modern architecture but also in protecting historic buildings. I would like to know his opinion on the architecture at Portelet. Is the modern design appropriate for the site or would he have preferred something more traditional?

Senator F. du H. Le Gresley:

My dislike of Portelet is known. I have expressed that view in this Chamber. It is not so much the style. It is the bulk of the buildings sitting on such a landscape of beauty and the fact that we were told that landscaping will conceal it. I am sorry, but I do not believe people paying in excess of £1.25 million for a flat want their view obscured by trees or bushes. I believe that modern

architecture (and I do like modern architecture) in the right place and in the right environment is suitable for Jersey, but certainly not on our coastline.

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

If elected, how would the candidate deal with ongoing problems such as Plémont?

Senator F. du H. Le Gresley:

Obviously a new Minister has to be allowed to settle in and find his feet. Ongoing problems such as Plémont is a difficult one to resolve because of potential legal issues around the current application. My own view is that Plémont Headland should be - and I did bring this proposition - part of the Coastal National Park. Whether the existing buildings should be demolished and new accommodation built very much depends on the inspectors' report or the hearing that is going to be conducted by the inspectors. I do not wish, at this stage, to give one view to the House because I think that would be inappropriate.

1.8.11 Deputy D.J. De Sousa:

What does the candidate consider is suitable density in town?

Senator F. du H. Le Gresley:

The Deputy asks a very good question. I am very concerned about the issues in Island Plan about concentrating housing, up to 4,000 houses, within the town area. I appreciate and I am a lover of green open fields, but I do feel that we may be going too far. I am concerned that the report talks about minimum density rather than maximum density and that is something I will need to look at.

1.8.12 Deputy J.A. Martin:

I would just like to thank the candidate for what I would say is the first honest and open appraisal of our housing situation in Jersey and ask him why he stated that he does not think that States-owned sites will provide the numbers needed quick enough? Secondly, when would he bring back fields that he spoke of in his speech that are much needed?

Senator F. du H. Le Gresley:

I just do not believe that the States of Jersey Development Company or States of Jersey Property Holdings will be able to produce the type and quantity of residential units. We heard the current Minister referring to Girls College and that this would provide a lot of housing, but we were then told that these were going to be large apartments because of the restrictions on the building, which would never, of course, be made available for affordable housing. I just do not believe that States sites will produce sufficient housing and I firmly believe that the Samarès Nursery site can deliver 150 units. We are told that there is willing seller. The planning inspectors were absolutely certain that this was the best site and we should bring it forward and I would bring it forward very quickly.

1.8.13 The Connétable of St. Brelade:

Would the candidate outline his architectural vision for the Island to Members?

Senator F. du H. Le Gresley:

Well, this is where I would differ from my predecessor. I do not have an architectural vision. I am not an architect. I have no qualifications in design. I would lean to listening to the professionals in the department. The Jersey Architects Commission which was set up by the Minister would give me guidance, but I would certainly not impose any of my own views against the advice of professionals.

1.8.14 Senator A. Breckon:

Could the candidate say if he believes he is a team player and, if so, what can he add positively to the deliberations of the Council of Ministers?

Senator F. du H. Le Gresley:

I have always been a team player. I pride myself on being able to work with people. I am not controversial unless the issues are controversial. I believe in working with people. I think I would be an asset to the Council of Ministers because I am not the sort of person who can be bullied or cajoled into doing things I do not believe in. I am an honest person. I stand here before you as an honest person and I will do my best for Jersey. That is what I am here for.

1.8.15 Deputy P.V.F. Le Claire:

In 2008 we proposed 11 greenfields for development for housing. Field 578 has currently put in revised plans for 47 first-time buyers homes. It has currently got 2 houses in it. Do you think, as a candidate, that that field should be treated the same as other fields under the new plan and be subject to the H1 and H3 policy considerations?

Senator F. du H. Le Gresley:

I believe that the States have already agreed that this site should be used to provide housing and we have, on the other side of the road, what has been an excellent development by the parish. I also know that the parish have had this field gifted to them and, therefore, I would trust the custodians of that legacy to make sure that the homes built there are affordable for young people or rental. I do not think I would object to this proceeding, although I am a little bit concerned that the density has increased.

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

I am following on from Deputy Martin really. I was very sorry to hear that the Senator is very keen to develop even more social housing in our parish. Do you not think that we have already done enough?

Senator F. du H. Le Gresley:

The Deputy knows I live in St. Clement and this is one of the reasons why I believe that the Minister for Planning and Environment has to have an Island-wide mandate. I represent and have been elected by the whole of the Island to be their spokesman/representative in this Chamber. If I was a representative of St. Clement, as is the Deputy, I would probably have a different view, but I am looking at what is best for Jersey and what is best for Jersey is for that site to give homes to our young people.

[11:15]

1.8.17 Senator S.C. Ferguson:

Does the Senator feel that we should go on and on and on building ad infinitum and not perhaps be looking to limit inward migration as they are planning in Guernsey?

Senator F. du H. Le Gresley:

In answer to the Senator's question, I think we are all awaiting the results of the census because we do not know how many people have made Jersey their permanent home. I do have concerns that we need to build another 4,700, I think it is, houses for residents of Jersey in the next 10 years. It is of concern to me, but unfortunately the Senator is straying into the questions of immigration controls and really, relevant to this debate, I do not think I want to go there.

1.8.18 The Deputy of Trinity:

With an ageing population, will the candidate give his support to the over-55 lifelong homes which follow the Joseph Rowntree model?

Senator F. du H. Le Gresley:

Absolutely, although I do share a concern that 55 is the appropriate age. Certainly 5 years ago I felt very young and I probably still feel young today 5 years on. I do think 55 is probably the wrong age, but lifelong homes so that people, as they advance in years and need other facilities, is absolutely the right way to build property.

1.8.19 Senator P.F.C. Ozouf:

I was very concerned to hear the candidate's views regarding a lack of a dedicated champion for the environment. Will he consider not appointing an Assistant Minister with particular responsibility for the environment, not just potentially, if he does not mind me saying, an Assistant Minister for fences?

Senator F. du H. Le Gresley:

I like fences. [Laughter] I think Deputy Le Hérissier with his known environmental passions will be excellent.

The Greffier of the States (in the Chair):

I ask the Greffier to invite the 3 candidates back to the Chamber for the vote. I remind Members that Standing Orders require a secret ballot, so ballot papers will be distributed. Standing Orders also provide that if no single candidate obtains more than a majority of the votes cast on the first ballot the candidate with the least votes will withdraw and a further ballot or ballots will be taken until one candidate emerges with an absolutely majority of the votes cast. I will ask the Deputy Viscount and the Usher to begin distributing the ballot papers. I will ask Members to write one name on the ballot paper from the 4 candidates proposed. Now, have all Members received a ballot paper and written one name on it? Very well, I will ask for the votes to be collected. Now, have all Members placed their ballot papers in the ballot box? Very well, I will ask the Deputy Viscount and the Solicitor General to act as scrutineers, please. It has been suggested that, to use the time of the Assembly productively while the first ballot is being counted, we may move to P.93 possibly, Rate Appeal Board: appointment of members. If Members are content to take that proposition, I will ask the Greffier to read the proposition.

PUBLIC BUSINESS - RESUMPTION

2. Rate Appeal Board: appointment of members (P.93/2011)

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion, in pursuance of Article 44 of the Rates (Jersey) Law 2005, to appoint the following as members of the Rate Appeal Board for the period ending 31st May 2014: Jeremy James Robin Johnson, Brian Ahier.

2.1 Senator P.F.C. Ozouf:

The Rate Appeal Board is an important appellate body which, fortunately, does not meet that frequently but are required, from time to time, to hear and determine appeals against rateable values in accordance with the Rates (Jersey) Law. I am extremely grateful, after consulting the Appointments Commission, that they have, unusually, supported reappointments of individuals that have served for a great deal of time on the Rates Appeal Board but, because of its infrequent meeting, the Commission was content that the appointments could be made for furthering their normal maximum period of time that they allow. So I am very, very grateful for the service of Mr. Brian Ahier and Mr. Jeremy Johnson and propose their reappointment to the Board.

The Greffier of the States (in the Chair):

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

2.1.1 The Deputy of St. John:

As a former rates assessor and Chairman of Rates Assessors for St. John, these gentlemen do sterling work in making sure that the parish rates assessors have done their jobs correctly and I am fully supportive of these 2 candidates.

The Greffier of the States (in the Chair):

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

2.2 Senator P.F.C. Ozouf:

I agree with the Deputy of St. John that it is important to have the body of well-regarded individuals because I think that, if I may say, even sharpens the minds of the assessors knowing that there is the appellate body. But they do meet infrequently. These are 2 gentlemen of high distinction and I thank all the members of the Rates Appeal Board for their continued service and propose the nomination.

The Greffier of the States (in the Chair):

All those in favour of adopting the proposition kindly show. The appel is called for. The vote is for or against the proposition in relation to the Rates Appeal Board. If Members are in their seats 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 B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
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. 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 Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy 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 A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				

3. Health Service Disciplinary Tribunal: appointment of Chairman and members (P.111/2011)

The Greffier of the States (in the Chair):

Now, there is a further proposition further down the Order Paper, P.111, also relating to appointments; this one relating to the Health Service Disciplinary Tribunal. Minister, would you be happy to take that at this juncture? Very well, this is P.111. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to appoint, in accordance with the provisions of Schedule 2 to the Health Insurance (Jersey) Law 1967, the following persons as Chairman, Deputy Chairman and lay members of the Health Services Disciplinary Tribunal for a period of 3 years from 1st August 2011: Advocate David Eldon Le Cornu, Chairman; Mr. Conrad Coutanche, Deputy Chairman; Mr. Colin Henry Letto, Lay Member; Mr. Philip J.A. Le Claire, Lay Member; Mr. Nigel Collier-Webb, Lay Member.

Deputy P.V.F. Le Claire:

I had better declare an interest and not take part, Sir.

The Greffier of the States (in the Chair):

Very well, you have a family connection.

3.1 Deputy I.J. Gorst of St. Clement (The Minister for Social Security):

It gives me pleasure to propose the reappointment of the 5 members, as the Greffier has just read out, to the Health Services Disciplinary Tribunal for a further 3-year term of office. The same exemption by the Appointments Commission was granted for this body, as the Minister for Treasury and Resources reported for the previous appointments. I thank them for their willingness to have sat in the past and their willingness to go on sitting.

The Greffier of the States (in the Chair):

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

3.1.1 Deputy R.G. Le Hérissier:

How often do they meet and what is the nature of the complaints, if indeed there are any?

The Greffier of the States (in the Chair):

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

3.2 Deputy I.J. Gorst:

Yes, a very good question indeed. In fact the tribunal has only sat twice during the last 40 years and it is a number of years since they last sat. The case that they last heard was regarding a doctor and the way that that particular G.P. (general practitioner) was handling H.I.E. (Health Insurance Exemption) cases. As the Deputy knows, we no longer have H.I.E.; so that gives an indication of how long ago it was.

The Greffier of the States (in the Chair):

All those in favour of adopting the proposition kindly show? Against? The proposition is adopted. Chairman of P.P.C., I have the announcement to make. Perhaps Members would like to hear the result. The votes cast were as follows:

Deputy Robert Charles Duhamel of St. Saviour	11
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Deputy Edward James Noel of St. Lawrence	12
The Deputy of St. Peter	8
Senator Francis Du Heaume Le Gresley	16

Accordingly, no candidate has obtained an overall majority and a further ballot is required and the Deputy of St. Peter is withdrawn from the process. Therefore, a further ballot is required. I will ask the Deputy Viscount and the Usher to distribute further ballot papers. Members should place one name from Deputies Duhamel or Noel or Senator Le Gresley. Members should be writing on the ballot paper one of the 3 names between Duhamel, Noel and Le Gresley. If that is done, I will ask for the ballot papers to be collected. Have all Members now placed their ballot papers in the ballot boxes? I will ask, once again, the Solicitor General and the Deputy Viscount to act as scrutineers.

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

Just for the record, because there is no other mechanism for doing it, I am in a highly infectious and contagious stage, as a number of people around me know. Once the voting is done, I probably will not be here this afternoon. I obviously cannot do “not present” or whatever, but that is just for the record.

The Greffier of the States (in the Chair):

Very well, Deputy. Now, Chairman of P.P.C., did you wish to address the Assembly at all on order of business?

The Connétable of St. Mary:

Obviously, I have not yet had a chance to discuss things with my committee. I was charged to do this for after lunch. But it does seem to me, Sir, that it might be sensible to move one of the items, which I think has pretty much universal support and is of importance, namely the Draft Civil Partnerships (Jersey) Law. I wonder if that might be in order, Sir. Could I propose that?

The Greffier of the States (in the Chair):

Yes, that is possible. Sorry, I was just checking the dates. That clearly has been lodged long enough. Minister, are you happy to take the first item?

Senator T.A. Le Sueur:

I do not mind, Sir, if it is in the interests of the House.

The Greffier of the States (in the Chair):

Are Members content to proceed in that fashion?

[11:30]

Deputy M. Tadier:

Just so Members can be mindful, this is something the Scrutiny Panel has worked quite extensively on in producing comments and an amendment. While we are obviously supportive of it and we do not anticipate the amendment to be controversial and I think it would be helpful, we did anticipate having more time to prepare. So I will not be supporting this and I would ask Members to be mindful of that fact.

The Greffier of the States (in the Chair):

We cannot spend hours debating the order of business. We will waste valuable time. But the Chairman of P.P.C. proposed that P.85 (Draft Civil Partnership (Jersey) Law 201-) is taken now.

Deputy Tadier has expressed some concern. Those in favour of taking P.85 as the next item kindly show.

The Deputy of St. John:

Can we have the appel on this? I have concerns given that a Scrutiny member has asked for more time.

The Greffier of the States (in the Chair):

Well, it was listed for today - that is all I would say - and has been for some time. All those in favour of adopting will vote pour if they wish it to be taken now and the Greffier will open the voting.

POUR: 29		CONTRE: 15		ABSTAIN: 0
Senator T.A. Le Sueur		Senator P.F.C. Ozouf		
Senator P.F. Routier		Senator T.J. Le Main		
Senator S.C. Ferguson		Senator B.E. Shenton		
Senator B.I. Le Marquand		Senator J.L. Perchard		
Connétable of St. Ouen		Senator A. Breckon		
Connétable of St. Helier		Senator F. du H. Le Gresley		
Connétable of Trinity		Connétable of St. Brelade		
Connétable of Grouville		Deputy R.C. Duhamel (S)		
Connétable of St. Martin		Deputy P.V.F. Le Claire (H)		
Connétable of St. Saviour		Deputy J.A.N. Le Fondré (L)		
Connétable of St. Clement		Deputy of St. John		
Connétable of St. Peter		Deputy M. Tadier (B)		
Connétable of St. Lawrence		Deputy A.E. Jeune (B)		
Connétable of St. Mary		Deputy of St. Mary		
Deputy of St. Martin		Deputy A.T. Dupré (C)		
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 J.A. Hilton (H)				

Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				

4. Draft Civil Partnership (Jersey) Law 201- (P.85/2011)

The Greffier of the States (in the Chair):

I think we must press on to save valuable time. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Civil Partnership (Jersey) Law, a Law to make provision for and in connection with civil partnership. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

4.1 Senator T.A. Le Sueur:

As Members will be aware, this Law has been discussed in principle by the Assembly a couple of years ago and got general approval to go forward to the law drafting stage. I pointed out at the time that it was quite an involved matter, involving changes to numerous laws, and I am pleased to say that the officers and staff at the Law Draftsman's department have done a sterling job in producing this Law in, I think, surprisingly short time. Not only in a short time but in an order which I think is very straightforward to understand and encompasses a wide variety of matters. I know there is one amendment to it, which we will be discussing when we come to the Articles, but I would not want that particular issue to dominate or cloud the very important work which this Law seeks to deliver. Whatever one's personal feelings about civil partnerships, it is clear that what this is doing is putting into effect what we agreed some time ago as being the right way to go forward; a way which is still capable of modification in the future, as Article 71 will show in terms of power to make further provisions, but for the moment all I would say is that this Law puts into effect what the States agreed recently when it agreed to have a Law on civil partnerships. On that basis, I propose the principles of the Law.

The Greffier of the States (in the Chair):

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles of the Law? Perhaps before I call Deputy De Sousa I do have the results of the ballot and I can accordingly inform Members of that.

Deputy Robert Charles Duhamel of St. Saviour	18
Deputy Edward James Noel of St. Lawrence	13
Senator Francis Du Heaume Le Gresley	16

Accordingly, no candidate has yet obtained an overall majority of votes cast and Deputy Noel is withdrawn from the contest. There is, therefore, one final ballot between Deputy Duhamel and Senator Le Gresley and I will ask the Deputy Viscount and the Deputy Greffier in the interim to distribute the ballot papers. I remind Members there are 2 remaining candidates, Deputy Duhamel and Senator Le Gresley. If all Members have a ballot paper I will ask for the ballot papers to be collected. We have a further ballot paper to collect. Now, have all Members placed their ballot papers in the ballot boxes? Very well, I will, for one final time, invite the Deputy Viscount and the Solicitor General to count the votes. Very well, so the principles of the Law are proposed and I saw Deputy De Sousa.

4.1.1 Deputy D.J. De Sousa:

I am really pleased that this proposition is before us. It has been a long time coming. I have many friends that have been looking forward to this coming forward and I hope that Members will continue to support it in the way that we have in the past.

4.1.2 Senator P.F.C. Ozouf:

As Members will know, this is an important issue for me and for many people like me and it is an important day to send out a message of respect and equality. It sends a message out that Jersey is a tolerant and accepting society. **[Approbation]** I thoroughly support it and I hope all Members will as well.

4.1.3 Deputy M. Tadier:

I will speak now and I will be speaking in a personal capacity, not on behalf of the Scrutiny Panel or anyone else. I completely agree that this Law is long overdue. I spoke the last time when we adopted the principles, I think back in 2009, to say that this Law does not go far enough. I still maintain that. I do not want to repeat comments later on, but it has been apparent that an element of smoke and mirrors has been necessary here because, while it is nice to say we are all behind this Law, that we are an inclusive society and that we all agree with that, it does not represent the full picture because we are not a completely inclusive society. There are still very archaic attitudes towards same-sex couples, towards homosexuality, in the Island; so much so that part of the issue in bringing this last time was that the very fine line had to be struck between making sure that, while wanting to convey as many equal rights on same-sex couples as on non-same-sex couples, one was also mindful of the sensibilities that exist in society and within the Chamber. Something interesting that was noteworthy to me during the last debate was that, for example, there were at least 3 different attitudes to the Law. You had my attitude, which was what is being proposed is not marriage. Therefore, I was uncomfortable with that because I think if we are to have full equality it should not matter whether the 2 individuals that are entering into this union are same-sex or non-same-sex. There was another individual who will remain nameless but who could not support the principles or the proposition, who said: "I cannot support this because it is marriage." So in his view the 2 were exactly the same. There was yet another individual, who I think was representative of more than one opinion in the Chamber: "This is not marriage but I certainly can support it if it were marriage." So the issue is more complicated than simply passing this unanimously. There are sections of society who think, quite frankly, that homosexuality is evil. They state that. I have heard people say that in the non-liberal Christian context. The more conservative elements in the Island think that it is an unnatural act and that to endorse any kind of legal institution for couples who are engaged in this kind of behaviour is not something they want any part of. That is why, when I raised the suggestions initially that churches should have the ability, if they wanted to, to endorse such unions, it should be up to the individual institutions to decide what they thought was acceptable in their own institutions. Unfortunately, we have not adopted that route. It is something that I think is unfortunately, but I will hold my fire because that

is something that the panel itself does have comments to make. Nonetheless, I think any sensible politician has to accept that we live in a society with different attitudes and with different sensibilities and, whether we like it or not, one does not get to the end point immediately. Attitudes do change over a period of time. I am sure that in 20 or 30 years' time attitudes towards this kind of issue will be very different from what they are today and we will find ourselves in a different end position to what we have today. But the reason I speak on these issues is because, firstly, I can do so from a neutral point of view and one has to also be mindful of the great patience which has been demonstrated by a significant section of society who may have, for many years, entered into these types of union in other jurisdictions but who have had to wait very patiently for their relationships to be recognised in Jersey. Their relationships which they take very seriously, which their families and friends take very seriously and which I know that they will be very pleased to be able to have acknowledged formally in the Jersey context. So, of course, individually, personally, I do commend this Law, which has taken a great deal of work and which is a very complicated piece of Law with all the implications and changes that have needed to be made. So I do comment the principles of the propositions to the Assembly as well.

The Greffier of the States (in the Chair):

Just before I call on Deputy Le Hérissier to speak, I can announce the result of the final ballot:

Deputy Robert Charles Duhamel of St. Saviour	26
Senator Francis Du Heaume Le Gresley	21

I can declare that Deputy Duhamel has been appointed Minister for Planning and Environment.
[Approbation]

Deputy R.C. Duhamel:

Could I just thank all my supporters? Thank you very much for the vote and showing your confidence. Together we will finish the job that we started.

Senator F. du H. Le Gresley:

On behalf of the defeated candidates, could I congratulate Deputy Duhamel and wish him every success in his new role. **[Approbation]**

The Greffier of the States (in the Chair):

Thank you, Senator. Very well, the debate resumes on the principles of this legislation.

4.1.4 Deputy R.G. Le Hérissier:

Just to raise the issue of the role of the Scrutiny Panel because Deputy Tadier, who has done an enormous amount of work, which will be reflected in his reportship for the amendment, has put his own view forward. The panel is supportive. The panel was advised in its meetings that the community wanted a pragmatic way forward and when we tested out how far the community wished to push this, whether they wished to divert from what had happened in the neighbouring jurisdiction, the view we got certainly was that they were happy with things as they were and, oddly enough, the panel probably would have pushed a bit more, but that was the view put forward and we are very, very supportive of this. Some further debates will come out in the amendment.

4.1.5 Deputy A.E. Jeune:

In contrast to Deputy Tadier, those persons I know who will benefit from this Law all believe that at this time partnerships is the way forward. Marriage is a step too far at this time.

[11:45]

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

While obviously I do not believe there are many in this Chamber who will not support the principle behind this particular Law and I will certainly be voting for it, I must point out that without the second piece of legislation all this move towards equality is as nothing because, without a discrimination Law [**Approbation**] to put some teeth into making meaningful the equalities that we intend to create eventually, finally into the 21st century and out of the 19th, and in promoting equality under the Law, we need that discrimination Law to make sure that that is enforced. There is absolutely nothing in this particular Law, I do not think, that says: "You are not staying in my hotel," or whatever piece of discrimination anybody should wish to throw at anybody. So we need a discrimination Law, a reminder - and it will be coming back to us, a discrimination Law - to make sure that this sort of thing works.

The Greffier of the States (in the Chair):

Just before I call the next speaker, could I draw Members' attention, particularly those on this side of the Chamber, to the presence in the gallery of a distinguished visitor? We are pleased to welcome Mr. Hubert Wurth, the Ambassador of the Grand Duchy of Luxembourg to the Court of St. James. [**Approbation**] Members have shown their customary welcome. If no other Member wishes to speak on the principles, I will call on the Chief Minister to reply.

4.2 Senator T.A. Le Sueur:

I thank Members who have spoken, who have all, I think, been supportive of the general approach. Although some may say it did not go far enough, others may say it has got it about right. I think that is reflective of the fact that, even in the Green Paper consultation stage, there was no unanimity of approach to how far we should go. But this is, as Deputy Le Hérissier says, a pragmatic approach and I just suggest to Deputy Tadier that it is often said that politics is the art of the possible. I think this is certainly, he would agree, some steps in the right direction, even if it does not go as far as he would like. So I thank all those who have spoken. I note Deputy Southern's comments about a discrimination and that will be a debate another day. For the present time we are dealing with a debate on the Civil Partnerships (Jersey) Law and I maintain the principles.

The Greffier of the States (in the Chair):

All those in favour of adopting the principles kindly show. Any against? The principles are adopted. This is a matter that has already been referred to the Education and Home Affairs Scrutiny Panel. I am not aware the Corporate Services Scrutiny Panel wishes to consider it. Very well, Chief Minister, how do you wish to proceed?

Senator T.A. Le Sueur:

I will test the mood of the Assembly, but I was proposing Parts 1 and 2 together as Schedules 1, 2 and 3. Part 1 is just the interpretation. Part 2 deals with the process of entering civil partnerships - how it is formed, how it is registered, the documentation, the responsibilities of the Superintendent Registrar, approved premises, people suffering from illness or disability - and there are duties of the Minister in relation to civil partnerships and reporting to the States on the number in any one year. So I propose Parts 1 and 2 and Schedules 1, 2 and 3.

The Greffier of the States (in the Chair):

Articles 1 to 26 and the associated Schedules 1 to 3 are proposed. Are they seconded? [**Seconded**] Does anyone wish to speak on any of those Articles? Those in favour of adopting those Articles kindly show. Any against? The Articles are adopted.

Senator T.A. Le Sueur:

I will push my luck and do Parts 3 and 4. Part 3 deals with dissolution, annulment and other proceedings. Part 4 talks about recognition of those dissolutions and annulments and basically that gives the power to the Royal Court under Article 27 to have proceedings for dissolution and nullity

on grounds of unreasonable behaviour, unsound mind, abandonment and so on. Separation orders are also possible in the same way as they would be for marriages. It also deals with the duties of the Attorney General and provisions for children, rights of succession and so on. Sir, I propose parts 3 and 4.

The Greffier of the States (in the Chair):

Articles 27 to 67 are proposed. Are they seconded? **[Seconded]** Does anyone wish to speak on any of those Articles? All those in favour of adopting those Articles. The appel is called for on those Articles. Members are in their designated seats. The vote is for or against Articles 27 to 67 of the Bill and I will ask the Greffier to open the voting.

POUR: 31		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator B.E. Shenton				
Senator J.L. Perchard				
Senator A. Breckon				
Senator F. du H. Le Gresley				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Martin				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy P.V.F. Le Claire (H)				
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 M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				

The Greffier of the States (in the Chair):

Chief Minister, within Part 5 there is an amendment to Article 71 which I think we must take separately. Do you wish to propose 68 to 70 initially?

Senator T.A. Le Sueur:

I am happy to do that, Sir. They are really procedural matters dealing with the rules of court and service of applications. I propose Articles 68 to 70.

The Greffier of the States (in the Chair):

So Articles 68 to 70 are proposed. Are they seconded? **[Seconded]** Does anyone wish to speak on any of those 3 Articles? If not, all those in favour of adopting those Articles kindly show. Any against? The Articles are adopted. We now come to Article 71 which is subject to an amendment. I will ask you to propose the Article, Chief Minister.

Senator T.A. Le Sueur:

This is a general Article giving power to the States by regulation to make further provision for general purposes, contrary to any provision, or to give effect to the Law as it stands. I propose Article 71.

The Greffier of the States (in the Chair):

Is Article 71 seconded? **[Seconded]** There is an amendment in the name of the Education and Home Affairs Scrutiny Panel to substitute this Article, which is a fairly lengthy amendment. Would Members be happy to take it as read? Very well, I understand you have a rapporteur, Chairman?

Deputy R.G. Le Hérisier:

Thank you, Sir. Deputy Tadier will be the rapporteur.

4.3 Deputy M. Tadier (Education and Home Affairs Scrutiny Panel - rapporteur):

I have been slightly thrown by the change in order because my paperwork was downstairs, but I have, I think, got sufficient notes in front of me to basically explain the principle of this. I think it is important to give the context to our suggestion and, if it is okay, what I will do is just simply read

out the few paragraphs which relate specifically to this regulation that gives the background, which is on page 3 of the comments issued by the Education and Home Affairs Scrutiny Panel. Incidentally, just before I do carry on, it is interesting to note that in some ways this did not necessarily naturally fall to our panel. It seems that it is something that we could quite rightly look at. It does have implications for Home Affairs. It is something which immediately would have fallen to the Corporate Services Scrutiny Panel. I came out, first of all, with very strong and personal comments to do with one aspect of the Civil Partnership (Jersey) Law which was to do with ceremonies being able to take place in religious buildings or places of worship, as they were called in the Law. Interestingly, I was not then told that I was conflicted because I had given a very strong personal comment, which were my own opinion, and then no Minister or any Member of this House or any member of the media said: "Hang on a minute, you cannot chair up a Scrutiny sub-panel because you have already given very strong comments on that." So I do think we need to be mindful of ... and I do not think, incidentally, that that was a real conflict either. I think that we were still able to produce a very measured and not uncontroversial but certainly evidence-based report. So we do need to bear that in mind, I think, for other Scrutiny Panels who want to look at something which perhaps is more controversial such as the airports or such as looking at the BDO report, which we are currently doing on Scrutiny as well. It seems to me that when the material is something that may not be desirable for us to look at from a Scrutiny perspective, when it comes to Ministers there does seem to be a mixed message going on there. So I just say that to preface my comments. But to get back to the directly pertinent issue of civil partnerships and them being performed or not being able to be performed in religious buildings, currently there is an Article in the draft Law that prohibits civil partnerships being solemnized in places of worship. The panel came to the opinion that the inclusion of this clause is unnecessary and divisive in that it prohibits those religious institutions who would wish to perform such ceremonies on their premises from doing so. While the panel acknowledges that this part of the legislation mirrors current practice in the U.K., the panel came to the conclusion that this prohibition should be left out, leaving the choice with each denomination rather than with the States. The removal of this provision would not oblige any denomination or religious group to perform such a ceremony if it did not wish to. However, it would permit any church or recognised religious group to opt in. I would emphasise that because there seems to have been some misunderstanding. As a panel, we were very grateful for the contributions that either religious groups or individuals made on the subject, but there was a misunderstanding that somehow what we were proposing would force all churches to have to perform civil service ceremonies in their places of worship. This was never going to be the intention. It was simply to allow those denominations such as the Quaker and some perhaps more liberal Methodist or Reformist churches, if they so wanted to. The Quakers told us that they did want to acknowledge and to solemnize such civil partnership ceremonies. The panel had fully intended to lodge an amendment in this area but, having taken advice from a Law Draftsman, recognised that such an amendment, if successful, might be likely to delay the introduction of the Law, something which the panel stated from the outset we would be reluctant to do. While it is still the opinion of the panel that this part of the Law should be amended, it is more important that the Law, which is long overdue, be brought in as soon as possible. The panel was also mindful of the fact that during the time of its review the U.K. were in the final stages of an extensive consultation in relation to the very same area of moving towards an opt-in for religious groups to be able to perform civil partnerships. It was therefore decided, after discussions with the Law Draftsman and the Minister, that a sensible and pragmatic compromise would be to lodge an amendment enabling any desired future changes in this area to be made by regulation. I know I discussed informally with Senator Ozouf, in his capacity as the Deputy Chief Minister, about this. We always kept the Chief Minister's Department fully informed about what our intentions were doing. I think Senator Ozouf acknowledged that this was a good route to go and this is, I think, in his words, Scrutiny working at its best. I hope that is the case. The panel also noted that there was an inherent tension with the spirit of the Law which sought to provide equality for some same-sex couples while at the same time wanting to maintain a distinction between the 2. The panel understands that this was

seen to be a pragmatic approach to accommodate the social and religious sensitivities of some members of society. However, the panel feels that this distinction is ultimately illogical and that access to a single civil institution for both same-sex and non-same-sex couples may be required in the long-term. I think that is the context for it. So to put it in layman's terms, what we have sought to do was to bring an amendment to the Law. Not only would that have had big implications for law-drafting purposes, if it is something that the panel would have brought, it would have, of course, led to, I think, a controversial debate. That would not necessarily have been a bad thing because I think the Law would have gone through in one form or another and it would not have been delayed because of the debate but, as we have said, it would have been delayed potentially because of the implications for law-drafting time at what is a very busy time of the year. I will leave the comments there. So what we are doing is enabling future changes while monitoring what is happening in the U.K. with the U.K. consultation so that if the Assembly does decide - and it will be a decision for the Assembly ultimately to decide - that opt-in option is a viable one, this amendment simply means that the change will be able to be made by regulations, which is a lot simpler than changing the Law itself. I think lastly, just to contextualise the consultation process which has been going on in the U.K., that was predicated on the fact that they do have an Equalities Act and it is the Equalities Act and it is the Equalities Act which dictates that there must be an opt-in clause. Logically, it does not make sense or in fact it may well be illegal for the current status quo to be continuing. That is why the consultation is going ahead. It has already been noted that we do not have the equivalent of an Equalities Act in the form of a Discrimination Act in Jersey or Discrimination Law and this is something which the panel is also mindful of and which, I think can be said, it is concerned about. But that is perhaps a debate for another day. I do make the amendment and I will listen to comments and any points of clarification I can make at the end.

The Greffier of the States (in the Chair):

Is the amendment seconded? [**Seconded**] Excuse me, Senator. Are you opposing the amendment or accepting the amendment?

[12:00]

4.3.1 Senator T.A. Le Sueur:

No, Sir. My comments make clear we are quite prepared to accept this amendment, which I think is a reasonable and pragmatic way forward. I appreciate and thank the Home Affairs and Education Scrutiny Panel for taking what I think is a sensible approach to what is, as Deputy Tadier has said, an issue which is controversial. But I would hope that today we could all be united and not have an acrimonious debate, but move forward positively. I think this amendment and our acceptance of that is a signal of that.

The Greffier of the States (in the Chair):

Very well, that was a helpful speech, Chief Minister, and I am sure Members will take that into account.

Deputy P.V.F. Le Claire:

I would like to support this. I would just like to ask a question of the Solicitor General, please.

The Greffier of the States (in the Chair):

Very well, we will ask the Solicitor General to be available.

4.3.2 Deputy D.J. De Sousa:

I concur that more work does need to be carried out on this subject. I have contacted the Deputy to discuss both this time and when initially the legislation came before the House and I have discussed with him that members of society that have worked very hard behind the scenes to see this legislation come to fruition have had some concerns. They have voiced to me that they are not

looking for marriage as we know it but that they want a civil partnership that is taken seriously and that will give them equal right as a married couple would have, but that they should also be able to have the option, as any other couple of mixed sex would have, of having a church blessing or a religious ceremony to carry out a blessing. So, as I say, I do have issues that we should not delay this but that there should be equal opportunity for people, whether they be of same sex or of mixed sex, to be able to have the ceremony and the blessing that they require. I would urge Members to go with the Chief Minister's comments and that more research should be done in this area.

4.3.3 Deputy A.E. Jeune:

The rapporteur of this amendment said that the Quakers accept same-sex marriages within their meeting rooms. However, would the Deputy in his summing up confirm that this is not an international acceptance; it is decided on country by country?

4.3.4 Senator P.F.C. Ozouf:

I have always believed that the most important thing is to get the legislation in, in order to put in place the civil partnership arrangement, which is not the same as marriage but it is an absolute equivalent to marriage. If I may say, I enjoyed giving evidence to the Scrutiny Panel where we debated these issues well and I absolutely think that the Scrutiny Panel has come forward with a pragmatic solution. Normally, I do think that it is preferable to put important things in primary legislation but recognising the fact that there is a very detailed consultation on this issue in the U.K. with the Coalition effectively signalling 2 things. First of all, they are signalling the fact that they are consulting on allowing civil partnerships - not same-sex marriage, which is not the same thing - to be recognised and celebrated in a place of worship. That is the first thing they are doing. Secondly, they are also, as are a number of other countries and this is not the debate before the Assembly today, moving towards the ability for same-sex couples to marry. Now, I have always supported an equivalence of marriage but not the same as marriage. I am perfectly comfortable with this. Marriage is an issue for a man and a woman, whereas civil partnerships are an issue for same-sex couples. They are identical but they are not the same and that is the first step in the evolution of respect and giving equality to same-sex couples. I am very pleased that there has been no amendment before this Assembly to downplay, which was the principal concern, that civil partnerships would be available to multi-sex couples: to 2 sisters or friends. That would have been a downgrading of it. I am very happy with these amendments and I support them. It will be a matter for this Assembly in future, after appropriate consultations, listening to the sensitivities of the faith groups, et cetera, as to whether or not to accept any regulation changes, but I thank the Scrutiny Panel for their sensitive work in this area.

4.3.5 Deputy R.G. Le Hérisier:

It is very hard to follow on from that because it was very clearly put, but the point needs to be made. We did listen to a range of opinion and there are 3 quite striking examples in the appendices to the Scrutiny report and the point needs to be made there is absolutely no pressure being placed upon religious bodies or faiths and the whole intention was that we did not go forward with a law which had a negative prescription to it but which allowed the possibility of future change. That, we felt, was much more positive and that indeed, slightly to our surprise, as I said earlier, was how we were advised by people who have a strong interest; obviously the local community, the Community Relations Trust. That was the view they took. Deputy Tadier, who probably has got a more radical view than the rest of the panel, was prepared to work with us that that was the way forward. I do applaud that and I applaud all the very hard work that he and the panel put into it.

4.3.6 Deputy I.J. Gorst:

We all come from various traditions and we must deal with those traditions in the way that we consider policy and in the way that we vote in this Assembly and try, to some extent, to see beyond them and deal with the issues which are before us. I spoke, when we were talking about the

principles of this debate some months ago, about the fact that I have been convinced that this correcting and these appropriate right were granted to same-sex couples. Therefore, that is why I have agreed with the principles and with the Articles so far. It is right; the mover of this amendment earlier in the debate talked about some of the difficulties which members of our community, particularly the religious elements of our community, might have with being asked to solemnize these partnerships within their particular building or within their particular community. The panel have taken what can only be described as a pragmatic approach to say: “We are not saying that that is what should happen at this point. What we are saying is we wish to amend the regulations so that it can happen in future. While understanding why they have taken that approach, I do have a difficulty with it because I am one of those who do not believe that that should happen in the future and, therefore, I cannot support this amendment because this amendment, at its crux, will allow and is based on the fact that they will be allowed in the future to be solemnized by religious communities and by those religious parts of our community. I recognise that this is difficult. I could go along and say: “Well, we will do some more consultation. We will ask people what they think.” But I am convinced now that that is not the way that I wish to see these partnerships evolve. I believe very much that they are giving civil rights to these individuals and that is absolutely right. I can see that that is necessary, but I do not believe that we should, as a legislature, be putting ourselves in a position where we are determining what the doctrine should be of the Church of England, for example, within our community, albeit we are not making that step. We are not being asked to make that step now, but I believe ultimately that is the step that is underpinning the request for this amendment. I think something that Deputy Southern said, which I can fully support, is we should be prioritising is discrimination laws per se. I believe that we should accept the Civil Partnership (Jersey) Law as it stands – I personally will not be supporting the amendment – and then working together to ensure that we do eliminate discrimination within our community and across our community in all the forms that unfortunately we know take place now. So I cannot, on balance, support this amendment.

4.3.7 The Deputy of Trinity:

I will be brief. I very much follow the sentiments of Deputy Gorst and, while I fully support the main proposition, I do have problems with the amendment. I think this is, at this present moment in time, just one step too far and I think we need to wait for the consultation from the U.K. As I understand it, even if this did go through, it is the main bodies of the churches ... it is that ruling from the main synod which does rule that and I understand that there has been some leniency, like when divorced couples can get married or even blessed in some churches. But I think, at this present moment in time, I fully support the main principle but not this amendment.

4.3.8 The Connétable of St. Mary:

I was just really trying to formulate my question because I am not really quite sure ... I have been just trying to see where this gels with the current regulations under our Marriage and Civil Status (Jersey) Law of who is authorised to conduct a marriage and to solemnize a marriage service in a church at the moment and to see whether is it in fact the same people who will be authorised ... if we do this and if we follow through in the future, if it is the same people who would currently be authorised to solemnize a marriage who would be authorised to solemnize the civil partnership or whether there would be a separate category of people. I am sorry; I hope the proposer can clear that up for me. I do not think I have voiced it very well but it is just something that has come to me as I have been looking through the Marriage and Civil Status (Jersey) Law.

4.3.9 The Connétable of Trinity:

It is just for clarification really. All the ancient churches at the present time it is the actual rector who has the authority to do the wedding or someone similar. In Article 1 here on the amendment it is: “(b) by persons authorized to solemnize civil partnerships ...” Now, as one knows, there are a number of people authorised to do that. Before I would be voting to support this, does the rector or

the officer have the right to be asked first? What I would not want to see is that the rector would be overridden, that if someone decided to get marriage, say in church, and the rector said: "Well, no," but then they would use one of the registrars who do the civil partnership who would say: "Yes, that can be done." Is there still a power of veto if so requested? I can understand where we are going but I just feel at the moment you will get married at Mont Orgueil or other place like that in the Island; they are authorised by a certain person at the Registrar's Office. Looking at the payment, the payment is made at to the Superintendent Registrar further down. In normal cases all payments are made to the church, not to the registrar, of marriages that take place in the Church of England or the Methodist Church. It is just to clarify whether civil partnerships in the Church of England will be done by one of those on the list of the Superintendent Registrar at the present.

Deputy P.V.F. Le Claire:

I did ask if the Solicitor General was available because I had a question for him. He has not attended yet, so I just wondered if he is coming or not.

The Deputy Bailiff:

I think the Solicitor General has been asked to attend. I am sure he will be with us as soon as he can be.

Deputy M. Tadier:

If no one wishes to speak shall I sum up and then I am happy to give way to the Solicitor General as and when he comes in.

The Deputy Bailiff:

Well, perhaps Deputy Le Claire can put his question and ...

Deputy M. Tadier:

Yes, Sir.

4.3.10 Deputy P.V.F. Le Claire:

Well, it was key to my supporting this or not and listening to some of the speeches already today I am also a little bit concerned about supporting the amendment. I think all of us, as an Assembly, want to support the Law and want to get it into place as soon as possible. I would be very surprised if anybody was against it. But from my reading of what is before us today and from the report of the Scrutiny Panel under bullet point 5 it says, for example: "The specific prohibition on civil partnerships taking place in religious premises has been removed in the U.K. by the Equality Act 2010, section 202. When section 202 of the Equality Act 2010 is brought into effect, it will become possible in the U.K. for civil partnerships to be registered on religious premises where religious organisations permit this."

[12:15]

Now, I do not see, from the amendment, where there is any opportunity under this amendment for the religious group at this stage to be able to say: "Well, we do not want that partnership to be solemnized in our churches," for example. So there are all kinds of issue around civil partnerships and marriages and, while I am a supporter of civil partnerships, I am also a supporter of the Roman Catholic Church which talks about sacraments and marriages. Now, I have managed to come to the Assembly on occasions with the ability to support this but I think that this amendment may be going a step too far in instilling in the Law at this stage ... we are not instilling a comprehensive amendment that takes into account the ability for a church to opt out. So it basically will be brought by regulation. Let us say, for example, the Catholic Church, which has a large denomination of people in Jersey but little representation in this Assembly, says it is the only group that does not want to have solemnization in its premises, in its churches. What is to stop, in the

future, the States insisting and requiring that those churches be made available for civil partnerships and also that those priests vacate the premises while people who are authorised to conduct civil partnerships on the Island take use and command of those structures - although the church is not the building, it is the community - without the ability of the Catholic community, for example, to express an opinion as a church, as a body, as a group of people, about whether or not it wants to do that? I think that that is uncertain for me in this amendment. If it came back that the Catholic Church was in approval and we all join religions ... some of us at a very tender age are inducted into them, but we are led to follow their principles. We are guided by their ministers, their priests, their bishops, et cetera. While I want ...

4.3.11 Deputy M. Tadier:

I hate to interrupt but can I make a point of order. It seems that Members have not understood what is being proposed here and I would like this confirmed by the Chair. The debate is simply about whether any future change in this area is done by regulation or by an amendment to the Law. That is what we are debating. Am I correct in that assumption?

Deputy P.V.F. Le Claire:

Now the Solicitor General is here, Sir, could I ask my question?

The Deputy Bailiff:

A point of order has been raised so let me deal with that first of all. The Deputy is right that this is an enabling power which enables the States to make regulations at a later stage. That is the purpose of the amendment. Now, what was your question for the Solicitor General?

4.3.12 Deputy P.V.F. Le Claire:

For the States to make regulations, the States can make regulations through the office of a Minister, I believe. No? It has to come back to the Assembly. So my point is that at the moment, which is my point in my speech, there is no guarantee that if there was a group of people that wanted to opt out of a requirement for their church to be included as part of the places for solemnization they could guarantee that if we approve this today. It might be wiser to come back and approve an amendment to the Law whereby it sets out the specific locations and the specific denominations of those. I am wondering, by approving this amendment, whether or not we are adopting a catch-all amendment which basically would lump everybody in based upon the general consensus rather than the particulars.

The Deputy Bailiff:

Did you have a question for the Solicitor General, Deputy?

Deputy P.V.F. Le Claire:

Well, I thought that was my best attempt at one, Sir. What I am basically asking is the purpose of the amendment is to make it possible, after consultation, to enable the States to follow the example of the United Kingdom but, in particular, I wanted to draw a comparison with what the United Kingdom does at the moment under the Equality Act because in their report to their amendment the Scrutiny Panel, under bullet point 5, highlight the fact that this is done, and I will repeat it: "... for civil partnerships to be registered on religious premises where religious organisations permit this." I am just wondering whether or not, by approving this, we are taking away the power of religious organisations to choose or whether or not this allows them to also make that final decision for the regulations as amended.

The Deputy Bailiff:

Solicitor General, are you able to help the Assembly?

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

My reading of the proposed amendment is that it will provide or enable places of worship, if they so choose, to register for the purposes of the Civil Partnership (Jersey) Law. So it is a matter for the particular church or other religious place of worship to decide whether or not to so register and to provide the relevant services described in the Law.

The Deputy Bailiff:

Does any other Member wish to speak? I call upon Deputy Tadier to reply.

4.4 Deputy M. Tadier:

If this was the uncontroversial amendment then I would hate to have seen the controversial amendment because, as I have said in the point of order, we are not debating today whether or not we will allow certain churches to have the choice to say what goes on in their churches. What we have already decided in this Law by Article 13(5), which specifically prohibits any religious building being used for civil partnerships, is that we have told the churches what they can and cannot do. We have told the churches that under no circumstances, even if you want to, can you conduct a civil partnership on your premises even though you can do that for marriage. To put this in context, part of the issue is that since marriage has stopped being a state institution it is always, you could argue chicken and egg, which came first: marriage as a religious institution or as a social and legal one, but the trouble is those 2 coexist. So we have States currently has one organised and sanctioned institution for people who want to enter into a union and that is only for males and females and it is called marriage. But the States has, quite rightly, recognised its legal and social responsibility to bring forward something equivalent for those who are in a same-sex union which we are calling civil partnerships. That is the ultimate distinction. Now, churches have different views on whether they want to even acknowledge or endorse that union. Some churches have decided that it is something which they are either neutral on, which they have something to say against or which they support. What the Education and Home Affairs Scrutiny Panel was trying to do was to say that those denominations or those institutions that wish to acknowledge, bless and solemnize those unions should be allowed to do so but this Law does not allow it. That is what we were minded to bring an amendment for. We have not brought that amendment but it is because of a technical reason. It was a pure technicality because we did not want to upset the introduction of the Law. We would have brought the amendment and I am a bit disappointed we did not because it would have been a very good debate, but this is not what we are debating today. What we are saying is that a future House may at some point - it could be in a year, it could be in 5 years or 10 years or maybe never - make a decision to say: "We want to allow the Quakers or other denominations to have the ability to solemnize these things in their premises and conduct them with a spiritual endorsement as well as an actual investment from the States to be able to perform these ceremonies, as we have given that ability to certain denominations to perform the state part of marriage as well as the spiritual part of marriage. That debate has not happened yet. What we are simply saying is if that debate ever occurs and in the eventuality that it goes through, it is easier to put the amendment through as a regulation because it saves time and money. That is what we are all banging on about at the moment. We want to try and find ways to save law-drafting time and to save money and to save unnecessarily drawn out expense. This is simply what the Education and Home Affairs Scrutiny Panel is proposing. So if Members prefer the amendment to be put in law for whatever reason, with the full knowledge that it is going to be much more complicated to put this hypothetical future debate that we have not even had yet and that some of us may not even be around for, if we want to make that more difficult, then certainly vote against this amendment. But if we think that it should be easier for this House to make amendments in the future then vote for this. I hope I have cleared up that issue. There has been a red herring that this amendment, or the amendment which we would have brought, would automatically equate civil partnerships to marriage. That simply would not have been the case. What we would have been asking to do is, for those churches who wanted to, for those churches to endorse civil partnerships not marriages. They already endorse marriages and can do so legally. So I think that was a red herring. What

keeps the separation between civil partnerships and marriage is the legal definition of it, rather than any mystical application by certain denominations. I think there have been lots of points raised and it would probably be not the best use of this Chambers time to respond to all of them. So if anybody feels that they have a point which they really urgently want responded to I can do it now or I can do it later on. There is no reason at all that anybody should be voting against this. I can understand in the next debate if Deputy Gorst, perhaps - let us not tempt fate - or perhaps Deputy Pryke want to vote against the amendment which is being brought then certainly do that at that point and I completely understand. I say the same to Deputy Le Claire. This is really a technical procedural amendment which is being brought forward which has been contextualised, of course, by the work that the panel has done, but this is not the time to make the point against what can and cannot take place in religious institutions. It is simply a way of acknowledging that in the future decisions may be made and that is ultimately for that future Assembly to make that decision.

The Deputy Bailiff:

Very well, do you call for the appel? The appel is called for. The vote is on the amendment brought by the Education and Home Affairs Scrutiny Panel. I invite Members to return to their seats and I ask the Greffier to open the voting.

POUR: 30		CONTRE: 6		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy of St. Ouen		
Senator P.F. Routier		Deputy J.A. Hilton (H)		
Senator B.E. Shenton		Deputy of Trinity		
Senator J.L. Perchard		Deputy I.J. Gorst (C)		
Senator A. Breckon		Deputy A.E. Jeune (B)		
Senator F. du H. Le Gresley		Deputy A.T. Dupré (C)		
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				

Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				

The Deputy Bailiff:

Article 71 has been amended by substitution. That has been adopted by the States. Do you move Article 72?

Senator T.A. Le Sueur:

I move Article 72 and 73 which are very procedural, Sir. I propose them and I will take any questions.

The Deputy Bailiff:

Seconded? **[Seconded]** Articles 72 and 73 are open for debate. Does any Member wish to speak? All Members in favour of adopting these Articles kindly show. Those Members against? The Articles are adopted. Do you move the Bill in Third Reading, Chief Minister?

Senator T.A. Le Sueur:

I do, Sir, and I would just like to reiterate my thanks to the Law Draftsman. As Members who have seen the schedule will note, the number of Laws that have had to be reviewed to enable this Law to come forward is remarkable and it is a tribute to the Law Draftsman that this has been done so successfully. I move the Bill in Third Reading.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the Bill in Third Reading?

4.4.1 Deputy P.V.F. Le Claire:

I would like to just say that it is a recognised good piece of work. I would like the Chief Minister now to attend to the United Nations Rights of the Child as another piece of work that needs attending to and the cross-referencing of all of those Laws. While not dismissing or belittling this

Law, I think that we choose our Laws based upon pressures that are given to the Chief Minister and I am putting pressure on him for this one.

4.4.2 Deputy M. Tadier:

I know that it is probably an appropriate moment at this time. I know that certainly the Chief Minister will have lots of thanks to give for the work that his officers have carried out but I would like to acknowledge the good work, sterling work indeed, that our Scrutiny Officers have been applying to this. **[Approbation]** It was something which was pulled in for Scrutiny at relatively short notice. We did, I think, a quick and thorough Scrutiny on it, even though the full implication is we could have spent months looking at this. I thank all those who spoke, including the Dean. It is unfortunate that, in a debate on a subject that the church seems to have so much to say on, the official representative of the established church in Jersey cannot be with us today. I am sure his comments would have been most welcome.

4.4.3 Deputy D.J. De Sousa:

I would also like to thanks all those members of the Island that have assisted in this legislation coming forward, too.

The Deputy Bailiff:

Very well. Perhaps in the light of the last comment, Deputy, you were probably unaware that the Dean is in fact on a Church of England matter in, I think, Durham or York at the moment.

Deputy M. Tadier:

Yes, Sir, and I agree that should be his primary function.

The Deputy Bailiff:

Chief Minister, do you wish to reply?

[12:30]

4.5 Senator T.A. Le Sueur:

I would like to thank those who have spoken and maintain the Bill in Third Reading.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on whether or not to adopt the Bill in Third Reading and I ask the Greffier to open the voting.

POUR: 33		CONTRE: 0		ABSTAIN: 3
Senator T.A. Le Sueur				Deputy I.J. Gorst (C)
Senator P.F. Routier				Deputy A.E. Jeune (B)
Senator B.E. Shenton				Deputy A.T. Dupré (C)
Senator J.L. Perchard				
Senator A. Breckon				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				

Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				

The Deputy Bailiff:

Very well. We now return to the Order Paper and P.82, Draft Companies (Amendment No. 6) (Jersey) Regulations ...

Senator P.F. Routier:

When the Minister was here last week he did ask for that to be put further down the Order Paper so that he was able to propose that.

The Deputy Bailiff:

Are Members agreed that should go down the Order Paper? Very well. Then we come to P.90.

Deputy M. Tadier:

Before we do that, I hate to interrupt again, but while I am on a roll I sent a note to the Chairman of P.P.C. P.102 seems fairly uncontroversial, even less than the last one, and I promise to give a short speech and then hopefully that will help cross one thing off the agenda before we go into what I think will be a more lengthy debate. But I will leave that up to Members if they agree for that to be taken.

5. Debt Collection Agencies: Establishment of a Working Party (P.102/2011)

The Deputy Bailiff:

If I may say so from the Chair, if we can find a proposition which will not take very long it would enable the Chairman of P.P.C. to come forward with a composite revised plan for this afternoon. Do Members agree to take P.102 at this stage? Members seem to agree to do that so we will move on to P.102 and ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Economic Development (a) to establish a Working Party to examine the current operation of debt collection agencies in Jersey and to consider the creation of a code of practice for such agencies to ensure that they operate according to best practice; (b) to appoint at least 2 States Members as members of the Working Party and to take the necessary steps to appoint other members with relevant skills and experience, including representatives of the debt collection industry and representatives of groups representing the interests of consumers; (c) to present the report of the Working Party to the States once the Working Party has concluded its work.

5.1 Deputy M. Tadier:

Again, to put this in context, some questions were asked in March 2011, so that is earlier this year, and the reason they were asked is because I had been approached by members of the public, and I am sure I will not have been the only one over recent years, making complaints about the way that they were being dealt with by certain ... well, it was by one particular mainly debt collection agency in the Island. One of the answers that the Minister for Economic Development gave was that there had been 11 complaints or inquiries in the last 3 years which related to one single debt collection agency, and the anecdotal evidence was certainly there that practice was being engaged in which certainly was not best practice; it bordered sometimes on harassment of individuals who had approved debts for whatever reason. I think it is necessary at this point to say that by no means does this proposition endorse or suggest that getting into debt is a good thing. I think we all agree, and those of us who were brought up with frugal parents were told: "Do not spend money you do not have." But what it also acknowledges is that we do live in a society which has become more complex, where people perhaps do get marketed lots of things which they cannot necessarily afford, or they can perhaps afford one day but then when it comes to paying it off circumstances can change. It is certainly not the job of the state to moralise, but it does have to acknowledge that where companies are in a position to lend money and when they cannot get their money back there should be a certain protocol which should be adhered to in an ideal world so that they can achieve a situation which is best for all parties involved. So it happened that I did make some approaches to the Citizens Advice Bureau and to one particular debt collection agency over here which is a branch of a law firm which does abide by a voluntary code of conduct which seems to work quite well. They abide by a U.K. code of conduct. The general thrust seems to be that the best way forward would be to set up a working party to explore the avenues to do with what might be the

best route to look into the creation of a code of conduct. Questions as to whether that code of conduct should be put in law, whether it should be a voluntary code of conduct would be a matter for discussion of the group itself. It is anticipated that the group would include representatives from the industry; so, for example, the Citizens Advice Bureau have already acknowledged that they would be very happy to put a representative forward. We would also anticipate inviting those collection agencies already operating in the Island to make submissions or to be present on the panel, and also for 2 States Members at least to be invited to join that working party. So I think it is a sensible way forward. It acknowledges that at the moment there is a serious issue to do with debt, to do with debt recovery; it also acknowledges the fact that Ministers are very busy in the next few months with legislation that is being brought forward and to ask the Minister himself to bring forward legislation of this nature is probably not the most practicable way forward, although it may be required in the long run. So I make the proposition.

The Deputy Bailiff:

Seconded? [Seconded] Does any Member wish to speak?

5.1.1 Senator P.F. Routier:

The Minister for Economic Development and our team have looked at this proposition and are supportive of it. I believe it is certainly a worthwhile project to undertake. We have spoken with the existing debt collection agencies and they are all fully supportive of joining a working party. With regard to States Members being involved, my Minister tells me that he has already spoken to Senator Le Gresley as a possible candidate and hopefully Deputy Tadier might also like to be part of that working group. But obviously that will be ... if there are any other Members who wish to become involved that will be over to ... if this is approved approaches can be made to the Minister to become involved. But there are 2 people who have expertise in this and interest that we would be very happy to progress this with. I support the proposition.

5.1.2 Senator A. Breckon:

Just to tell the House that the Consumer Council did meet yesterday and this subject was discussed. The Minister for Economic Development was present and there is general agreement that we would work together on this on the working party as it were, including the debt collection agencies themselves. Some preliminary work has already been done. I am aware of the issues, and I think that it will not be rocket science to do this, and I hope the Assembly will support it. The idea is if we have a code then if it is necessary, legislation would follow based on proven need rather than doing it first. So this is a process that is a good way of finding out the facts, and there are a lot of facts there. It is just a matter of bringing it together, and I hope the House will support this.

5.1.3 Deputy D.J. De Sousa:

I too would like to offer my congratulations to the proposer of this and I hope that all Members will get behind this and support it as well. I am sure many Members have heard horror stories and we are, as we know, in the worst economic downturn we have had in a number of decades and we need to have something to safeguard Islanders against predatory moneylenders. So I hope all Members will support this.

5.1.4 Senator F. du H. Le Gresley:

I would also like to join the previous speaker in congratulating Deputy Tadier for progressing this. Sometimes matters arise in questions in the States and they never get any further, and I think he is to be commended for pursuing this idea and talking to the industry. I have one word of warning for him though. Senator Breckon and myself sat on a working party organised by the Jersey Financial Services Commission some years ago to draw up a code of conduct for consumer lending in Jersey, and I should warn him that it took us nearly 3 years to finally agree the wording of the code. So I would suggest to him that, if I am to be asked to sit on this working party, I certainly believe in

speed and not spending a lot of time on this. But we do not have a very good track record on these matters. Nevertheless I hope all Members will support this.

5.1.5 Deputy P.V.F. Le Claire:

I would just like to congratulate the Deputy, but also to ask him to be cognisant of the fact that some of the parishes - at least St. Helier - have a debt collector, and it might be wise to see what the practices are in place within the parishes themselves to make sure that there is some uniformity and conformity.

5.1.6 The Connétable of St. Brelade:

I think it is important not to overlook the raison d'être for debt collection agencies and the fact that they are providing a service for the many small businesses who find themselves in particularly difficult positions because people are not paying their debts. I think there is merit in any review of any system in the Island and things can always be updated, but I would ask that there is reasonable representation from those who have to engage the services of debt collectors, as well as those debtors, in the interests of fairness all round.

The Deputy Bailiff:

Does any other Member wish to speak? If not, then I call on Deputy Tadier to reply.

5.2 Deputy M. Tadier:

I am not used to such congratulation but I think, as Senator Le Gresley said, that if there are congratulations to be made they will be made when the code of conduct is brought forward. The thanks really need to go to those with whom I have engaged outside of the States. In particular I hope I can mention Mr. Ferey. I have named him in my proposition; he is at the Citizens Advice. Also specifically Viberts Lawyers who operate a branch of a debt collection agency. They have both been very helpful in providing constructive ways forward, and I think it is a very good example of the way that we in the States Assembly should not presume - and I am sure we do not - that we have always got the monopoly on ideas, and sometimes it is appropriate to go to industry professionals or those with social expertise. We have had that lesson told to us by certainly Jersey Finance who have said that they are quite happy in circumstances to help develop legislation where appropriate. I agree that can be very constructive and there is no reason that it should be limited to that. It is not uncommon for me on occasion to be critical of the established media in the Island for their lack of, on occasion, investigative journalism or simply by the very nature of their setup not always applying the whole story. But I do have to say that in this particular context that Channel Television did, I think, a very good report and a very sensitive report with somebody who did face the very real consequences of being treated they felt very badly by one particular debt collection agency; and I think that was an example of investigative journalism which did help move this forward. It certainly did bring the issue to the public, along with the States questions that had been raised, and I think it is only fair and even-handed to acknowledge a good example of journalism in the Island. Deputy Le Claire is quite right in saying that parishes should be willing to come forward with their advice on how they proceed with debt collection. I am not sure if the parishes themselves are debt collection agencies or if they employ somebody, but I think certainly any group which I hope to be serving on would be hoping to hear from the parishes themselves on how they deal with these things.

5.2.1 The Connétable of St. Brelade:

Would the Deputy give way? I think, if I may from the point of view of my particular parish, I would certainly say that we do our utmost to assist people who have difficulties in overcoming them and as a very, very last resort go to a debt collection agency.

Deputy M. Tadier:

Yes, thank you, and I acknowledge that and, as I said, we look forward to hearing from the parishes, perhaps via the Constables but any States Member who feels they have to make of value to the panel. I completely acknowledge the raison d'être for debt collection agencies and it was I think one of the submissions by Viberts acknowledged the fact that one can tend to see debt collection agencies in the same way as one does traffic wardens, in the sense that nobody particularly likes them because we only hear from them if we are unlucky enough when they want money from us.

[12:45]

But of course they do provide a valuable service to small businesses who cannot be caught up in the bureaucracy of having to recover often what are very small debts. But I say that is exactly the reason that it is important to have a code of conduct because by extension any company, whether it is a small or large company, who has employed a debt collection agency which is perhaps not the most scrupulous ... and I have had an indirect experience of that where people have made a complaint, so you have a very reputable company who then employ perhaps an unreputable debt collection agency and by association it makes that company look bad as well. So it is important I think in the round that we do have very good and clear codes of conduct and best practice. I do not think there are any other points to make. Perhaps just one is that there is not necessarily always a level playing field for those who do find themselves getting into debt. I know an example of some constituent in my area who, for example, was enabled to take out a loan for furniture which was organised by the furniture company. The loan was organised by the furniture company; the furniture company then folded but they were still responsible for that debt. So they did not have any furniture and they did not have the money either to pay the debt back, or they certainly did not have money to buy any other furniture, and they were not afforded the protection which maybe other legislation would have afforded them had we been in a similar position to the U.K. So the whole area is very complex and I think this is a positive way forward. The real work remains to be done, but hopefully this is a step in the right direction and I hope it will not take years but rather months.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the proposition of Deputy Tadier, Projet 102, and I ask the Greffier to open the voting.

POUR: 37		CONTRE: 0		ABSTAIN: 0
Senator B.E. Shenton				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator F. du H. Le Gresley				
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. 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 Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
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 A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				

LUNCHEON ADJOURNMENT PROPOSED

Deputy P.V.F. Le Claire:

I propose the adjournment.

DOCUMENTS PRESENTED OR LAID

The Deputy Bailiff:

Before we adjourn, can I remind Members that the Assembly agreed to sit until 6.00 p.m. this evening in case Members have overlooked that? The adjournment is proposed. The States now stand adjourned until 2.15 p.m. this afternoon.

[12:48]

LUNCHEON ADJOURNMENT

[14:15]

The Deputy Bailiff:

We do appear to be numbers short and it is past 2.15 p.m., although I did notice a number of Members in the outside rooms and I would ask them to return to the Chamber as soon as possible so we can be quorate. Very well, thank you. Chairman, have you had a good discussion over lunch ready to come up to the next voting?

The Connétable of St. Mary:

Yes and no, Sir. I do have a proposal, but I have been cut off at the knees, as my colleague across the road would say, and I realise that the item that we have decided should be the next order of business cannot be presented because the Minister for Economic Development is not here and he wanted it to be further down the Order Paper. We would like to take in broad terms the legislation regulations first; deal with them and then move further down the Order Paper, just move the other business down the Order Paper but keeping it in the same order. The first item of business should be P.86, the Draft Education (Nursery Fees) (Jersey) Regulations, followed by P.87, Draft Financial Services Commission (Amendment) if there is someone here to present that, and then moving back up the Order Paper and carrying on in the order in which business is listed, noting that I have had an offer to defer P.104 and also to defer P.112. So the Order Paper is looking a little more manageable. First item of business then to be P.86.

The Deputy Bailiff:

P.104 and P.112 did you say? Is the Minister for Education, Sport and Culture ready to go? Are Members content to follow the suggestion of the Chairman of P.P.C.? Then we will turn to the Draft Education (Nursery Fees) (Jersey) Regulations P.86 and ask the Greffier to read the proposition.

6. Draft Education (Nursery Fees) (Jersey) Regulations 201- (P.86/2011)

The Greffier of the States:

Draft Education (Nursery Fees) (Jersey) Regulations. The States, in pursuance of Article 9 of the Education (Jersey) Law 1999, have made the following Regulations.

6.1 Deputy J.G. Reed of St. Ouen (The Minister for Education, Sport and Culture):

During term time in the year before they start statutory primary education in a reception class, all preschool children aged 3 to 4 are eligible for free nursery education in Jersey. However, an inequity exists in the present system. Currently up to 30 hours of free preschool education is available in those state schools that have nursery units. For children who are unable to access these facilities, funding is available to provide for up to 20 hours free a week within the private sector. As a result there is a discrepancy between the amount of free hours available in both the public and

private sectors. Many parents consider the present arrangements to be unfair and, following discussions with all stakeholders, I am planning to bring the number of hours offered in the state sector into line with the hours offered in the private sector through the introduction of charges from September 2011. The object of these regulations made under Article 9 of the Education (Jersey) Law 1999 is to enable the Minister for Education, Sport and Culture to require parents to pay fees for the attendance of children below compulsory school age in nursery schools or nursery classes established and maintained by the Minister. As this proposal represents a new charge, States approval is being sought in accordance with the report and proposition States Approval for New "User Pays" Charges, P.63, 2003, adopted by the States in June of that year, in which it was agreed that no new "user pays" charges should be introduced without specific States approval. Arrangements are already in place between the private sector nurseries and parents who require additional childcare hours and this has proved to be very successful. The proposed charging scheme for States nursery classes will allow parents to purchase extra sessions of one or 2 hours a day totalling 5 or 10 hours a week over and above the 20 hours' basic provision which will remain. Any family or child that has specific needs will still be able to apply for 30 hours a week free of charge in a States nursery. The regulations will mean that from September parents will have access to 20 hours a week free nursery education for their child, irrespective of whether they choose a state or private nursery, and will be able to purchase additional hours in each sector if they choose. The basis of the scheme is as follows. All children allocated a place at a States nursery class will receive a minimum of 20 hours free nursery education during term time; 10 extra hours will be made available free of charge to families with children at risk, who are vulnerable, have special educational or emotional needs, or have other particular needs. A referral panel, including health and educational professionals, has been established to ensure free hours are properly provided to those children most in need. Free sessions will be made available to working parents in receipt of Income Support. This will reduce the need for cross-charging between departments. As I have already stated, parents will have the option to purchase the extra hours and these will be available for either one or 2 hours per day. The hourly charge will be the same as the charges applicable in the private and voluntary sector under the Nursery Education Fund, and in the first academic year, September 2011 to July 2012, this will be £4.78 per hour. At present parents purchasing nursery care from registered nursery providers in both the private and voluntary sectors are able to apply for income tax relief for these hours. Accordingly, it is being proposed by the Minister for Treasury and Resources that the Income Tax (Jersey) Law 1961 be amended to allow parents who purchase extra hours from nursery classes in provided primary school to claim tax relief on those hours. This will ensure that there will be parity between the private and voluntary sectors. Also, the Minister for Treasury and Resources will be proposing that the additional hours should be exempt from G.S.T. (Goods and Services Tax) in line with childcare hours in the private and voluntary sector. This proposal seeks to bring the number of hours offered in States sector into line with the hours offered in the private sector. Parents have been kept well-informed of the proposed changes and are currently indicating where additional hours may be required. The allocations criteria remain the same and are based on a tried and trusted formula. A safety net will be in place to protect the vulnerable and those with special needs. Every effort has been made to ensure that this proposal is both fair and equitable, and I therefore ask the States to formally approve these regulations which will allow the necessary charges to be implemented.

The Deputy Bailiff:

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

6.1.1 Deputy D.J. De Sousa:

I would just like to ask the Minister to mention the safety net for those that are vulnerable or special needs. What about the group that may be financially disadvantaged to enable this?

6.1.2 Deputy P.V.F. Le Claire:

I am not supporting this. I think it is a slap in the face for people when there is inequality that the only way the States seems to be able to address it - or the Minister at least - is by making it less fair to everybody. We increased G.S.T. across the board, and because some parents have raised the inequality issues the Minister and his department have chosen to make it fair for all by making it unfair for all. If it was fair for all in the past and we wanted equality - and it is not about equality, it is about saving money - then what we would have seen is an increase in the availability of hours in the private sector for those that receive free time. But instead of seeing that we also see a double slap in the face, in my view, by saying that they can pay for extra time in the States if they want it, set at the same rates as those were set at for private nursery education. This is going completely in the opposite direction of what I think people were complaining about and the inequality that people were calling to be addressed, and I think it is a weak decision. It has shown little imagination. It has shown the Minister and his department are able to bring more pain to a greater group of people, alleviate less problems, not taking on board the highest unprecedented levels of unemployment that exist; also downplaying in my view the benefits of early education in not committing the resources to that sector that they should be doing, and I think it is an utter failure in what they are bringing forward, and I would urge all Members to kick it out. I think this does nothing to address equality. All it does is it gives people exactly the same bad choices they have got at the moment. I think also that there is no safety net necessarily for those who are going to find this by way of hardship or difficulty in respect of finances. They will be looking at whether or not they decide to go to work or whether or not they decide to stay at home with their children in a greater degree. I think this does nothing to provide for those people that need assistance, and I think it is a cost-saving exercise. It is an accountant's proposition and it is deplorable.

6.1.3 The Deputy of St. John:

Firstly, can I declare that none of my 12 grandchildren are as young as to be currently drawn into the early years education within the Island? How will the monitoring by the staff or whoever be of the additional time spent at school by certain children, and is the distance from school policy, does it apply with the early years education?

6.1.4 Deputy A.T. Dupre:

I just would like to point out to the Deputy that one of the big things about the private nurseries is the fact that they are open all year round, whereas our States nurseries are only open during term time, which is why a lot of people opt for private nurseries.

6.1.5 Senator F. du H. Le Gresley:

I would like it if the Minister could explain the sentence he used which is in the report. It says: "It is also proposed that free sessions will be made available to working parents on Income Support." Do I interpret that to mean if they are not working, i.e., unemployed, they would have to pay, because that is the interpretation one would get from that statement? Secondly, the report makes reference to the additional hours being exempt from G.S.T. Could the Minister inform me and the House whether his departments charge G.S.T. on any of their services, other than perhaps in sport?

6.1.6 Deputy J.A. Martin:

I too, I think like Deputy Le Claire, think it is quite a sad day when we should be encouraging younger children, as they say, to participate in more education at an earlier age in a setting that they want to be in. I do have some real severe problems with this because the people who this affects mainly will not and have not shouted the loudest, not like those who already go to the grant-aided schools, and we have heard them shout very, very loudly and we have heard ... well, I can still hear the Minister running backwards down the corridor on some of those proposals. But I do have some questions, and the Minister says in his report: "Parents have been informed to the proposed changes and are currently indicating where additional hours may be required." Can I please ask how this has been portrayed to parents and the information got across?

[14:30]

When they start in September there are only 20 hours. How many have taken up the options that Senator Le Gresley said? Will it be working parents who are on Income Support, or working parents who may not be on Income Support but I know that they say they work closely across departments with Social Security, but I know many, many people with younger children who work part-time, but not many firms like 20 hours a week. It is about 25 to 30; that is their idea of part-time. So to purchase more hours under this is around, if you have one child, £50 a week, if you have 2, £100. An extra 2 hours at £4.78, I am just rounding it up, is what you are expected to pay. I think it is quite short sighted. I think the people who are stretching to find from nursery to work doing that extra 5 hours at the moment are covered under the nursery, and a lot of people ... I will give employers their due, a lot more are looking at term-time only. So that is what has happened. But I really do think this is a false economy. We are told that all children from whatever background, the earlier that they can learn ... it is not learning, it is an environment where they learn, play, they socialise. I disagree totally with the Minister for Education, Sport and Culture that this has nothing to do with cuts. It is simply rounding down to what the private sector get, the private sector who, by the way, do pay a lot in nursery fees and a lot in private nannies and people to look after their children and a lot of tax. We should be rounding up. You may say: "Well, where will the money be found?" but this is about every child in Jersey starting off with the same decent education. **[Approbation]** So I just think this is totally short sighted, and in this figure of the savings I am asking the Minister, this year's budget it will save £138,000, next year's budget £414,000, but then at the end it says "Financial and Manpower" and it quotes the same figures. But under my first question, the interest of people paying, is this a net, or is this including all the people out there that will have to pay? What will be the income generated by the new user pays charges which are still, I also think, getting around that everything that comes to the States has to be a new user pays charge. It is disguised in this proposition; it is disguised. I am sorry, the Assistant Minister for Education, Sport and Culture says it is not disguised. To me it is a new user pays charge; it is not presented as that. It is if they want to. Who gets a charge? Is your employer going to say: "Oh, well, your kids are not allowed to be at nursery free for 30 hours a week, so we are going to knock your hours down"? Or if you have got 2, as I have already said, or one, £50 to £100 more in fees. This is a user pays fee. It is going the wrong way for the children of Jersey. On our excellent education model we have here, I cannot support it. I never liked it right from the beginning. But this is the smallest, unresearched report I have ever seen. I cannot find a comment from the Council of Ministers, maybe I am missing them, but I have asked a couple of people around me and there is nothing. It really is thoroughly a poor day, and I hope Scrutiny pull this in, because I am telling you now, nobody has really looked into who this is going affect. You put another 100 or 200 parents out of work. It will cost Social Security a lot of money, and the most people it will cost is our young children when they need to be in education and learning younger.

6.1.7 Deputy G.P. Southern:

The single most effective thing that anyone can do to improve the life prospects and the life chances of any single person is to make sure that they get good quality nursery education in their early years. It is the single most effective act anybody can spend a pound on, and what does this Council of Ministers do? Refuses to increase the amount it spends on that. Having set the bar at 30 hours free in the public sector, the anticipation must have been sooner or later to make that equal for all and beware when any Minister talks about equality and fairness, because you know what is coming next: we are going to raise the standards downwards. That is a contorted piece of English, but the standard comes down. It is always a race to the bottom. So in the name of fairness we will reduce the effective life chances of many of our kids. That is effectively what this Minister is saying, and I find that absolutely shameful and not a question really of priorities, because the evidence abounds in the whole world of education. The single most effective thing you can do is put your resources into preschool education and make sure kids get it right. It sets them up for life.

This Minister decides otherwise. He would rather spend his money elsewhere. Now I can accept that we have difficult choices to make, but this quite simply is the wrong choice. Of all the priorities, all the lists he could have juggled with in order to find £400,000 or thereabouts on his budget, it is so big I cannot even remember how many millions it is - £101 million, £400,000 or thereabouts on £101 million - and this Minister with his department has not got the nous to juggle around and find that. Well, it is shameful. I believe Members should be voting this out and I certainly will be.

6.1.8 Senator S.C. Ferguson:

Oh dear. I do not know whether I will start crying now or later. It was one of the sort of bravura performances from Deputy Southern. Well, my understanding of the nursery care system is that the people taking advantage of the state school system are mainly those who can cope more easily with the school holidays, and perhaps the Minister can confirm my understanding. If you work fulltime then you have to use the private sector. Now, yes, I appreciate that we should be bringing the whole thing up, but times are hard and we cannot quite do that, so that you have to equalise it certainly, because why should families where the mothers have to work fulltime be at a disadvantage to those who can swan off in the school holidays. You know, if we are going to look at differentials I think that is far worse. We hear a lot about early years education. In fact, one of the things that should be done is to have prams in which the child faces the parent instead of a forest of knees when it goes down the town.

6.1.9 The Deputy of St. Mary:

Just a brief comment really on first principles. The second paragraph of the report says that longer hours, i.e. longer hours in nursery education, bring only marginal additional benefit. I would just like the Minister to expand on that very brief sentence because it is the critical point, is it not? We should be discussing what is best for the child. If the Minister has £400,000 he can save it; he can spend it on 30 hours for some. I think those issues about who has access to States nurseries and the fact that they do not operate outside term time, as I understand, is an issue there as well. Or do you spend it on parent support so that hours that would be spent with the parent and not in the nursery would be profitable and a good time was had by all? So I would like the Minister to comment on these different options and how they have been considered in the light of what is best for the child.

6.1.10 Senator T.A. Le Sueur:

I am pleased to follow the Deputy of St. Mary there because I think it takes us back to the difficulties we have here. One of the great things that the late Senator Mike Vibert did in his last years as Minister for Education, Sport and Culture was to raise the profile of nursery education and the principle of providing 20 hours a week free nursery education for all. That is a policy that was warmly endorsed by the House in 2008. But it was also balanced by the fact, as the Deputy has just reminded us, that over 20 hours is a marginal benefit educationally, but maybe of benefit socially to some parents. It is a question of how the Minister for Education, Sport and Culture best uses the resources in his budget in order to provide education to the highest standard for all concerned. If we are trying to solve a question of encouraging mothers back to work we should do it in other ways than simply using nursery fees as a tool to try to achieve that in some backdoor way. The reality is that children need to go into education gradually and at the age when they are at nursery school 20 hours a week is an appropriate length of time for them to be there. If they are there for 30 or 40 hours it is not necessarily for the benefit of their education, but it may well be for the benefit of the economy or the mother and father concerned. But if we are going to look at this from an educational point of view, as we certainly should be, then I have every confidence that what the Minister is proposing here is the right thing to do educationally. If we wanted to do anything else from a social or economic point of view we do it through that direction, but not through these regulations.

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

I think Members will agree that the development of early years care through the Education, Sport and Culture Department has been a successful and promising move in the right direction over recent years. I would just like to address a couple of things that have been said. There is evidence to support that the optimum level for early years care, such as this nursery for 3 to 4 year-olds, is 20 hours per week, optimum care level. We have that as advice from officers in the early years area. The major part that I want to explain and where I see the inequality of the system as it currently stands - and this is from experience of having a young child that was in a nursery care setting; he is in primary care now - so the system at present shows that not everyone will have an opportunity to get a place in a state school, whether they earn 70,000, 100,000, 20,000, 10,000. It does not give them the opportunity to definitely have that place if they have under a certain amount of money. The issue that we have is that anyone could get a States nursery place; they put their names forward and they may get it, they may not. Those that will not get it may not have the money to send their child for the full 30 hours in a private setting, so they can only provide for the 20 hours. By agreeing to these regulations it would mean that all the nurseries as they would stand would be on the same level; whereas, if it carries on the way it is we will continue with this disparity between the 2 of people who are earning more being able to get a States nursery place for a full 30 hours a week; whereas they probably would be able to afford for a full 30 hours in a private setting, but they will still get that 20 hours free in the private setting. It is trying to find an equal balance in this. The Minister for Education, Sport and Culture has stated that there are things going to be put in place to try and help support all those people that cannot afford the extra 10 hours if they need them.

[14:45]

I would just like to put it in that context for those that have said strongly against it because from somebody who has had personal experience of this I think this is possibly a step in the right direction on those grounds, the equality grounds, that I have just mentioned. Thank you.

6.1.12 The Connétable of St. Mary:

A week is a long time in politics; obviously 3 years is even longer. I would like to draw Members attention to SR5/2008, the *Early Years Report*, which clearly identified ... and I have to say, this was probably the most satisfying Scrutiny report that I was involved in. We worked with an incredibly good psychologist experienced in early years provision from the U.K. We had full co-operation of the then Minister, Senator Mike Vibert, and his department and we carried out an in-depth review that identified the 20 hours as being the optimum. Some of our recommendations were taken on board and I would just like to read one very, very short thing: "There is broad support that the same entitlement to free early years education should be available to all children." The inequality was not addressed with the proposals that the Minister brought forward. I think he felt he had to do things in stages. But all the way through the introduction of early years, from the States providers, there had been the question of what was available in the public sector, what was available in the private sector, and where was there an inequality. At one stage inequality had driven some private providers into difficulties. In other stages some youngsters were not getting the care that they really could benefit from. Our report said that 20 hours per week was the optimum and we urged that 20 hours free be available across the board and that was not done at this time. What the Minister is doing now, I think, is rationalising what should have been done then, but which could not, for one reason or another, be done at that time. I think Members need to bear that in mind. That report was very, very detailed. It gave an awful lot of information to Members and it is a shame that we do not carry forward the scrutiny from one session to another because in those 3 years the nature of education has not changed that much. I hope the realisation of how valuable early years is ... and for anybody who still has not grasped it, we are not talking with early years about looking after children while the parents are working; we are talking about valuable

early years education, something that sets the young child on the path for taking the maximum benefit of any future education they are given, whether it is the private sector or the public sector. We need to make sure we have a universal standard and an incredibly high-level service available to all. I think we need to empower the Minister to direct his resources of giving that same entitlement to everybody.

6.1.13 Deputy M. Tadier:

I am glad to hear from the last speaker because I think it is important to remind the House that Scrutiny was done on this. It is certainly something that our panel, if we are honest, has not been able to scrutinise in depth, but obviously we were mindful of the fact that it had been done before. I do find it curious though because, of course, I think Deputy Vallois, one of the Assistant Ministers for Education, talked about equality and that it needs to be equalised and I am mindful of the fact that it has been said that 20 hours is the optimum. Unfortunately, this should have been included in the report, really; the advice should have been included there because, of course, in the context of cuts when civil servants are being told that there is a particular direction which needs to be pursued for financial expedience, one cannot help but be sceptical when presented with 2 options whether to downgrade something or to upgrade it. It seems obvious the financial imperative would be to downgrade that. It seems equally possible that we could have upgraded, so offered everybody 30 hours, or it could have been an option to bring it down to the middle, to offer 25 hours across the board. Something I am concerned about is the unintended consequences. Will it be more likely that those who are currently working a full week because they can benefit from 30 hours of childcare provision, who may be doing 30, 37, 40, 45 hours a week, will find because their entitlement to care is being reduced to 20 hours now with the rest having to be chargeable, if they are on very low wages are they going to say: "It is not worth me working those extra hours now if I am doing 30 hours a week and it costs me more to put my child into care than it does for me to stay at home and look after them", which may not be a bad thing; I think the debate needs to be had there. But I think the understanding from this Chamber is that working is good, staying at home and not working, in very crude terms, is bad. If that is what we are putting forward as the way forward then we are going to be forcing many people, in reality, in real circumstances, to be staying at home and working less and not producing at a time. I am just questioning whether that is going to be a good thing for those who are already on low earnings who are perhaps trying to keep themselves off state benefits because they do not want to be there and so are we going to find that we are going to push people into more dependence on the state as an unintended consequence to try and save money for what is deemed to be the optimum amount of hours provisioned for children. I am slightly sceptical. I do reserve my position on this. I am not fully convinced that this is the right direction but that said I am also mindful of the last speaker and the fact that this has been scrutinised. As somebody without children myself, I am quite happy to pay for other people's children to be looked after as long as that is being done correctly because I do think that we do have to treat anyone's children, in that sense, as our own if we are to be responsible legislators.

The Deputy Bailiff:

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

6.2 The Deputy of St. Ouen:

I will try and pick up as many of the points as possible. I suppose I first must remind States Members that it was only in 2008 that the decision was made, quite rightly, to provide 20 hours, a universal provision of 3 hours nursery for 38 weeks a year, and I will come back to 38 weeks in a minute, because before that there was an, I would call it, ad hoc policy that over a long period of time, which stretches over almost a decade or longer, there is a decision that every time a new primary school is built they added a nursery school to it. There was no real thought, there was no real co-operation or co-ordination with the private sector who were, at that time, providing all care for 3 to 4 year-olds prior to entering reception. The States made a decision about 20 hours. They

were very clear. I would just thank the Constable of St. Mary for just reminding me again how useful the Scrutiny Review was on this particular matter because a lot of the recommendations in that report, because they could be relied upon due to the fact that they have used expert advisers and they had researched the proposal well, have now been introduced. This is one thing that has not. What we have currently is a lottery, an absolute lottery, where we have some parents can access 30 hours free nursery education for one year and some only 20. There is no income type of consideration; it is simply a lottery. Everyone involved in the provision of this care, whether it is the Jersey Childcare Trust, whether it is the Early Years Partnership, which is a group that we formed chaired by an independent person that links both public and private sector, fully agree that this proposal is the best for the children. We know that 20 hours is the optimum amount to be provided for the children. Yes, I take the point that we have working parents and a lot of working mothers on this Island contributing to our economy. Yes, I accept that they need to make arrangements for times when their children are not being provided for. But whether they are in nursery school or in normal primary school/secondary school, education is only provided for 38 weeks of the year. There are other issues to deal with to provide for the remainder of the year, which parents need and are required to do anyway. Deputy De Sousa has raised the issue and was very concerned about how we are going to make sure and how we can have confidence in the safety net. I think we can have great confidence because we already have a partial system in place now through Income Support, through Social Security, to support those parents who, for various reasons, are not able to access a States nursery but need to be provided for in the private sector. The system is already there. We do not need to reinvent the wheel. All we need to do is to deal with the inequity that exists. Just to summarise, first of all this is not a statutory provision; this is something that the States decided, quite rightly and appropriately, to provide for parents with young children in the year prior to entering primary school. The maximum educational benefit, and it has been proven and it is verified across many jurisdictions, is the 20-hour period. As I said before, vulnerable children will be taken care of. Parents on low incomes and facing financial disadvantage will be provided for. We will have an appeal system and process in place to ensure that if there are any individuals that feel that decisions are wrong that they can challenge them. That system is reflected across the education service now and I believe that, again, we can take confidence in the fact that in most cases that appeal system, if it is required, works. We have had little or no complaints about this proposal and it has been widely made known to all parents through the different agencies that we worked with and, indeed many of the parents themselves have already signed up to purchasing additional hours if they feel that that is appropriate for their child within our school setting. But why we are debating this today is that if I am required to charge I need to have not only the permission of this Assembly, but have the mechanisms in place to do so. That is all that the debate is about. It is enabling me to create a level playing field and levy a charge, which will be equivalent ... and it is a sum that has been agreed with both the private and the public sector that is the appropriate hourly rate for the child, whether supported in the private or public sector. Finally, I would like to reassure Members when I hear the comments about the level of education on offer, again, through the Early Years Partnership that we have developed and through working closely with my department and the professionals within it, we are confident that we already have a very high standard of early learning that is on offer for all children between the ages of 3-4 on the Island. Yes, we are not complacent; yes, there can be improvements; yes, we are all working - again, both private and public sector - towards improvement. With that, I think I will just ask States Members to please support the regulations. At last, we can provide a fair and level playing field to all parents who choose to send their child to nursery school. Thank you.

6.2.1 The Deputy of St. Mary:

I do not know if it is a point of order or clarification; it is about the form this proposal takes.

[15:00]

We have got a report that says: “The Minister will do X, Y and Z. He will charge above 20 hours, he will charge so much” and so on, but the actual regulation gives him carte blanche to charge what he likes to whom he likes and I just wonder why it is couched in that way and whether he is bound by the terms of the report and if he changes any charges different from that report that he has to come back to the House.

The Deputy Bailiff:

Deputy, if I may say so, that is a perfectly proper and good question, which ought to have been made in the course of your speech. At the time the Minister has sat down the debate has then stopped and it is really technically too late to ask that question now. You have asked it and I am going to ask the Minister to answer it. But I say to all Members that as a matter of procedure that is not the right way of dealing with it.

6.3 The Deputy of St. Ouen:

With all regulations, and to answer the Deputy, one requires certain flexibility. However, and more importantly, the arrangements that we have in place, and this is the particular method that we are proposing to use relating to the charges of provision of free hours, is totally interlinked with the private sector. Indeed, if this Assembly decides at a later date, or evidence comes to light that additional hours need to be provided free, we need to have that flexibility. We need to have that flexibility maybe to reduce charges, if that is what comes in the future. On that basis, although the proposal is as per the report, and I have confidence that that is the proposal that we are planning to implement, but what I cannot guarantee is what will happen in 2 or 3 or 4 years’ time.

The Deputy Bailiff:

Very well. The appel has been called for; the vote is on the principles of the Education (Nursery Fees) (Jersey) Regulations. I invite Members to return to their seats and ask the Greffier to open the voting.

POUR: 35		CONTRE: 8		ABSTAIN: 0
Senator T.A. Le Sueur		Senator A. Breckon		
Senator P.F. Routier		Deputy J.A. Martin (H)		
Senator P.F.C. Ozouf		Deputy G.P. Southern (H)		
Senator J.L. Perchard		Deputy P.V.F. Le Claire (H)		
Senator S.C. Ferguson		Deputy K.C. Lewis (S)		
Senator B.I. Le Marquand		Deputy M. Tadier (B)		
Senator F. du H. Le Gresley		Deputy of St. Mary		
Connétable of St. Ouen		Deputy J.M. Maçon (S)		
Connétable of St. Helier				
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. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				

The Deputy Bailiff:

Deputy Le Hérisier, does your panel wish to scrutinise these regulations?

Deputy R.G. Le Hérisier:

No. Some doubts but, no, thank you.

The Deputy Bailiff:

Very well. Minister, are you ready to propose the regulations *en bloc*? Are you proposing the regulations *en bloc*?

The Deputy of St. Ouen:

Yes, I am getting a bit carried away.

The Deputy Bailiff:

You have been carried away so far you want to say nothing more about them? **[Laughter]**

The Deputy of St. Ouen:

Yes, I think there is very little that I need to say. I would just like to propose them *en bloc*, thank you.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the regulations? Senator Le Gresley?

6.3.1 Senator F. du H. Le Gresley:

If only to request the Minister to answer my question, which I did want to stop him when he was summing up before; my question was how the free sessions will be allocated to unemployed parents on Income Support? This is relevant to 1(4) of the regulations. Thank you.

6.3.2 The Deputy of St. Mary:

Now I rise to put the question in the right place. I was misadvised - I will not say by whom - to thinking that the whole thing was *en bloc* and there were no principles and then regulations and there you go. I took that advice. I would have voted the other way, by the way, but it did not matter, did it? I am quite happy with the principles, but I find the way this regulation is drafted is quite extraordinary. The Minister has already explained, so maybe he can sort of elaborate, I do not know, but to have a regulation that could have been quite simply drafted so that he could operate within the terms of the report and that any major changes would have to come back to us, come back to the States, these are major matters and it is user pays. I am a little bit surprised that the way it is drafted gives him absolute liberty to do anything he wants in the field for charging for this education before compulsory age and it is quite an extraordinary way of going about things.

6.3.3 Deputy G.P. Southern:

I want to just take on the point made by Senator Le Gresley about this working people in receipt of Income Support and point out that if that is applied literally what it means is if you are looking for work you cannot get your childcare arrangements fixed until you are in work, therefore you cannot get work, so it is absolutely vital for many people that they are enabled, while they are looking for work, to get a settled care regime for their children in order that they can make appointments to go out and get job interviews to get jobs because without that they cannot agree to working so many hours if their childcare arrangements are not in place. It is very difficult for anybody to make that transition from unemployed to employed without certainty about their childcare provision, that if it is taken literally, working parents in receipt of Income Support makes it very difficult for some people, or will make it difficult for some people, to get out of unemployment and into employment.

6.3.4 Deputy J.A. Martin:

It is quite clear now this is user pays. I will repeat the question I asked at the beginning. The Minister firstly says that parents have been advised by all possible means through people they work with. I would have thought just posting out to people who were starting school next year would have been the way to approach parents but, that aside, how much will this bring in under a user-pays charge? That is where I agree with the Deputy of St. Mary; there is nothing in here, in the regulations, obviously it is all in the report but it is the regulations that we are passing, is all about the charge. "The Minister may require fee for child's attendance" and it goes on and on and on. In

his summing up on the principles, the Minister made a big play of what the States have done with taxpayers' money over the last 10 years on building these excellent nursery schools attached to primary or even their old schools having nursery schools. Has it been calculated what is going to happen to these nursery classes that are closed for an extra 10 hours a week? The Assistant Ministers behind me seem to know better. They assume to think that all the parents are going to take and pay for the extra 10 hours. I have asked the Minister to explain what will happen to these excellent facilities paid for over at least 15 or more years by the taxpayer ranging in millions of pounds, has the work been done and, if it has, again, why is this report so poor? I have never seen anything like it coming to this House. As has already been said, there has been Scrutiny done on this. It would be optimum if working parents in Jersey, optimum amount of hours to be worked was 20 hours. It is not and we have the highest women working in the whole of Europe, so it is not optimum for the parents. It might be optimum for the children, but we already know there is a black market out there with parents paying £2 an hour to people who might be fit people, but they have got too many children, they are not assessed by the Jersey Childcare Trust or anybody else. We know this to be true and this is where you are driving people; underground childcare facilities. But my question is quite simple: how much is the department expecting to make and have they calculated the wastage of what we have spent on all these fantastic facilities over the years. Thank you.

6.3.5 Connétable L. Norman of St. Clement:

Just briefly because having been involved with the Education Service, although be it some time ago, I was just a little bit concerned that some Members seem to be continually using the words "care regime", "childcare provision" and I was wondering when he sums up if the Minister could confirm really what this is all about? Is it about childcare? Is it about providing a free babysitting service? If it is, then those people who are using it are already dependent on the state and therefore if they are removed from that and have to increase Income Support, the state, the taxpayer, is going to be no worse off or better off. Or is it about education? Is it about the benefit of the child? I would just like confirmation about that: is it a babysitting service or is it about nursery education?

6.3.6 Deputy P.V.F. Le Claire:

I am voting against all of these and I think that the work has not been done. Whether or not one wants to draw upon one's experiences or not - Members may be voting upon this based upon their own experiences - I would put it to Members, the vast majority of people over the age of 50 have got different lives than those of us under the age of 50. More parents are working in Jersey than in any other place in the world, more women are working in Jersey than any other place in the world, and more grandparents are now working in Jersey than in any other place in the world. With these regulations proposed to address an inequality they do nothing to go to the heart of addressing the inequality that was raised. The inequality that was raised was that people of wealth were benefiting from free places in nursery school. These regulations, which have been brought into address this, will not mean anything to those people. An extra £47 a week to them is neither here nor there; they will not care one jot. There is no analysis about the numbers of people that are in that bracket and there is no analysis about whether or not the places are going to be available for those people who wish to keep their children in by paying more, whether they are going to be available in the schools to which they are taking them for the first 20 hours in the first place. There is no real identification of the numbers required to look after these people and there is also no understanding being demonstrated about the realities of life. Does a working mother want to work an extra 10 hours a week for £1.30 an hour just to have her child in a school, or would she rather not say: "No, in fact, for that amount of money, for the £13 benefit that you are going to give me [because you are not looking at this holistically] I am going to stay at home with my child." You will lose a far greater proportion in terms of tax take and you will have far more people coming in in terms of immigration to fill those hours that those women are not prepared to do. It is shallow thinking. I thought we introduced a system of lower Income Support that was meant to look at these things in

the round. These sorts of ad hoc measures brought in as user pays do nothing to address these issues of discrimination, financial discrimination, in the holistic way that the States approved. It is just shallow thinking by Members in ways that really demonstrate that they say one thing and mean another.

The Deputy Bailiff:

May I say to Members that we have had a debate upon the principles and the principles have been adopted. The purpose of a debate about the regulations is to identify whether there is any problem with the language of the regulations to identify, indeed, whether it achieves what the principles set out; it is not a second debate on the principles. Does any Member wish to speak? Then I call on the Minister to reply.

6.4 The Deputy of St. Ouen:

Rather than pick up individual comments, I will hopefully address them all as I go through. First of all, the question was asked of how will the free access be allocated. We have a system already in place that deals with this matter because I would like to remind States Members that currently only approximately 55 per cent of our children aged 3 to 4 are accommodated in the public sector, in our state schools, and 45 per cent are catered for in the private sector. I have confidence in the system because it has been working since September 2009 and all the feedback that we have had, either through the Early Years Partnership or indeed the Jersey Childcare Trust, is that it is working. People are happy. It meets their needs. I am proposing to work within the boundaries of this report but, as I come back to, there is a need for some flexibility. It may be that new evidence comes out that we need to adjust the hours. It might be that we need to widen the safety net. It might be that we need to manage the costs. All of these matters are based on the actual wording of the regulation. The report clearly spells out what our intentions are and what we will do and what will be put in place for September 2011.

[15:15]

There is no intention at this moment to change from that. But if you are setting out new regulations you need to have some flexibility. I understand that the Deputy of St. Mary is looking for confidence and I would assure you that if significant changes need to be made it is very likely - in fact, it is more than likely - that it will be as a result of decisions made in this Assembly. Again, with regard to Income Support, assistance will be provided to those in need, not just with Income Support but all of those families that have special needs and specific needs. We know again that it works because it is already working. This is not a support designed to provide assistance for parents that work; this is a support that is designed to provide the correct amount of hours for those seeking an improved education of the young child. It is proven that 20 hours is that optimum time. It is equally proven that young children benefit from being with their parents and others outside of the education environment. Regarding our school facilities, we have excellent facilities. We also have excellent facilities in the private sector. There is no plan not to use our facilities. In fact, the plan is to make the best use of our facilities not only during term time, but we already encourage the community to look at using our facilities outside of the school hours and during the holiday period. This will continue to be promoted.

The Deputy Bailiff:

Minister, I tried to give you a steer a moment ago. This is a debate at the moment on the detail of these regulations; it is not another debate on the principles. If I may say so, I think it would be better to contain your reply to whatever is necessary in relation to the detail of the regulations. I am not sure that anything is, but ...

The Deputy of St. Ouen:

Unfortunately certain States Members were allowed to ask the questions and I felt that it was necessary for me to answer them.

The Deputy Bailiff:

I rather thought you might. [Laughter]

The Deputy of St. Ouen:

I will also take your advice in the fact that I believe that I have addressed the points that were raised regarding the wording of the regulations and I would like to propose them and ask for the appel.

The Deputy Bailiff:

The regulations are proposed, the appel is called for. I invite Members to return to their seats and ask the Greffier to open the voting.

POUR: 32		CONTRE: 8		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy J.A. Martin (H)		
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy P.V.F. Le Claire (H)		
Senator J.L. Perchard		Deputy S. Pitman (H)		
Senator S.C. Ferguson		Deputy K.C. Lewis (S)		
Senator B.I. Le Marquand		Deputy M. Tadier (B)		
Senator F. du H. Le Gresley		Deputy T.M. Pitman (H)		
Connétable of St. Ouen		Deputy J.M. Maçon (S)		
Connétable of St. Helier				
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. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				

Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				

The Deputy Bailiff:

Do you propose the regulations in the Third Reading, Minister?

The Deputy of St. Ouen:

Yes.

The Deputy Bailiff:

Seconded? **[Seconded]**

Deputy P.V.F. Le Claire:

What can we say in the Third Reading? **[Laughter]**

The Deputy Bailiff:

Unfortunately, I think you can say it all again.

Deputy P.V.F. Le Claire:

Taking on board the correct chastisement that I should have had for reserving those comments for now, I will sit down and heed your warning. In the future, I will save them for Third Readings.

The Deputy Bailiff:

Does any other Member wish to speak? Do you wish to reply?

The Deputy of St. Ouen:

My response shall be brief. I would invite Deputy Le Claire and others, if they do have concerns over this proposal, I am more than happy to talk to them at any time. With that, I would like to make the proposition.

The Deputy Bailiff:

The regulations are proposed in the Third Reading. All Members in favour of adopting them kindly show? Those against? The regulations ...

Deputy P.V.F. Le Claire:

The appel, please?

The Deputy Bailiff:

I had just about got as far as saying “are adopted” but as I had not said “adopted” I suppose you are entitled to ask for the appel. I invite Members to return to their seats. The vote is on whether or not to adopt the regulations in the Third Reading. I ask the Greffier to open the voting.

POUR: 34		CONTRE: 8		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy J.A. Martin (H)		
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy P.V.F. Le Claire (H)		
Senator J.L. Perchard		Deputy S. Pitman (H)		
Senator S.C. Ferguson		Deputy K.C. Lewis (S)		
Senator B.I. Le Marquand		Deputy M. Tadier (B)		
Senator F. du H. Le Gresley		Deputy T.M. Pitman (H)		
Connétable of St. Ouen		Deputy J.M. Maçon (S)		
Connétable of St. Helier				
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. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy of St. Ouen				

Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
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 D.J. De Sousa (H)				

The Deputy Bailiff:

It had been suggested by the Chairman of Privileges and Procedures that we now move on to the Draft Financial Services Commission (Amendment of Law) (Jersey) Regulations, but, Assistant, Minister, I understand this is something the Minister wished to deal with himself?

Senator P.F. Routier:

Yes, he had indicated to me he would like to take that on himself. He does not trust me!

7 Uplifts in Land Values: Land Development Tax or Equivalent Mechanism(s) (P.90/2011)

The Deputy Bailiff:

That being so, it seems to me we must return then to the Order Paper and the next item is P.90, Uplift in Land Values: Land Development Tax or Equivalent Mechanism(s) lodged by the Deputy of St. Mary and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion (a) to bring forward for approval, as part of the Draft Budget 2012, proposals for a land development tax or an equivalent charging mechanism or mechanisms of any kind to raise revenue for the States from any significant uplift in the value of land when it is rezoned and/or when planning permission is granted (b) to agree that it is the wish of the Assembly that the proposals in paragraph (a) should also be designed to have the effect of capturing uplifts in the value of land arising between the date of this debate and the coming into force of the necessary legislation as part of the Budget 2012 and to request the Minister for Treasury and Resources, having sought appropriate advice, to take the necessary steps to achieve this objective if possible.

The Deputy of St. John:

As a landowner in a number of parishes could I declare an interest and retire.

The Deputy Bailiff:

I think that this does not apply specifically to you and therefore it is a general application. Your interest has been noted; you certainly do not need to withdraw. The Deputy of St. Mary.

7.1 The Deputy of St. Mary:

Members will be pleased to know that, certainly in my belief, this is a fundamentally simple issue. There are confusions along the way that I will dispel later, but fundamentally this is a very simple issue of fairness. We have a source of tax income which very, very few people would quarrel with. For years, the scarcity in housing linked to the booming finance industry and uncontrolled population growth - and I am going back to the 1970s and 1980s when I say that - has allowed house prices to rise to astronomical levels; they are higher than anywhere else in Britain by quite a long way. That has raised the value of land itself also to astronomical levels. But none of this increase finds its way to taxpayers and all of it finds its way into the pockets of a few landowners who get permissions or whose land is rezoned. That is the background. It is a completely unearned gain and the only wonder is why have we not tackled this before? I want to deal at the outset with the issue raised by the Minister for Treasury and Resources in his comments basically saying: "It is too late, it is too late, it cannot be done in time for the Budget 2012." He is quite right and I accept the criticism; it cannot be done in the 2012 Budget for the reasons he gives that any tax change would require consultation and that there are one or two issues that need to be ironed out. So, if this is passed, the Minister for Treasury and Resources puts two lines in his budget speech and the two lines say: "I was requested by the States to ... [and then he quotes the proposition] ... do something about the uplift in land values." The second sentence is that it was not possible in the time but then he will add a third sentence and the third sentence, if we pass this, will be: "And I will bring forward a tax along these lines, a tax for mechanisms along these lines, to capture the uplift in land value in line with the request of the States in P.90." Can I suggest to Members that we see this proposition in this light? It is about sending a clear signal to the Minister for Treasury and Resources and let us not get bogged down in the legality of 2012 as opposed to 2013.

7.1.1 Senator J.L. Perchard:

I wonder if the Deputy would give way just for a moment? He is asking the House to ignore the prayer, or the wording, of his proposition, admits that part (a) is not achievable and asks us to continue with the debate. I really do think that we could be on the verge of wasting the House's time here.

The Deputy of St. Mary:

That is an interesting challenge. My understanding is that Ministers, when they are requested to do things, have an absolute right not to do them and that has been the case in the past and will be the case in this case. As I have just explained, the proposition will send a strong message and the Minister, in my view, would be obliged to say in his budget speech, and if he does not we could hold him to account, that he will proceed along these lines in a timescale that makes sense.

The Deputy Bailiff:

I think the point that is being put to you for consideration is that you can hardly ask the States to adopt paragraph (a) when you have just said to the States that you agree it cannot be adopted.

The Deputy of St. Mary:

I am saying, as I said, that many times has this House requested Ministers to do X and Y and they have turned around a few months later or years later and said ... or have not done it, full stop: "We cannot do this; we would rather do that." The Minister for Social Security did it a few months ago; he said: "I cannot do this, but I am going to do that" and I think we, as a House, as an Assembly, supported him and of course he took on board the fact that the House had told him to do X, but he

decided that Y was better. In this case, I am asking the House to tell the Minister that he is to bring forward a mechanism or mechanisms to tackle, to tax the uplift in land values. I think we are in danger of being sort of railroaded by a legal nicety instead of getting on with a perfectly legitimate debate on a matter of considerable interest.

The Deputy Bailiff:

The question is really one of order. If you agree, as you appear to agree, that the proposition is not one that can be adopted as it stands then the proper course is to withdraw it and bring back another proposition in a form which you can ask the States to adopt. It is hard to see how you can ask the States to debate and adopt something which you agree should not be adopted. It cannot be delivered.

The Deputy of St. Mary:

Is that an order then, that this is re-lodged virtually in the same terms but with a slightly different timescale and it would be debated in the September sitting? I have been advised that the Annual Business Plan will take days and days and there might be problems with anybody lodging propositions that are alongside the A.B.P. (Annual Business Plan). But if that is acceptable, if that would be debated then, then I am quite happy to do that.

The Deputy Bailiff:

I think that depends on, as you indicate, the pressure on the States business in September. But I was only addressing the general point that you cannot expect the Assembly to debate and approve a proposition that you agree ought not to be approved. That was the point. What you do after that is a matter for you.

Senator J.L. Perchard:

Could I help the Deputy who brings forward a valid point, but perhaps he could bring an amendment to the Business Plan with the meat of this proposition included in that?

Senator P.F.C. Ozouf:

If I may assist the Assembly? This is a request to me and clearly we cannot do this. It is nothing to do with the Business Plan and there is also the important parallel issue of the other objective. I am sympathetic to what the Deputy is trying to do, but it is the progression of the H1 and H3 sites that have the same effect. I just implore the Deputy to come and hold constructive discussions with the Treasury on these objectives rather than these propositions, which are wasting this Assembly's time and not able to be implemented.

The Deputy of St. Mary:

Thank you for those complimentary remarks.

The Deputy Bailiff:

Can I just now say from the Chair, you have heard the points that have been made. You have started to propose your proposition. If you want to continue it is your right to do so, I cannot make you not do so, I think, but it is entirely a matter for you.

The Deputy of St. Mary:

I think the key issue with that is whether the Annual Business Plan does squeeze out all other propositions because I did offer, for instance, with P.104 to hold it over to the next sitting if that would help P.P.C. get the business into the various slots we have and they said: "Yes, thank you very much for that and we will defer it to the next sitting" and then they have now said: "Well, it would be to the Annual Business Plan."

[15:30]

Now, I have just had a note saying: “No, it will not be the Annual Business Plan; it will be the next session because nothing can be fitted on ...” I cannot read it, but that it would be very difficult to squeeze anything in alongside the Business Plan. I am in a bit of a quandary.

The Deputy Bailiff:

I think it is a matter for you. I am not sure I can go any further. For my part, from the Chair, I find it difficult to see how you can ask the States to debate a proposition which you agree cannot be put into force.

The Deputy of St. Mary:

That is the point, is it not, that the precise wording cannot be done, it cannot be done for the Budget 2012? But in passing this, the States would be requesting, as we do, do we not, Ministers to get on and do this thing that has been sitting around for years and years and it is a thing we have never taxed? I would expect the Minister to take that signal.

Deputy R.G. Le Hérisier:

To assist, is there any chance that what the proposer is arguing is a technical issue that a revised proposition can be put forward on the basis of a technical correction so that we can take it during this session?

The Deputy Bailiff:

Sorry, Deputy, I was distracted. Would you mind saying that again?

Deputy R.G. Le Hérisier:

I am getting a bit confused. If this is purely a technical error or correction that is required, can it be corrected virtually immediately so that we can recommence the debate A.S.A.P. (as soon as possible)?

Senator P.F.C. Ozouf:

This is the States in chaos. The Deputy cannot progress something ... it is not a request; it is to agree to bring forward. I cannot accept something that is binding and I implore the Deputy to come and hold constructive discussions with the Treasury and the Minister for Planning and Environment in order to achieve his objectives, rather than wasting this Assembly’s time.

The Deputy of St. Mary:

Can I respond to that? The Minister is saying that: “We are out of time, we are out of time.” His comments came a day before this was due to be debated. If they had have come earlier, if he was in the genuine spirit of co-operation he could have fired off an email to me and said: “Planning obligations, there is something wrong with paragraph (a)”, but that was not forthcoming, so I proceeded unaware.

Senator P.F. Routier:

The Deputy does not seem to be very clear whether he is going to withdraw it or not; I am not sure. But may I propose that we move to the next item of business?

The Deputy Bailiff:

He has not finished proposing the matter yet. Deputy Tadier.

7.1.2 Deputy M. Tadier:

I would like to seek clarification, probably from yourself, I think, because we have heard that the Deputy of St. Mary thinks that this may not be able to be taken as worded, but is it the case that it cannot be taken as a part of the Draft Budget 2012? If that is the case, why can it not be the case? It seems to me that if we were to adopt this we would be sending a message out to the Minister for

Treasury and Resources that we wish the Draft Budget to be brought forward with this amendment in it, which I would imagine the Minister for Treasury and Resources is quite able to amend, even at the last moment, to make provisions for in the Budget. While I am interested in hearing the Deputy's opinion, I would prefer to know what the actual facts are about this proposition before. If we can hear it today that would be worth knowing.

The Deputy Bailiff:

I say this to the Deputy of St. Mary: tempting as it is from the Chair to say that it is improper to debate something which the proposer thinks the Assembly cannot properly adopt, which is the position that you have set out so far in your speech, it is, I think, a matter for you to propose it or not, as the case may be. Therefore, either continue with your proposition, or withdraw it and then you can re-lodge it in a form that is not going to cause you this embarrassment and there can be a proper debate. It is your choice.

The Deputy of St. Mary:

The choice does depend somewhat on what the Chairman of P.P.C. wrote to me. If it is possible to debate ... because what matters are the issues underneath this and sending the message to the Minister and he either carries out the wishes of the House or he does not, assuming we voted for it, which is another "if". But if this cannot be got into the Annual Business Plan week, because it simply cannot be, then the only way to air these issues is now. On the other hand, if I can be reassured that, yes, in the Annual Business Plan session this can be re-debated with slightly different words on that first paragraph, and I would reiterate the Minister for Treasury and Resources had perfectly in his gift to amend this or to talk with me to get this technically right, then clearly I do not have any option but to raise the issues now.

The Deputy Bailiff:

Deputy, I understand it is very unlikely that it will be capable of being dealt with when the Annual Business Plan is being debated. There are 2 September sittings; we cannot go beyond those because of the 21-day pre-election rule. For my part, I am not sure how I see a budgetary proposition is naturally going to be debated within the Annual Business Plan, but that is not making any finding upon on it. I think your difficulty today is that if you wish to send a message, if I may say so, to the Minister for Treasury and Resources, you are going to find it difficult to send a message when Members of the Assembly know that you do not believe that your proposition in its present form can be adopted. But it is a matter for you. Do you wish to proceed on?

7.2 The Deputy of St. Mary:

Yes, I do. While people can go: "Oh!" it has not been established that this does not send the signal and, as I have said, Ministers are perfectly free to ignore what we tell them or ask them to do anyway. As I have also said, this matter of: "It is out of time, it is out of time" when the comments that said: "It is out of time" were launched a day before the debate, I do take exception to being ambushed, in a way, when it could have been cleared up better beforehand. The spur for this proposition was the Island Plan and if Members remember, the sheer number of amendments that there were to the Island Plan involving particular parcels of land, and I will just refresh memories: Netherlee, Longueville Manor ... sorry, not Longueville Manor, Longueville Nurseries [Laughter]; that would be a bold step, the Rectory Field in St. Martin, Field 1248, 2 sites in St. Peter, associated development in St. Clement to fund a sporting facility, Thistlegrove, Samarès Nurseries, Rue de Jambart, and Field 1219. Those were all the amendments brought to the Island Plan which involved rezoning and I have left out the health facilities one and the one referring to La Providence. All those made me think that I wanted to amend all of them in the Island Plan and I did indeed try to do that and was advised by the Greffier that it needed a standalone proposition. There are 3 fundamental aspects to this: one is fairness; the 3 reasons for going here, for doing this. The second is public expectation; how do we conduct the business of the States? The third, of

course, is the tax income that we are currently foregoing. Fairness: now, my report quotes Oxera in pointing out that the uplift - and it shocked me, but I was glad to have an exact figure - in land value is anything between 80 times the value of an agricultural land, up to 200 times depending on what the land is zoned for and 80 is for category A and 200, I think, is for category B. Members have to ask themselves why have we not tackled that kind of unfairness before. I believe that it is high time that the Government shares in that enormous windfall so that the revenue can be used for the good of all Islanders. That is the essential issue, is it not? It is the few, the very, very few, whose land is rezoned or which gets planning permission and everybody else, all the taxpayers of the Island. The rezoning decision or the planning decision is made by Government, so the money is completely unearned, the decision is made by agencies of Government or by the Minister, and yet all the value ends up in one particular pocket. I just want to quote from one Senator Perchard who tried to derail the debate just a few moments ago and he said, in the Island Plan debate: "Windfall profit and windfall tax is something that this House needs to consider, but it is a reasonable debate that we must have." When I bring the debate that we must have the Senator tries to torpedo it, which is quite interesting. The Constable of St. Peter, in the same debate on a different amendment, said, and I wrote down the phrase it was so striking: "I am not in the business of making millionaires." I think that brings me nicely on to the next point which is, what do the public see? What do they expect of us? What they see is a few fields rising in value to huge levels and we get nothing, the public gets nothing. The decision is taken by the Planning Department or planners look at the decision, make recommendations, and then finally the panel or the Minister decides. But I think that is a huge burden and quite unfair to put on anyone or any group. It has hung over all the debates in the Island Plan on rezoning. This ghost in the room or elephant in the room, or elephant ghost in the room, was there all the time about everything from the garden in Grouville to Samarès Nurseries. Different scale but the same issue, and it has to be made transparent, it has to not look corrupt in any way. As I say in my report, this situation is intolerable, it cannot be reconciled to good governance and it has to change. I think the public would expect that of us and will be disappointed if we do not act to remove this fundamental unfairness. The third point is the tax. We are missing out on a huge amount of tax that we simply close our eyes, blink and we miss it. Oxera point out, and it is in my report on paragraph 12 on page 4, that the uplift resulting from the 2002 Island Plan was in the region of £50 million. If Members just stop to think, at 50 per cent, which would be a modest rate that would still leave £25 million in the pockets of the various people whose land was rezoned, the States would have received £25 million of, if you like, easy revenue. I do not think many people would weep any tears over that. £25 million is not to be sniffed at and one of the arguments that is sometimes used about land uplift taxation is that it is sporadic, a bit like the pools, but I do not think many people turn down their pools win because it is sporadic. I would like to clarify some issues next. Firstly, people say that a land uplift tax or any way of getting at the uplift in land values will affect house prices and I did worry about this line of reasoning and you can find it in several Hansard debates on issues related to housing. What I found was that it just is not true. Kelvin MacDonald, who were the consultants for the Planning Department on the Island Plan on provisional and affordable housing, wrote a 90-page report, a very well-informed report on every aspect of affordable housing. They know that it does not work this way. Oxera, who were the main economic consultants to the States of Jersey, know that it does not work this way and the Planning Department follow their lead. If I can take Members to page 5 where I quote Oxera, this explains how it works. The point is that the tax on the land value has no effect on the price that someone ends up paying for a house. The value of the land that is to be used for housing is determined by the difference between what the resulting house or flat, et cetera, can be sold or rented for and the costs of transforming the land into housing, i.e. the building and other associated costs. So, you have the costs of doing the building and the value of the land is what is left between that and the sales price. Housing land values prior to building the housing are therefore the residual of the price that can be charged for the finished housing and the costs of doing the construction.

[15:45]

So, there is Oxera saying that it works the other way round. What matters is the sale price. What matters is the price of the house when it is built and that determines, going backwards through the different costs, the land value. If Members look at my appendix 3 on page 39 of my report there is a photocopy of the Supplementary Planning Guidance which was published in August 2010 and probably should have been part of the debate on the Island Plan but there were complications, were there not? That sets out the economic model used by the Planning Department and it exactly follows the Oxera principles. First of all the development value, which is a function of the area and the houses built on that area and in their worked example £49.7 million. Then they list the construction costs, different kinds of housing times the number of square metres, the cost of providing car parking, public open space, what's-it for art, rock face stabilisation, all the little things that a developer might have to do, including planning gain, and that is then £31 million. Then the fees and then the profit, which is a separate item not influenced by anything else, cost of sales, and then finally what is left is the residual land value. So, it is the other way about. First you have the selling price, which depends on massive demand and scarcity and the fact that there are many people in Jersey who can afford to pay and then you have the costs and then you have the land value. Even if the Minister for Planning and Environment insists on affordable housing at 12.5 per cent of the value, and even if he insists on a percentage for art, and even if he insists on urban improvements, the residual land value will still be a very substantial sum, very substantial indeed. What I am asking is that that residual land value is subject to some form of taxation. I have dealt with: "Oh, well, it will raise house prices." It will not. House prices are determined by other factors. The second issue is the confusion around planning obligation agreements versus windfall tax and we can see again and again, and in fact in the Minister for Treasury and Resources' comments we see the same line taken again, which is consistent and what he says is: "Planning obligation agreements are a firm mechanism to ensure that the impacts arising from development are mitigated or to achieve measures to make development acceptable." What he is saying is that P.O.A.s (planning obligation agreements) are the way to deal with this and I would say that they are not the same as taxing the uplift. If you look at Hansard on the time that the Minister was quizzed on this he says that he is a hawk on catching the uplift in land value and then he confuses the issue and says: "But we will do it through planning gain." It was pointed out to him in that question time that they are not mutually exclusive, that the developer can be obligated to provide certain amenities and you can tax the uplift on the land value underneath. The Minister in his comments says that you cannot do both, or you should not do both, and he says to have the land development tax alongside planning obligation agreements would result in 2 measures which would impact on the value of the land. Yes, they would ... well, they would not actually. The planning obligation agreement would impact on the value of the land and then it would still be a massive value and the tax would then pick up some of that value. The third issue is certainty and Kelvin MacDonald points out in his report to the Planning Department that certainty is a very important issue. I will not read out the quote but he does point out that if you have certainty then the tax will fall on the land value and it will not end up in house prices. The Public Accounts Committee make the same point when they are talking about home buying in a report. They say that the best way to achieve fairness is to have a set way of determining the difference and not to negotiate point by point, site by site, whereas the Minister on 21st September 2009 says the opposite. He says: "I cannot answer what the percentage of gain is because this is an issue to be taken on a site-by-site basis" which is exactly what Kelvin MacDonald says you should not do and is exactly what P.A.C. (Public Accounts Committee) say you should not do and is what Oxera point out, if you do not have certainty then it might end up in the house prices. If you do have certainty, if the developers know what the cut will be that the Government will take, then it will not end up in the house price, it will end up on the land value. It is too hard to do, says the Minister, and I just have to point out to Members that it is a question of political will. Oxera have done a lot of homework on this, and to his credit the Minister for Treasury and Resources has asked them to do that work and if we do

insist that the work is done then it can be done. There are i's to be dotted and t's to be crossed, as he points out in his report, but there is nothing to stop us doing this. The only other real obstacle to bringing this in is that there is not a lot of land so it is not worth doing. I do beg to differ with this because we know that the Island Plan, if we fail to produce enough housing on the States' own sites, sites will come back to this House. They will either come back in the near future or they will come back in the midterm or they will come back later, but if we do not tackle population it is inevitable that more sites will be zoned for housing. It is inevitable that this uplift will occur again and that we do not want to be in the position of being caught unawares again and missing out on the tax that we could have on that unearned gain. There will be rezoning soon in my belief, if not soon then in the medium or longer term. We have a breathing space now because the Island Plan H1 and H3 have been put off. All the rezoning was put off. Let us use the breathing space to nail this problem once and for all. This proposition is a challenge for Members. It is very basic: will they vote for fairness or not? I believe that there is a clear case for saying that fairness is what it is about. There are huge issues around housing where there is the cost of building sustainable versus the cheaper cost of not. Whether it is genuine consultation, whether we want high rise or low rise, but there is always this issue of the monopoly of land. It is basically a monopoly situation. Very, very few people own the land which is zoned and are we going to tackle that or not? In the grand traditions of Deputy Le Hérissier I am going to end with 2 quotations. One is from the Minister for Treasury and Resources which I thought would be nice. The Minister for Treasury and Resources, and I am only trying to help him achieve his goals, says: "I am a hawk." I am not normally described as the sort of hawkish side of taxation but I believe that the uplift in land value must to a great extent be captured by a really touch planning obligation. But I have touched on the confusion between planning obligation and land uplift. They are 2 separate things and can be captured separately. He goes on: "I have always believed that if we had been tougher we would have delivered the dream of home ownership for more people by capturing more of the uplift in land value." Planning obligations do not capture any of the uplift in land value. They are an imposition on the developer, who has to do X, Y and Z. That increases his costs. That reduces the land value. But they do not tackle land value directly. The land value is still there. So, that is the quotation from our good Minister for Treasury and Resources and then we have one better than him, we have Churchill. If I can find Churchill ... and I am indebted for this quote to Deputy Le Claire who used it in an earlier debate: "Meeting the needs of a community should not lead to unearned windfall gains for fortunate landowners, public or private." I make the proposition.

7.2.1 Senator P.F.C. Ozouf:

I think it is a privilege and an honour to serve this Assembly and I think that the Deputy of St. Mary is, if I may say, descending into new depths of time-wasting in terms of what we do. I have already said that I acknowledge the sentiments behind the proposition brought by the Deputy but it simply cannot be accepted because of the timing. There is no ducking the issue, there is no sending a message to the Minister for Treasury and Resources. The wording of the prayer in the proposition is clear. It is to bring forward proposals in the 2012 budget and I need to say to the Assembly in absolute clarity, absolute sincerity, that it cannot be done. I do not want to speak for a great deal of time and I will try and keep my comments brief but, because Members may be in a doubt about the 2 issues that are before them in the timing and the substance of the issue, I do think that it is incumbent upon me to explain them, albeit very briefly. I want to say that it is simply not possible in terms of timing, because this Assembly would ask me to deliver a tax in 12 weeks in terms of something really quite substantial. I just cannot do that. As good as my Treasury officials are, we cannot develop an effective, implementable law in such a short period of time. Moreover, it sends out a very serious message that there is going to be uncertainty and certainly passing legislation at such speed or asking me to do something has consequences to market confidence, et cetera. Oxera made it clear in their reports that in order to be effective a land development tax has to be credible and credible means that landowners have to believe that that tax is going to be here for the longer term. Credibility will not exist in legislation, I cannot see it being drafted, but even if I did it would

not be credible and it would not do anything to achieve the fundamental objectives that the Deputy is asking for. I apologise if comments have been late but I am afraid that the Treasury and the tax policy team have been working at absolute capacity in terms of dealing with other taxation issues, deemed distribution, one-one pay, and all the other reforms, quite apart from the issues of G.S.T., et cetera. There is only so much finger-wagging that Members can do in terms of requests for doing things and I am not going to propose legislation that is rushed and, sadly, there is not an off-the-shelf solution which I can lift from other places. The U.K. expended a huge amount of time and effort on this issue and, following a genuine consultation, of which there will no time at all to do this either, their proposals were abandoned in 2007 before legislation was drafted. We would need to carry out substantial market research of the economic implications of it, we would need to understand the market and while also genuinely arguing that measures to capture the uplifted land value in terms of the land increase, genuinely decrease land value. On this occasion if we implement something I think there is a risk that it may increase house prices in a way because we would do it in such an unthoughtful way. I believe that Oxera's words are absolutely clear and they do have an established reputation in the Island for good advice, are absolutely quite clear.

[16:00]

I do not believe that this Assembly, even though I cannot implement the legislation, today has before them sufficient information that indicates that a land development tax is the right way of capturing the uplift in value. With the greatest of respect to the Deputy of St. Mary, I do not need a lecture on the way of capturing land value as being the promoter and the original innovator of the planning obligation system which took for the first time an uplift in land rezoning for the benefit of social housing which has, I am proud to say, resulted in the creation of hundreds of units of social accommodation. I believe that we can do more and I believe that it is now working with the new Minister for Planning and Environment and the Minister for Housing, we can deliver effective H1 and H3 policies that will capture the uplift of land value, hypothecate that revenue and deliver it to where it needs to be done in terms of affordable housing. So, not only is this a bad decision, which cannot be implemented and should not be implemented in the period of time that we are given, it is the wrong decision because the right decision is to focus on the working-up of H1, H3, in a collaborative way. I accept that we were not part of the Treasury, no criticism, but we have not been fully engaged in relation to the H1 and H3 policy debate. We should have been, we are going to give our full support to working together with the Economics Unit and Planning and Housing and I am absolutely confident that we will have, before this Assembly completes its work and its term of office, an H1 and H3 policy that will deliver the uplift in land value. This is time wasting, we cannot do it, there is no evidence that this will work and I urge Members ... I do not know if I can propose that we move on to the next item but if we cannot do that then we should throw this proposition out as soon as possible because we have a huge agenda of work where we need to pass legislation, pass policy matters, which are important, and we should not be wasting our time on such matters. Can I propose to move on to the next item?

The Deputy Bailiff:

Standing Order 85 says this: "A Member of the States may propose without notice during a debate on a proposition that the States move to consideration of the next item on the Order Paper. The Presiding Officer shall not allow the proposal if it appears to him or her that it is an abuse of the procedure of the States or an infringement of the rights of a minority. Otherwise the Presiding Officer shall immediately put the proposal to the vote without debate. Notwithstanding Article 16.1 of the Law, the proposal is not adopted if less than 20 elected Members vote in favour of it. If the proposal is adopted the debate on the proposition shall cease." The issue for me is whether or not I think it would be an infringement of the rights of a minority if I allowed this proposition. I am conscious that usually the position is that some 9 or 10 Members ought to speak before the Chair allows the proposition but in the special circumstances of this case I am going to

allow it because the proposer himself has taken the view that the proposition is not capable of being achieved as it is drafted and in effect he wants the proposition to be interpreted to say something which it is not saying. In those circumstances I think it is a matter for Members to decide whether they think it is an appropriate course or not and so I am going to allow the proposition to move to the next item. Is it seconded? **[Seconded]** Then we go straight to a vote.

Deputy M. Tadier:

May I ask how many people there are left to speak? That may affect our decision.

The Deputy Bailiff:

At the moment there is one person left to speak. The appel is called for on the proposal to move to the next item. I invite Members to return to their seats and ask the Greffier to open the voting.

POUR: 29		CONTRE: 10		ABSTAIN: 0
Senator T.A. Le Sueur		Senator F. du H. Le Gresley		
Senator P.F. Routier		Connétable of St. Clement		
Senator P.F.C. Ozouf		Deputy R.G. Le Hérisssier (S)		
Senator J.L. Perchard		Deputy J.A. Martin (H)		
Senator S.C. Ferguson		Deputy of St. Ouen		
Senator B.I. Le Marquand		Deputy P.V.F. Le Claire (H)		
Connétable of St. Helier		Deputy S. Pitman (H)		
Connétable of Trinity		Deputy M. Tadier (B)		
Connétable of Grouville		Deputy of St. Mary		
Connétable of St. Brelade		Deputy T.M. Pitman (H)		
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				

Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
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)				

8 Council of Ministers' meetings: public access (P.103/2011)

The Deputy Bailiff:

The next item on the agenda is P.103/2011 Council of Ministers Meetings Public Access lodged by Deputy Tadier. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether an opinion to request the Council of Ministers to hold its meeting in public, except when the Council is discussing any matter which by virtue of any enactment or code it is entitled to discuss in private.

8.1 Deputy M. Tadier:

I was reading through the 2009 Strategic Plan with glee, as I do when I have a moment before bed to help me go to sleep. There were several references in it to openness, transparency and accountability. I thought this is a very good principle, something which we abide by on Scrutiny. We do, as far as possible, try to hold all of our meetings in public, even some of them which are very tedious, if you can imagine that a Scrutiny meeting could be tedious. So, I thought that would be a good principle to adopt for the Council of Ministers. I have spoken to other Members and I spoke to somebody who is perhaps tentatively thinking of running for Chief Minister and he said to me: "If I ever become Chief Minister I will move to make our meetings public." So, I think this is a good principle. It is a way for the Council of Ministers and the Chief Minister, who put forward the Strategic Plan with these inbuilt quotes about openness and transparency forward, of doing something in a practical sense. Not simply rhetoric and words saying that we believe in openness but when you ask for information saying: "Oh, we cannot give you the information because it is confidentially sensitive" and then saying: "Well, can you give us the information and anonymise it so that we can at least have some meaningful things to look at?" The answer still comes back: "No, you cannot because if you did that you might ask subsequent questions which would put us in an uncomfortable position and it might help to progress some democratic reforms with which we do not necessarily agree." If that were not the case but they were in favour of practically being open they might recall the words on page 7 of the Strategic Plan which say very grandiosely: "By working openly and inclusively with all sectors of our community we will create a responsive Government which embraces a progressive culture of openness, transparency and accountability to the public." On page 32 of the Strategic Plan: "We will work to improve the public trust in Government and establish a system of greater transparency, public participation and collaboration to strengthen our democracy and to promote efficiency and effectiveness in Government." So, with

all the references clearly one would anticipate under any normal circumstances that the Council of Ministers would have absolutely no problem in adopting this proposition. Let us wait a moment before we hear what the comments are of the Council of Ministers and look at the actual wording of the proposition itself. It is to request the Council of Ministers to hold its meetings in public. Deputy Tadier is being understandably cautious here, he says: "Except when the Council is discussing any matter which by virtue of any enactment or code it is entitled to discuss in private." The inclusion of those last few words acknowledges the fact that there will be times when the Council of Ministers are discussing matters of such urgency, perhaps of a confidential nature, which a policy in formation ... and it is quite right that those issues, which will already be on the B agenda anyway, there will be a B agenda for those lay people listening at home of the areas which need to be discussed in private as opposed to the A agenda which is discussed in public but not in the case of Scrutiny or the Privileges and Procedures Committee. So, my point is saying okay, we acknowledge that there is a difference, we acknowledge that there are good reasons on occasion in my opinion for things to be held in private so that we can have free and open discussions without necessarily some of the more whacky ideas, which may in 5 or 10 years' time be mainstream, being misreported or misinterpreted so that everything can be considered in the round. Nonetheless there would still be an option for the less controversial pieces to be discussed in public so that the public could come along, they could see the Ministers, the men and the woman sitting around a table setting agendas, talking about what the issues are. It may only be a very short meeting but I think it is a step in the right direction if we are serious about engaging with the public, being open, being transparent and more to the point being accountable. It is quite surprising then to me that the Council of Ministers come back and reject this proposition with its safeguards in place on the basis that they think it could be prejudicial to the effective conduct of public affairs. I am not convinced. I think I have made a case for the 2 to be compatible. They can have parts of their meetings in public, as Scrutiny and other bodies do, and then the other areas which are to do with policy in formation and are particularly sensitive can be done in private. I think it is unfortunate that the Council of Ministers have not adopted that progressive stance which they talked about in the Strategic Plan, the progressive culture of openness and transparency and accountability. I think it would have been very easy to accept this to test the water tentatively, to have a small part of their meeting, as I said, in public and to conduct the rest of the affairs where necessary in private. I will just finish with the thought that there is of course a more radical position of mine which is that all Council of Ministers meetings could be held in public, including policy in formation, and that some would advocate that form of radicalism. They would say all meetings should be held in public. These have been voted in indirectly by the public but nonetheless by the public to take office and one could argue that all meetings should be there for the public to attend and to scrutinise. This is not what is being proposed, this is much more moderate than that, so I do make the proposition.

The Deputy Bailiff:

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

8.1.1 Senator T.A. Le Sueur:

I do appreciate that Deputy Tadier has been realistic in his proposition by accepting the fact that B agenda items should continue to be debated in private so that all we are talking about is items which would be on the A agenda. Even having said that, one has to accept the fact that the Council of Ministers is a policy-making body similar to other such bodies around the world and nowhere else around the world would such meetings be held in public. What is so special that makes Jersey a unique case? Is it that we are really progressive or is it that we are inquisitive? What benefit would the public achieve by being able to observe the Council of Ministers debating, discussing such matters? I really find it hard to see why Jersey should be the exception to the general rule. One of the characteristics of any Council of Ministers is the ability to have wide-ranging discussions which may be initiated from an agenda item but very often can lead to other trains of thought. I feel that if we are going to have the public observing and breathing down our necks at

any stage we are not going to have those wide-ranging trains of thought, we are going to have a very narrow, restricted discussion which ultimately would probably be detrimental to the public interest. Certainly I have no difficulty in making decisions of the Council of Ministers known to the general public but I think if we are going to have that ability to have free-thinking, lateral thinking, thinking outside the box, then having the public there will simply inhibit that process, and to what benefit? I see little benefit to it but I do believe that we would be taking a backward step here and one which certainly I would not recommend and which I think will be really not in the long term interests of either the Council of Ministers, States Members or, more importantly, the public generally.

[16:15]

So, despite the concession of Deputy Tadier that matters which are by definition B agenda items, even A agenda items because they give the opportunity for wide-ranging discussions into areas which might well be termed B, are areas which I think we should continue to be able to discuss freely, openly and in confidence with one another. If that is to fail then what I fear could be even worse is that there are official Council of Ministers meetings and unofficial Council of Ministers meetings. That is a situation which I would not want to see happen and I am sure other Members would not wish to see happen either but which I think is a very real danger. For those reasons, despite the well-meaning nature of this proposition, I urge Members to oppose it.

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

I shall not be voting for this and I will tell you the reason why. This is one of those piecemeal type propositions that come up. I do not blame the Deputy for bringing it forward because it is a thing that is increasing. We have seen it in planning terms, it has gone into the public arena, et cetera. But the Council of Ministers, what comes out currently on the A agenda is usually comments on what they are going to say for a proposition or amendment that has been put in and it is a very small list that indicates to me that the bigger list is the private B agenda. Not too many of them seem to transfer to the A agenda. The other thing of course is that I spent time being an Assistant Minister and during that period it was only when my Minister was absent and was not available to go that I was invited on to stand in his place as Assistant Minister. Having said that, I was deemed as part of the Executive but I was not permitted to go and sit in and observe. Therefore I would suggest that if we are going to have a review, as has been suggested by the Council of Ministers, on the workings of the ministerial government it think it would be better if we looked at that first and have the request that is contained in this proposition included in that. I think that it would be much more practical and constructive to have the whole review put together in the first place.

8.1.3 The Connétable of St. Helier:

While I understand the Chief Minister's response, I think it is disappointing. There are of course dangers in any system where work is divided into the part the public can witness and the part that they cannot. I remember quite some time ago visiting a number of councils in the U.K. where it was quite clear that there was quite a lot of business going on before the public part of the meeting by the councillors in private session. There is of course that danger, but certainly with now over 100 open meetings of the St. Helier Road Committee under my belt I do not think those problems are insuperable. From time to time an officer will ask me if something can go on to the B agenda and I will say: "Why? What is the problem in the parishioners of St. Helier, often just through their media representatives and the Deputies who attend the roads committees, knowing that we are wrestling with this problem, as long as we suitably anonymise what we are discussing?" Increasingly our B agendas have become extremely light; we often just talk about the minutes and our date for the next meeting. A lot of things can be put on the A agenda without any harm. I have found certainly, as I say, with that experience—I know it is not quite the Council of Ministers, that august body, it is only a parish roads committee—that the discipline of holding the meetings in

public, the discipline that forces on the members, the way we really are reminded every meeting that we are there to serve the public, we are not there just to discuss things around ourselves, and we are accountable, we are transparent and we are accountable and it is something that is occasionally there will be a slip of the tongue and something quite awful will get into the media, something inappropriate will come out. But by and large I think it is a good system and I think it has one reason in particular to commend itself to the Council of Ministers. They do not need me to say the confidence in the ministerial system is low, the confidence in the Council of Ministers is low. If they wanted one way to really re-establish the confidence of the public what better way than to announce that, perhaps for a trial period, they are going to open their meetings to the public and they are really going to try and put as much on to those A agendas as possible so that the public can see what real problems the Council of Ministers is wrestling with. I think the proposition does have a lot going for it. Deputy Fox suggests we should not do things piecemeal, we should wait for the review of the ministerial system. I say, why not try this measure out? See if it improves, and indeed why do we not have the potential candidates for the next Chief Minister position seriously give some consideration to having open meetings so that the public and the media can really begin to get a better sense of what is involved in the Council of Ministers' work rather than that somewhat artificial version of events that comes down to us via the Communications Unit? I know that a lot of the media would rather hear it first hand from the mouths of the elected Members and I know that those members of the public who are not too busy working and who could find time to come along to these meetings would also appreciate the ability to hear this at first hand from the Council of Ministers. So I for one will be supporting this proposition.

8.1.4 Deputy T.M. Pitman:

A few points. I think we have to be honest, if this Assembly was a horse, and I am an animal lover, you would shoot it out of kindness. I think the horse analogy is a good one because in my experience of the last 3 years the horse's head where the thinking is done has clearly been Scrutiny. The Executive on the other hand, or perhaps the other end, would be described as the horse's other end, the end where all the hot air comes out. I think what Deputy Tadier is trying to do is admirable. It is probably just a sticking plaster at this stage but for the future he is absolutely spot on. I listened to the Chief Minister with disappointment because he says why should Jersey be different, why should Jersey be special? Well, I have heard us go on and on and pay a lot of money to try and promote that Jersey is special. Why should we not be different? What is wrong with being open and transparent? The fact is, I think, this Council of Ministers and the objections to this sums up the fact that really words like openness and transparency, they are just words on a Strategic Plan, and that is one of the reasons I am bringing my censure motion and I will continue to bring it. It is just words; that is all we have had for 3 years. Yes, I fully understand that we have to have B agendas but why would it be wrong to let people, the public who are affected by all our decisions, sit there and listen, quite rightly, to how Ministers struggle with the decisions, how they try to reach those problems? I think anyone going would probably come out certainly with a lot better understanding; it might make them less critical, who knows. On the other hand if, going by another comment of the Chief Minister, there are official meetings and unofficial, I think that might even shed a bit more light on it because the thought of most of us, and most of the people out there, that you might have a Council of Ministers but you have an inner circle and that is where the decisions are really made, so what would the public be invited to? I am sure Deputy Tadier does not know. Would they be open to official Council of Ministers meetings or the inner circle, wherever those take place, whether it is down at the champagne lounge where I used to pass quite a lot of Ministers on my way to the gym? We see this all the time, this reluctance, freedom of information. It is always talk from the Council of Ministers but when it comes to some action, and Deputy Tadier is asking for some action, we get all the excuses in the world. The Chief Minister is meant to be committed to transparency, accountability, leadership. We sign up to it and preach about it in our Strategic Plans, as I say. There is absolutely no reason why this could not be done. We all accept the B agenda but I think what Deputy Tadier is putting forward is what most people

would want. I am sure most people probably would not want to sit in a Council of Ministers meeting week after week but they would learn things. They might even learn how, despite all the promises, why we are not having our lunch any more. The Council of Ministers I believe their lunches, they still have their snouts in the snuffle trough. Why have they not put that behind them as we have moved on? I never thought the States Members needed a free lunch; why do the Chief Minister and his team need that? They are all very wealthy. Some of us, we are not here for money, although certainly *J.E.P.* like to portray that regularly, but this is a good proposal and I think everyone should support it. It is about openness, transparency, and that is what our people want.

8.1.5 Senator P.F.C. Ozouf:

I have been a Minister since the start of ministerial government and I understand that Members feel disenfranchised when they are not part of the Council of Ministers and whoever ends up in whatever position there is going to have to be an issue to be dealt with in terms of how more Members are involved in terms of information and information sharing. For my part, and I offer no other Minister any criticism, when I was Minister for Economic Development and when I am Minister for Treasury and Resources I make sure that my Assistant Ministers are fully informed of exactly what is going on in terms of our meetings. I ensure that they are briefed and we discuss issues from the Council of Ministers and there is good communication in the teams that I have been involved in. There does need to be, without any question, a way in which we can encompass more communication with Members about the happenings, the decisions, the challenges of the Council of Ministers. But I am afraid to send the message that we can deal with this understandable and needing to be resolved issue of disenfranchisement of Members, we cannot simply jump to the opposite extreme and open up the Council of Ministers to public session. I am sorry, but with the greatest of respect I know that Members will be wanting to send very clear messages in an election year that they are transparent and open. The Council of Ministers is the Island's national cabinet. It deals with policy issues; it deals with complex issues. It does not just deal with enactments, it deals with the wrestling of real challenges, and I for my part would like some Members to see some of the complex discussions that do happen at the Council of Ministers. Yes, the arguments, the challenges of individual Ministers, which is absolutely what should happen. But a national cabinet cannot have policy under development dealing with national issues, dealing with the Island, held in public. No other government does it and we cannot do it here and neither should we be pretending that while we uphold the principles of the highest levels of transparency and we have dealt with freedom of information and we are going to improve codes and we are going to improve public access, we cannot have a situation where the default position is that the Island's cabinet holds its meeting in public. It cannot be done. I am sorry but we are not the roads committee of St. Helier, we are not a roads committee. Without question I can understand why those issues are dealt with in public dealing with public rights of access and all the rest of it. We are the national cabinet of this Island and we cannot hold meetings as a default position in public. To do so I have no doubt would deal with the big decisions being driven underground and that is not right. It is not right that there are ... and there are always going to be accusations, there are always going to be groups of people that work together, but you will see a pushing down of big decisions into more covert groups which has to happen because there would be no other choice of wrestling big issues if you have to force to hold these issues in public. I would prefer that the issues the Council of Ministers have to tackle be dealt with at properly constituted meetings with the independent record, with the committee clerk documenting and recording those challenging discussions, and as soon as possible for the papers that are being discussed to be released when policy under development has been dealt with and all of the access under freedom of information has been dealt with.

[16:30]

I urge Deputy Fox, with all of his frustration in the position that he finds himself in and the message that wants to be sent, not to jump to the extreme, to the frankly un-implementable extreme, but to continue to press for more communication with Members, to a more sharing, more inclusive system of government, but not to try and pretend the undeliverable, which is opening Jersey's national cabinet to public access, which I do not think is in the best interests of those that we serve.

8.1.6 Deputy J.A. Martin:

Always a pleasure to follow Senator Ozouf. It is quite shocking for me to stand here, and I think he is one of the candidates for the next Chief Minister, to say that if ... and read very carefully what Deputy Tadier is proposing ... request the Council of Ministers to hold meetings in public except when blah, blah, blah. One of the candidates has just stood up and said: "This will drive the Government of this Island into covert meetings and discussions." I am absolutely appalled. Everyone is shouting out: "It will!" Well, I do not wonder why the public think we are absolutely untrustworthy. They do not know what we are doing. I think the Constable of St. Helier makes a very good point because unfortunately I have had to sit in some of the Council of Ministers' meetings on behalf of a Minister and I think discipline and expediency and everything else that could be done on the A agenda would be really of much benefit if it was open to the public. We talk about the Island's national cabinet. How can we go down this route? The Deputy is asking for the A agenda only and obviously as we all know, and I have been on committees where the A agenda had the minutes and who was present on it and everything else, and it was a full Education Committee, everything else was B and we used to question many times why it was on the B agenda. It was just so that it was a need to know basis and we are absolutely treating the public with contempt. In fact we are open now, the public can listen in to us, how many have turned over to Channel 103 or Radio 1 ...

The Deputy Bailiff:

I am sorry, would you sit down please. We are inquorate. I am corrected, we are 27, I am so sorry.

Deputy J.A. Martin:

I thought it was because I mentioned Channel 103. I will mention all the other media, whatever. I am certainly not being at all biased. But the minutes absolutely defy belief to me that we are open, we are transparent, this is one, 2, 3, 4, 5 paragraphs then the butts and the last bit, Deputy Tadier rightly acknowledges that there are times when items need to be discussed in confidence but the Council of Ministers believes, now this is the Island's national government, believes that distinguishing between items that can and cannot be heard in public will be impractical. I am very sorry, this is my Council of Ministers. If they cannot let me know there is something that is already out there ... we have had the school fees, we have the housing problems, the Island Plan, all goes around the Council of Ministers. It is an inner sanctum that has to be opened up and starting with the A agenda. I do not care if you put it all on the B agenda, that just shows exactly what the Council really want. They do not want transparency. You really do everything that has been brought forward, even to getting comments early, has been brought by a Back-Bencher. Being told before the media by Back-Benchers, never been initiated by the Council of Ministers, the open, transparent ones. I am very sorry, I totally agree with my Constable for once, or as often or sometimes I do, but I just think they do protest too much. It would bring discipline, it would probably only take about 3 meetings like Scrutiny and none of the public would turn up anyway but I am afraid that is the way it has become. They are open, the Ministers come openly and open to be cross-examined really at Scrutiny meetings. Why cannot they have the A agenda to see exactly what goes on round the Council of Ministers? I cannot see the 2 conflicts. We are the Island's national cabinet but we cannot make a decision what is on the A or B agenda and what we can discuss. It is all keeping it close to the chest and against, again, the power in the few. I am very sorry that had to come from a prospective candidate for the next Chief Minister to talk about covert meetings and discussions. Absolutely appalled.

8.1.7 Deputy R.G. Le Hérisier:

I was on a much more progressive committee because not only did we put on the A agenda a note about the minutes of the last meeting but the date of the next meeting was also put on the A agenda, so it was a remarkable case of openness which I was privileged to experience. On the issue of who will attend, well there are a couple, 2 or 3 professional attenders, and while we have no problems with that, although obviously we have become fairly accustomed to their views at this point, the great dream would be that there would be a breadth of attending and I would like to see webcasting so that we could push it out. I think the notion that people, because of work pressures and other pressures, are going to come into States meetings regularly, other than the 2 or 3 people who do, rather fanciful. I would much rather see webcasting where they can follow meetings, they can see them. While the Chief Minister is quite right it is not used in most other jurisdictions, there are occasions when ... and I have to be careful here ... there are showpiece cabinet meetings. For example, the British cabinet will travel round to cities and they will hold part of their meeting in the open. They will discuss something like urban regeneration, because it obviously suits where they are sitting at the moment, be it Liverpool or Manchester or whatever. So there would be an attempt to open up the meeting in that way. Also I think it would be good to open up meetings. It would show people, particularly if you looked at policy in formation because policy in formation, not only does it involve Scrutiny commenting on policy ... and we all know at the moment it is not taken that seriously in terms of how its arguments are dealt with and the interchange that occurs. I do not mean formal, written replies but whether there is a real debate that occurs on the basis of a report that is laid down. But I see Scrutiny could well be involved in saying - and it is almost back to committees - "This is what we think, these are the issues" and a debate could occur with the Council of Ministers as they present their report. But not only that, I think it would be very good for the public to see other pressure groups and stakeholders at work as well because it is not that the Council of Ministers per se is a covert operation but the more interesting issue is, which you will never ever totally run to earth, what kind of pressures is it facing from various stakeholders and pressure groups. I think the more that comes out into the open the better because I was, as I have been reminded, in the early idealistic days when it was thought that Government reform would move ahead in an overall sense, the special committee of Government reform, there was a motion moved in this Assembly. I have to say it was moved, in my view, for wrecking purposes but that did not transpire. There was a motion moved in this Assembly to make its meetings open and they were open and it would have been very evident, and it was evident to members of the public who were present, that there were people who were determined to undermine that process but it was open, you could see what they were doing. I think it was good that it was brought out into the open and that the public could see the kind of shenanigans and the kind of games that were being played. Rather than just saying let them be open and the hardy attenders turn up, I would much prefer to see meetings webcast. I would prefer to see the States meetings webcast, because I think it is about time the public saw what was going on here, good and bad. It is about time they saw what was going on because there are all the clichés about how incompetent we are and how useless we are and so forth, but let them see the interactions. Let them see that there are only 4 Senators or whatever. I think those are good things and I am quite prepared, because I think the proposer has been quite cautious in the way he has phrased it, I think it is quite possible to distinguish between A and B and to keep away from issues obviously that involve individuals. If there is a bit of chaos around an issue and you need to get yourselves organised so be it, I do not see any problem with that being openly discussed. There will be times when they will not be and it will not be possible because of other issues but why should they not be? I think it will be a revelation to the public and I think at the end of the day it will help us, and I think what it will do is it may regenerate which I think and I will bring this up in the censure debate is sadly one of the very obvious things about the death of consensus. That is, we are a highly polarised Assembly at the moment. Consensus is not about people sitting around passively agreeing with one person's view which is sometimes how it works in some cultures, consensus is about people working very hard from very different positions, not irreconcilable positions but very different positions, working very hard on policies where they

can agree to move forward on and it would be good to see people having to do that because the covert operation of the Council at the moment is giving quite the opposite impression.

8.1.8 Deputy P.V.F. Le Claire:

I would just like to pick up on the last point of Deputy Le Hérissier's. If the public were able to see what was going on from a webcasting perspective they would see that there are only 4 Senators in the Assembly at this stage. Now they may be outside listening, we do not know. Where are all the Senators that we need? We do not want to lose 4 but there are only 4 here. There is more than 14 Deputies. That is why we need more Senators. In fact, we should all be Senators, even the Constables. Death of consensus, death of democracy. There are 8 Constables here. So, if we had web streaming then we could see things in context. We could see how we perform and we could be held accountable. Covert political parties, covert political systems, covert political agendas; that is what I wrote down when I was listening to all of the covert stuff going on because I was the one that coined the phrase covert political party which has been running in the Island for the last 10 years anyway. So, is it a good idea to have more open and accountable government? I think I was the one, or at least one of the Members that brought the amendment to the States Strategic Plan that we have more openness and accountability because then we could get to know who was responsible when things go wrong because we do not blame the officers. We can never say that an officer was fired for fouling up. They are either transferred sideways or they go off ill. The fact that they are remunerated is never mentioned. It is never brought to the public's attention as to who has been held accountable, even if they have been held accountable, and then the politicians are made to fall on their swords and there is no accountability. The problem with the public is that they want to see accountability and without being able to see who is making the decisions there is no ability for them to see who is accountable. We have got this weird and wonderful system with the Deputy of this and the Constable of that and we do not know who that is. So, it is all covert. It is all covered up, and I do agree that there are going to be problems if you have a system that is totally open but nobody is suggesting that. We are not suggesting that you have a system where all of the public get a copy of all of the papers, because I am certain ... I would imagine with all of the Chief Officers around the Council of Ministers' meetings there are going to be issues about data protection and tracers in court and all the rest of it and having been a part of the Government before it became an Executive there are times when you hear shocking things and you think: "Oh, my goodness me, that is absolutely terrible" and sometimes you do wish that you had not heard them, but when you watch them being managed in a way that reassures you beyond belief that it is okay your initial reactions are: "Well, it is okay because although it is absolutely terrible, the thing that I have heard is just absolutely terrible, I am being told that that is all fine and dandy and I am here at this moment being reassured it is all fine and dandy."

[16:45]

It is a bit like the hacking thing in England right now, the Commissioner of the Police or whatever saying: "Oh, the *News of the World* are telling us it is nothing to look at so we have decided not to look at it." The same thing happened with the Health Committee when we were told about the seriously abused children that we were having to decide upon and we were told: "Oh, no, no it is okay, it is okay, the police know. It is okay, the social services know. It is okay, the health people know. It is okay the teachers know, everybody knows. It is okay. Do not worry, do not worry, do not worry, do not worry" and then 10 years later having to find £3 million to get them treated and then all of the talk that goes around in the back of Assembly is: "Oh, just try to get the debate over with as quickly as possible, Paul, and do not debate this, do not go into this in great depth whatever you do." So this accountability, is it healthy for us an Island to have a system the way that we have got it at the moment? I do not think it is. I do not think that the actual secrets outweigh the benefits. I think the secrets are just there to protect the systems and the systems are covert and the objective is covert and if we knew what it was that was stopping things coming forwards in an open

and transparent way then maybe we could bring things forwards. We saw today a classic example of that where we have heard from 2008, if not before, many Members espousing the virtues of being able to capture some of the uplift in values and all the rest of it. In reality I did warn the Deputy of St. Mary that it is highly unlikely to ever happen because these are just speeches that we make in here. They do not mean a thing. The reality is that the Government of Jersey has changed. The States of Jersey are no longer the Government of Jersey. The Government of Jersey is run by a Council of Ministers and we have to keep reminding people and informing people, especially with the radio broadcasting, because we will be letting more and more people slowly into the secret that we are no longer the Government. Now, it is a question of whether or not we need to know, whether this Assembly needs to know what is going on at the Council of Ministers. How is it, for example, that the lead Member of the Comité des Connétables gets a seat at the Council of Ministers? How is that happening? Why has somebody not brought a proposition to address that? Why is it okay for the Chief of the Comité des Connétables, head of police, to go and sit in on these meetings? I think I will end by saying here is a classic example of where we are at. Somebody came back and laughed about my reference at a British-Irish Council meeting, I think it was a member of the Isle of Man contingency that said how funny it was when Deputy Le Claire remarked that the Freedom of Information Act was on the B agenda.

8.1.9 The Deputy of St. Mary:

There is an unease, is there not, underneath this proposition? I am not sure I can support it because there are so many issues around secrecy and what comes up in agendas and the practicalities of it, but I want to look at what is driving this and some of the things that have been said in defence of the Council of Ministers' position, well, they make me laugh and they make me cry. We have got in the report: "Ministers are committed to openness and transparency; Ministers are committed to openness and transparency" and we heard the Minister for Treasury and Resources just now talking about what we need is better communication from the Council of Ministers to the Members. Well, let us start with question time. Let us start with having answers to questions, just as simple as that and then you will see just how problematic this whole area is and why poor Deputy Tadier has to bring a desperate attempt to try and get some semblance of - what was it in here - transparency, openness, accountability. Amen, how wonderful that would be. The first example is the incinerator costs. I am sorry to go back to the beginning, 3 whole years ago, but I spent many, many questions, and so did other Deputies, trying to find out what the overshoot was on the euro. I have a written question at home in my files where the Minister for Treasury and Resources says quite blatantly that the overshoot was 3.06 million when he knew that it was not, it was at that time 8 point something and I have not got the exact figure in my head now and he would not, would not, would not tot up the figures that were sitting there in the C.A.G.s (Comptroller and Auditor General) report. The second example is the Minister for Planning and Environment and I remember asking ...

The Deputy Bailiff:

Deputy, would you just recast your mind on what you have just said. You said that the Minister for Treasury and Resources knew that the answer that he gave was incorrect. Do you have a basis for saying that he knew that? The answer may have been incorrect but do you have a basis for saying he knew that?

The Deputy of St. Mary:

Fair enough, Sir, that was a step too far. I cannot know that he knew that it was incorrect.

The Deputy Bailiff:

So, you withdraw that allegation?

The Deputy of St. Mary:

I withdraw that particular part of that statement. The true figure was 8 million plus. What he gave in a written answer was 3 million and people can draw their own conclusions. The Minister for Planning and Environment, I was asking about the pollution incident during the construction of E.F.W. (Energy from Waste) which is up on a website, anyone can see part of the evidence, in fact a fair bit of the evidence but certainly not all of the evidence and to get the Minister for Planning and Environment to say why it was that he had not interviewed, or rather his department had not interviewed the person who took those photographs, the person who effectively blew the whistle and I got diverted. I got answers that did not answer the question and then I asked the Attorney General and then I asked the Minister for Planning and Environment again and then I asked the Minister for Planning and Environment again. It was like pulling teeth and I just remind Members of what it says in that report. Ministers are committed to openness and transparency. That is where this proposition is coming from. I do not know if it is the answer but my God there is a question, and people have talked about consensus. I think Deputy Le Hérissier talked about consensus and polarisation in this Assembly. If we do not have simple information shared ... okay it is a banana skin, it does not look good, it is an important incident, something went wrong possibly and it is like pulling teeth to find out not whether it happened but how the processes of his department worked and what the constraints were on his department. It was very difficult to find out. In the end I found out there were no constraints. They could have asked and they did not. The third example is the terms of reference, it is a different Minister you see, 3 different Ministers. It started with the Minister for Treasury and Resources, then the Minister for Planning and Environment, so it is endemic, and now we have the Minister for Home Affairs. Terms of reference, paragraph (d) of Napier and the letter of the former Chief of Police quoted by the Minister ... no, by the Chief Minister, I beg your pardon, by the Chief Minister, willing to participate fully ...

Senator B. I. Le Marquand:

I do not think this was me. I think this was the Chief Minister.

The Deputy of St. Mary:

I have just said it was the Chief Minister. Yes, I have taken that back. It was not the Minister for Home Affairs; it was about the Chief Minister who repeatedly insisted that the former Chief of Police was willing to participate fully in the review. Well, those words appear in his letter but then there is a comma and then there are the words “provided that” and then the qualifications come, I think 3 qualifications. So, an impression was given that was less than the truth. So, there we have just 3 examples. The 3 examples that I am familiar with as someone who asks questions of Ministers and I am sure that other Back-Benchers have got their own little cache of questions to which answers are less than straightforward, to put it mildly, misleading, whatever you want to call it. It is certainly far short of this statement committed to openness, to transparency, and that is the issue. If we cannot get past that maybe we need some kind of working group or whatever. I do not know quite but this proposition is very limited in its scope in terms of tackling this massive issue which divides us because some have got the information, some are not sharing it, some people simply cannot know what is going on because we are consistently misled.

8.1.10 Senator F. du H. Le Gresley:

When I was campaigning to become a Member of the States one of the candidates, his only punch line was transparency and accountability [**Laughter**] and he repeated it at every husting and I must admit by the end of the trail those words were stuck in my mind but when I listen to today’s debate I think if he was here today he would be standing up and saying those very words, transparency and accountability, because this is what this debate is all about. I know you are an expert on Standing Orders for the States of Jersey but I would like to draw your attention to Schedule 3 which is headed Code of Conduct for Elected Members. I am sure all Members are familiar with this code, particularly speakers who have spoken in this debate such as Senator Ozouf and our Chief Minister, and I would just like to remind them what they have agreed to do in following the code and

thinking of the word transparency, I will transpose that to read openness. “Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest or rules on freedom of information, data protection or confidentiality clearly demand.” I believe that that statement, which we have all agreed to because we are all elected Members, means there is nothing to prevent the Council of Ministers holding their A agenda in public. Secondly, in this document it refers to leadership and I would suggest that our Council of Ministers are our leaders. Certainly that is what I interpret their role as. Under leadership it says: “Holders of public office should promote and support these principles by leadership and example to maintain and strengthen the public’s trust and confidence in the integrity of the States and its Members in conducting public business.” It seems to me that if we do not vote for this very mild proposition by the Deputy that we are saying that our Standing Orders just do not apply to the Council of Ministers and I would suggest that if that is the case then the next step is to bring an amendment to the Standing Orders of the States of Jersey because if we are happy to ignore those principles then we will never be transparent or accountable.

8.1.11 Senator J.L. Perchard:

I am dismayed by this proposition frankly, shocked by the naivety of those speaking in support of it. Jersey’s economy, and Jersey’s prosperity is important to me and Jersey’s prosperity is important to Islanders, and Jersey’s prosperity is dependent on successful business. Jersey is a small island competing in a global trading environment. Whether we speak of airport landing charges, harbour views, the price of potatoes, the cost of a hotel room, we are competing in a global environment. The price of car parking, impôts duty, tax rates, we are still competing in a global environment. We are competing in a global environment so that we can be successful and so that we can create full employment and create taxation in order to support those that we represent. When deciding on strategy to ensure that we have a successful business economy there will be disagreement among those at the helm and sometimes very vociferous and vocal disagreement. I have been on the Council of Ministers for a short time and I have seen it. It is not all honey and sweetness. There is often very robust argument and it is important that it should be like that. It is important that all serious decisions of this standing and calibre should be made through robust discussion and if necessary argument, and I do not believe it is in the public interest for this to be displayed. I think what is in the public interest is the Council of Ministers explores all options without fear of, as one speaker said earlier, I think it was the Constable of St. Helier, maybe saying something off the wall that gets quoted in the media. The Council of Ministers should not be burdened by that fear. The Council of Ministers needs to function in the best interest of Islanders and the best interest of Islanders is without doubt served by a Council of Ministers that has robust debate, and if necessary argument, comes to a conclusion and makes a recommendation for this House and this is the place where that argument can be heard publicly. But, until that point a policy needs to be co-ordinated and formed by the Council of Ministers with dignity and in privacy.

[17:00]

8.1.12 The Deputy of St. John:

In my time in this Chamber I would have worked on both the Executive and now on the other side away from the dark side as some Members call it. Thinking back to the times of some of the work we had to do when I was on the Executive side of the Chamber, yes it would be nice to put everything in the public domain but how on earth can you put contracts ... you are talking about people quoting in contracts for the development of the marina shall we say, use that for an example. How can these things all be discussed in the public domain when there is competition and we are deciding for what reason we are coming down £100,000 on a contract of X number of million in favour of somebody’s £100,000 or £200,000 more expensive than the other? We are playing right into the developers’ hands. It might be that we are dealing, when I was on the Education

Committee on the Executive side there, with issues to do with families, the children, maybe children who with special needs, maybe children where there were problems at home. How can that be put in the public domain, everything in the open? This is absolutely ludicrous. Now, coming across the Chamber to where I sit today as a Chairman of Scrutiny, once again, yes we do as much as we can in the public domain but there are issues where a department is disclosing information to you which is very sensitive because contracts yet again will not have been signed and therefore they will only show you the information that you are calling for in a confidential nature because that cannot be put in the public domain, and it works on both sides of the Chamber. Contrary to the way it was described by the proposer earlier, I cannot see how this House, how this Government could operate in any other way than to have certain closed meetings. Yet again when I was on the Home Affairs Committee prior to it being a ministry, I can recall sitting in the parish hall at St. Ouen around the table being advised, I think it was by yourself as the Attorney General of the day, on certain issues and how money was being spent, et cetera, within the Law Department, but all these things have to be done in a confidential manner. You cannot put everything in the public domain, as much as we would like it to be, as much as we would like it to be. I was listening to the Connétable of St. Helier earlier saying that his meetings are done in public, et cetera, and yes, we have had parish meetings in St. John. We will be having one shortly for our rates, et cetera, and that is the time for the public to question the expenses of the parish, but drawing all that together in the first instance the Connétable and the Procureurs will have done the necessary work with the accountants of the parish. Those people, while they are adding all the sums up and there will be obviously bits and pieces that will be questioned at the time by the Procureurs, that is why you have elected these people, then they may be looking at the roads accounts and therefore the Roads Committee will be having to stand to account for the way they have spent their money but that happens at the parish assembly. Really, I think wanting everything in the public domain to run an Island the way it should be is nigh on impossible. We would all love to live with utopia but that is not going to happen, Deputy, because as far as I am concerned I want to pass our Island on in good fettle to our children and our grandchildren so that they know that the people who have come before them will have put the right building blocks in place and therefore I cannot support this because it is far too dangerous to do as the proposer would like.

8.1.13 Senator A. Breckon:

Just a few words. I remember in the first period of Scrutiny where we did a road show and we held the Scrutiny Panel meetings at a number of parish halls and people did attend and then there were some logistical things where: “Well, what are you discussing? We do not know what you are talking about. Can we have some papers?” So, we organised that. I know we certainly used that at St. Brelade and St. Saviour, and I think there was another one we did as well, and some people occasionally attend the panels here. I was triggered to speak when Senator Le Gresley raised the issue because I remember over the years we have had various debates on Strategic Plans and then when he was saying that somebody would say: “Well, that is not my understanding of what it means, that is what it says but perhaps you have not got the interpretation right but it is written there and that may be something for another day” because the old school may question: “Well, okay it says that but this is how we do it.” The other thing many years ago in the U.K. there was a planning issue and my mother was not happy about something and she said to me could I find out and I thought well how do I find out about what is going on here in the local authority and I went to the library. I said to the guy: “Well, this is the question.” He said: “Well, all the papers are there.” What they did on the library shelves for each section of the planning thing, 10 meetings and papers attached to it rotated and the last 10 were on the shelf and the others were archived and then eventually they were doing that and I was surprised, very surprised I must add, about how transparent it was. Now, the reason I say that is things were anonymised in that if a number of people had objected to something or had an issue then it could be 7 people objected. It did not say they lived at 6 Smith Street and it was Mr. Jones, they did not go into that sort of detail, and the officer’s paper, again if there had been submissions, the submissions that came, unlike ours, were

anonymised. Sometimes I think what we have here and we have gone from an extreme where perhaps there were a number of what may have been considered with a committee system are a number of leaks that were damaging to us and to former presidents and committees because with 7 people there was more chance of getting a leak to the media than there was with one. Then perhaps maybe we have got a bit too precious about information being the power and sharing that. There needs to be a balance between discussing issues that concern us all and then information that could be confidential because of commercial aspects, contract, personal, delicate issues. We are all aware of that and we have dealt with that in another way and I do not think that is the issue here, but then if there is a major policy issue, if you take say traffic and transport, why should the Council of Ministers not engage whoever wants to engage and the various Ministers who have some area of responsibility make their case and you have in effect a debate that the public can watch but cannot necessarily join in, although some authorities do allow people to question people on policy things. If we think of major problems that we have got looming about health, about social security and elderly care, why do the Council of Ministers not, instead of doing a consultation around somewhere or other and try and wheel the public out when they want to get a rubber stamp, engage them as the policy develops and say these are the issues instead of doing it in a silo? The issues facing health are not just the Minister for Health and Social Services, they are all issues for all of us, how we pay for it and how we deliver it, so I think it would be good and healthy to have some of that. The other thing, to be cynical for a while, the A agendas and minutes, I think that is why that cross is on your computer email system because they are an absolute waste of time. They are tea and biscuits. It is a waste of time circulating that. The other thing I know is in my time as a Chairman of a Scrutiny Panel when I had to sign a confidentiality agreement to receive papers and I got them I thought: "What have I signed an agreement for with this? It does not say anything." It is not information that I would consider confidential, so I think there has been some perhaps not abuse of process but the process has been stretched to some limits. Now, if we can open that up and engage the public, because the decisions eventually will belong to them, then I think that is good and healthy. This in itself may not be enough because it is about us engaging more with the public than we do, but perhaps it is a step in the right direction and maybe it could be considered as how could we do it rather than we cannot do it; is it half-full or half-empty. I think it is a positive step forward and I know with the first Council of Ministers they did say: "Well, maybe we have not got this quite right with the business plan, the Strategic Plan, how we publicise things and how we portray ourselves" but I do not think it is right for the Council of Ministers to have a meeting and then there are 4 to 5 press releases about something or other. Perhaps they should engage with all States Members and with the public better and this might be a way. Although perhaps it is not quite ideal, it is a step in the right direction.

8.1.14 Deputy G.P. Southern:

I suppose the question here is how do we involve the public more in the running of our Government and how to explain to them who does what and how it gets done, because they do not know at the moment. The number of people who come to me and say: "You, you run the Government"; I have to say to them, I only wish I did. No, I do not run the Government. The Government is 10 Ministers and the Chief Minister; the rest of us here are just here to make the numbers and to run Scrutiny. How do we get people more involved? How do we get the Members of the Government involved?

The Deputy Bailiff:

We are currently inquorate. I ask Members in the precincts to return to the Assembly room.

Deputy G.P. Southern:

So, with typical verve the Minister for Treasury and Resources condemns this and he calls it extreme. Extreme; it is a new definition of extreme to me. This is a very modest, moderate proposal. It has stuck very clearly with the A agenda and making decisions as to what you can put

on the A agenda safely. It does not say, as some have suggested, especially the Minister for Treasury and Resources, that this is an extreme version and that we will have to give away all our heartfelt secrets and all our plans and all our devices to all and sundry, especially our competitors and therefore it will be an absolutely horrific prospect. The fact is that on Scrutiny we are leading in terms of public awareness and public involvement.

8.1.15 The Connétable of St. Lawrence:

I wonder if the Deputy would give way, because I believe he has inadvertently misled the House because he is referring to the fact that this is clearly the A agenda and the A agenda is not mentioned at all in the proposition.

Deputy G.P. Southern:

I do believe the conclusion can be drawn from the proposition that a form of words on the proposition enables somebody to say what goes on the A agenda that could be public and what goes on the B agenda that will be private because, as it says in the proposition, it is entitled to discuss in private. We know what those are and we colloquially refer to them as A agenda and B agenda for convenience. So this asks us to take one small step and to share the burden of trying to involve the public more between us. Let us not leave it to Scrutiny, which is open to the public most of the time. Let us get the Council of Ministers doing exactly this and it is certainly not extreme. It could go a little bit further from those automatically A agenda items. I think there is absolutely no reason, when a Minister comes to the Council of Ministers, which I believe is the process, with a Green Paper nearing its end and just wants the sanction of “have I got it right” from the Council of Ministers, why that should not be an open meeting. “There is a Green Paper, here are the options, here is how we arrived at the options explained to you and explained to the public at the same time. Is that clear?” and hopefully involve the public at the same time. Ditto; why does that not happen when a White Paper is coming close to its final form? That could happen and could be involving, if the routine is that people are invited along to see how the decisions are made.

[17:15]

Senator Perchard seemed to assume that the only function of Government is business and that inviting the public in to see business being done, because it gets passionate and committed and argumentative, might put them off; it might encourage them to see anyone showing a bit of passion and commitment to running the Island. The key to the argument there was that Government is not business. Even business opens itself up to its shareholders from time to time and its shareholders occasionally react and tell the managing director that he is not getting his bonus this year, increasingly. I think the arguments that have been put forward so far are very thin. I think there is no reason why we should not make a small step towards greater openness and put the fine words of the Council of Ministers and indeed Standing Orders into practice.

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

I rise to say that I entirely agree with what Senator Breckon said in that we need, as an Assembly and as a Government, to engage much more with the public, but I am not convinced that this is the way to do it. The past has not shown that openness is the way to achieve it. When the States have put on road shows they have been very poorly attended. The public have not tried to engage with us when we have tried to engage with them. I think that my argument is ably supported by what Senator Le Gresley said. Senator Le Gresley pointed out how one candidate in the election in which he stood, stood on a platform of transparency and openness. The Senator said it was mentioned at every hustings that this man went to. That obviously had a great impact with the public because Senator Le Gresley sits in the House today and this Member is sitting at home twiddling his thumbs. [Laughter]

8.1.17 The Connétable of St. Saviour:

I think we need to be a little bit careful about this; it is something that I think we all support in theory but I would just like to read the proposition to Members. I am sorry if it is a repetition but I think it is important: “To request the Council of Ministers to hold its meetings in public except when the Council is discussing any matter which by virtue of any enactment or code is entitled to be discussed in practice.” There is no mention of A and B agendas. While we all want openness, we have to be practical and the problem with this is that any discussions on policy are likely to have long-term cost effects, they are likely to have legal implications, and what will happen is that nothing is going to be discussed unless it has been fully researched. Nothing will be brought out and discussed as a preliminary idea because you cannot risk that, it is out in public. It means that all of these discussions would go to a B agenda. It means that we would force the discussions into private meetings. Any government needs a balance in openness and sensible confidentiality. I do not think we have got it right at present but we have got to be realistic. I fear it would have exactly the opposite effect of what we want and it will drive decision-making below ground. We need more communication and better communication but this projet will not result in better government. It will mean that the meetings are going to be nothing more than bland press releases and they are not going to be proper discussions. I would love to have voted for it but I really cannot as it is written.

8.1.18 The Connétable of St. Brelade:

I do not dispute the philosophy of transparency; I do not think anybody does. But clearly I think, working backwards, we have to understand that this is the debating chamber, our deliberations are public and all Members speak accordingly, whereas I think that Council of Ministers meetings are to enable Ministers to formulate policy by bouncing ideas off others and that inevitably improves that policy and that policy then is improved prior to its presentation here to other Members. I think there is a risk of debates in this House haemorrhaging and the Council of Ministers becoming impotent. I can see the corridors of this building becoming busier. I would urge Members to reject the proposition.

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

Very briefly, I think either adopting or rejecting this is not going to make much of a difference because there has been discussion about B agenda items. If we adopt this proposition, all that is going to happen is everything is going to be shoved on to the B agenda items but that is where they are already so what is the difference? What is going to change, because that is where they already are? So that is why I do not think adopting this is going to make an iota of difference whatsoever. That is all I have to say.

The Greffier of the States (in the Chair):

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

8.2 Deputy M. Tadier:

Thanks to all those who thought to contribute even though it does unfortunately hold the real business of the Council of Ministers, which was initially discussed, no doubt, in private, behind so that it can come out to the fore. If it is okay with Members I would like to test the mood of the House and ask for the rest of the debate to proceed in camera and that is because I have some very robust points of debate that I want to put across and I am scared that I will not be able to do this unless it is in secret because the media may misreport and the points may be misconstrued. Of course that is a joke because I am aware that Government is conducted in public and that all afternoon we have been conducting this debate in public anyway and I do not think it has stopped anybody from putting a point across with a lack of robustness or a lack of conviction or the risk that something they might say would get reported in the media. God forbid that that should ever happen; something a politician says in public. In fact many politicians, I think, at this time of year want what they say to be recorded in the media. It is often misconstrued as well and so I think

some of the arguments that have been made for the secrecy to be continued in all Council of Ministers meetings are spurious. I am sorry if that came across as slightly sarcastic; it was not meant to be. It was a way in which I thought it was appropriate to make a point which I found very frustrating because I found it very spurious. The reason I came up with the idea of this proposition in the first place anyway is because I have become increasingly frustrated with the availability of information and I think that that frustration is echoed by the public and part of it is because of the feedback I have had from the public. I can trace it back to one particular event and that was the event which Senator Perchard ironically was instrumental in bringing to the fore. That was the fact that £800,000 worth, we think, of taxpayers' money was given as a golden parachute to 2 top civil servants. This was a decision that was done in secret. We still cannot even get the exact information surrounding that sum; who made the decision to do it and the policy or decisions, whether they were ministerial decisions or whether they were civil servant decisions. We do not have that information and when the public come to us and ask about this issue we have to say as elected representatives that we do not know what the story is there, I am afraid, because these decisions were made behind closed doors, so we do not know where your £0.8 million went in the first place. I would suggest that if that decision, the decision to put a golden parachute in place when a civil servant resigns - is not sacked but resigns or retires - that decision would never have been made in the first place because it would not have been able to stand up to public scrutiny and that would have been one of the positive aspects of having meetings in public. Deputy Southern quite rightly and quite adeptly batted the other spurious argument about we can never have public meetings to discuss commercially sensitive issues. Of course we should not do that and this is not what the proposition is proposing. I have been quite clear, in the second part of the report and in the wording of the proposition itself, that this is exactly the kind of thing which I would hope the Council of Ministers would not put on their A agenda, the part which would be open to the public. When I sum up I will give some examples of things that could be quite easily and quite constructively put on that A agenda which would be open to the public. We have had the argument that nowhere else in the world would do this so why should Jersey be any different? Why is Jersey unique? I was under the impression that Jersey was unique. We are told constantly that Jersey is like no other place; it is unique for so many different reasons. It would be really good, I imagine, for those of us who have had the opportunity or will have the opportunity to travel abroad, whether it is to some meeting in France of the Conseil Général, whether it is to do with the Commonwealth, whether it is to do with the Anglo-Irish Council or the British-Irish Council, to say: "Did you know that we have our cabinet meetings in public, or at least some of them in public?" They say: "Really, I have never heard of that anywhere else before", and we say: "Oh yes, we do it in Jersey", and they say: "Well, that is really good. We thought about doing that, we do have a commitment to transparency as well." Of course there are cabinet meetings that do get held in public. Quite a quick glance on Google shows that, while maybe I cannot speak for national governments, certainly there are no shortages of those who do hold theirs. One example is British Columbia. Unfortunately I do not have a sizeable screen so I am going to have to strain my eyes and read from the BlackBerry. I do hope that we can make an exception at some point and at least trial laptops. On the website of the Government of British Columbia it says: "When in session the open cabinet meetings are broadcast live on local legislative channels" and it says that in an era of transparent and accountable government, cabinet discussions have been opened up to the public and are regularly scheduled to be open cabinet meetings. This is in a jurisdiction which no doubt has a far bigger budget than Jersey, which I am sure also needs to make very confidential and sensitive decisions to do with spending, to do with buying power, to do with contracts that are awarded to construction firms and I am sure that the relevant safeguards are taken in place. So, what I would say is that we are not trying to reinvent the wheel here; there are precedents for it elsewhere. While I really appreciate the theoretical support for this proposition, I would like a bit of practical and material support for it as well. Some arguments have been made that we might make worse decisions. This is the kind of argument that was given during the freedom of information discussions in P.P.C., saying the logic goes that lawyers might not want to give out frank legal

advice if they think that there is a possibility at some point in the future that it could be subject to challenge. The opposite is entirely possible and many consider that the case. I did speak to a lawyer friend of mine at the time and he said: "I think it is exactly the opposite; one would give better advice because one knows that one is more likely to be scrutinised." That is exactly why we have open and transparent theoretical government. So I do think that there has been a lack of vision. I think that the Council of Ministers have missed an ideal P.R. (public relations) exercise for this. The headline tomorrow could have been: "Council of Ministers open up their meetings to the public." What it will be tomorrow is probably nothing to do with this debate anyway but if it were in an imaginary world it would be: "Council of Ministers vote to maintain secrecy within keeping of the Strategic Plan"; not the words of the Strategic Plan but the spirit of the Strategic Plan. We talk about official and unofficial meetings; well, they already exist. We have an A agenda, we have a B agenda. You have meetings which are nice and fluffy to which on occasion they will invite Assistant Ministers, like my colleague on the right who may know of that first hand; they will allow those Members to attend. When the hard core decisions are being discussed secretly it will just be the inner circle which may not even be the full makeup of the whole Council of Ministers. There is currently a disjoint between the public's votes and what we get as the Council of Ministers. This would at least be one step to open up meetings for the Council of Ministers. Irrespective of the numbers that turn up, we could say that we are going to shut the public gallery. I cannot see how many there are today. So we will say we will shut the public gallery because there are not that many people here today and it is cheaper to do that rather than employ somebody to stand downstairs and listen on a radio and get very bored, which I know they regularly do. So we will just shut that down because it is not financially viable to have it open. I think simply the act itself of opening up Council of Ministers meetings in some circumstances but on a regular basis would in itself be inherently good and it would engender public confidence that we are putting our actions and correlating them with our words. I have covered the fact that the same arguments could be used for the States Assembly.

[17:30]

I have made the argument in the past that at the time when the *Hansard* was being produced in the U.K., the idea of it, before 1771, I was reading on a website the British Parliament had long been a highly secretive body. Well, one could say the same about the Jersey Government. The point is that this is incremental change; it is not a radical proposition that is being brought. National Cabinets have mooted the idea of not simply meeting in public but webcasting, as Deputy Le Hérisser alluded to. Certainly in the U.K. the Liberal Democrats have in the past talked about it. There was an incident, I think, in New Mexico where the Governor, Susana Martinez, tabled a motion for web streaming cabinet meetings in that State. Again, these are not unique ideas and they are things which can easily, and I would say they will, come to pass anyway. This kind of transparency is the way to go. Why do we not simply pre-empt and be at the vanguard of transparency rather than waiting until the very last moment when we have to and we are forced to open up and become more accountable? Why not also combine it with a press conference? I have heard from some of my contacts in the media that the press conferences that used to take place after Council of Minister meetings no longer take place. I am not sure if that is the case; I believe that is the case. Why not have open discussions where questions could be taken, perhaps even before the Ministers go into the secretive part of their meeting so that their ideas can be broadcast to the public in that way? I am just scrolling down to point 15; 14 first. The Constable of St. Lawrence talks about no mention of B agendas. What I would argue, if we look at the wording, is that the proposition is even more flexible than simply limiting this to B agendas. It allows for any decision except when the Council is discussing any matter which by virtue of any enactment or code it is entitled to discuss in private. So it can say already these things are entitled to be on the B agenda. They can just say: "This needs to be on the B agenda, it is sensitive information, therefore we will not hold it in the A agenda." Similarly, it may well be, as the Constable of St. Helier alluded to,

there might be things on the B agenda which have no place being on the B agenda, and they are being overly cautious that could be moved to the A agenda. But what I would like to do is give a scenario. We have heard a lot of, I think, false arguments being made that sensitive information is going to be discussed. That is not the case. The proposition makes sure that is not going to be the case and the Council of Ministers are not so stupid as to discuss sensitive information in public, even were this proposition successful. What a scenario might be is that the Council, sitting around the table, the public are there, the media are there, the bloggers are not there (they are there but without their blogging equipment because, of course, they would be the only ones who are there initially representing the public) and the Minister for Transport and Technical Services comes in, who may still be Constable Jackson, and they say: "Constable have you got anything to report?" So he says: "I would like to give an update on how the new buses are working. We have got new buses running in the Island. They are double-deckers, they have taken on X amount of passengers in the first month. We are very happy with them." "Okay. Are there any teething problems?" "Yes, we have got some teething problems with them. Certain parts of the roads are too narrow, the wheels are too long so we are looking into that at the moment." "Okay, anything else?" "Yes, we are perhaps looking at oyster cards tentatively. We are not sure if we can work them but we can discuss that later on in the meeting." The worst case scenario there is that the headline reports that the roads are too small and that oyster cards will be introduced even though the Minister said they may be introduced, which is what happens already, and it says that one of the Assistant Ministers is yawning in the background but that probably would not get reported anyway. I make no apologies, incidentally, for bringing this proposition. We have another scenario where, for example, the Minister for Health and Social Services also is brought to the table. "Do you have anything to say, Minister?" "I would just like to say that we have taken on 30 new nurses this month but we have only got 5 vacancies which is roughly what we were expecting." This is not the material that needs to be kept secret. It is material which we would have to be asking for in States' time, which we would have to be submitting written questions for, which we would have to be submitting oral questions for, which would go to the Greffier, which the Greffier would then draft, which would then have an implication for cost, which would come back. Then we would find it to be deficient because it did not give the information that we wanted it to in the first place and we would have to stand up only to be told to sit down again because in fact there is no time left to answer any questions. So it would be a lot easier if we got the information in the first place, if the information was volunteered. I am slightly disappointed with the Deputy of St. John because I hoped, first of all, that I had corrected this idea that he had that confidential information would be put forward. I know he is one of the ones who, like me, feels the frustration when information is not forthcoming. I will find it, frankly, very strange if he votes against this proposition. I do not want to hear him complain again about not being given information when he has voted against the possibility of making our Government more transparent and open. The last one is a very good one from, I think, the Constable of St. Saviour who says that this is a nonsense apparently, that this will not make the meetings more open, that this will force the meetings to be in private. Imagine that, we certainly could not have private meetings so if we vote for this there is a risk that the meetings might become private but my understanding was that they were already private anyway. As Deputy Maçon said, I think the only thing that we can do, if we want a small risk of them being open, is to vote for this proposition.

Deputy J.M. Maçon:

I do not think I exactly said that; I think I said it would not make any difference either way.

Deputy M. Tadier:

I am not sure I understand that. Would the Deputy like to clarify?

Deputy J.M. Maçon:

If I may clarify; I believe the Deputy said that I had said that the only thing to do was to adopt this and that is not what I said at all.

Deputy M. Tadier:

Okay. I did not mean to say that. I thought I was saying that the Deputy said that this would not make a difference either way so that is why we should adopt it, because the only way it could possibly make a difference is if we did adopt it, because that is the only way we are going to get any of the meetings to be held in public. I wonder if Members, when they voted for this part of the Strategic Plan to do with openness and transparency, realised that there were consequences to that vote, because I did. This is a direct consequence of Members having voted for this. Also, is this the same Assembly that was voting for the Freedom of Information (Jersey) Law which, I think, went through more or less unanimously? I think it is the same Assembly but I have a sneaking suspicion that they will not be supporting this today. I look forward to the day, nonetheless, when we can have a Council of Ministers and an Assembly which can accept a proposition like this, which is uncontroversial, quite frankly, and it would be much more politically expedient. I am sure, if they employed perhaps a Communications Unit who are perhaps slightly more savvy, they would have given the advice that the Council of Ministers would have been a lot better to just adopt this proposition. It would make them look good when, in fact, as Deputy Maçon said, it would not make any difference because they could still be equally as secretive anyway. So that is the advice I would give to the Council of Ministers. The lesson we can learn from this is that perhaps either listen to the advice of your Communications Unit, who I hope some of them would have given you that advice, or just sack them and then you could at least pretend to be more open, because, as Deputy Maçon says, one would not have to be more open anyway. In that sense, I think that would have been something which could have been adopted quite easily. We could have set a good mark in the sand, but unfortunately what we will see if this vote is not successful is the fact that the words in the Strategic Plan are simply words and there is no intention of the Executive of this Government, as it currently stands, to be transparent and open in any meaningful kind of way.

The Greffier of the States (in the Chair):

The appel is called for on the proposition of Deputy Tadier. Members are in their seats. I will ask the Deputy Greffier to open the voting.

POUR: 13		CONTRE: 28		ABSTAIN: 1
Senator A. Breckon		Senator T.A. Le Sueur		Deputy of St. Mary
Senator F. du H. Le Gresley		Senator P.F. Routier		
Connétable of St. Helier		Senator P.F.C. Ozouf		
Deputy R.C. Duhamel (S)		Senator J.L. Perchard		
Deputy of St. Martin		Senator S.C. Ferguson		
Deputy R.G. Le Hérisier (S)		Senator B.I. Le Marquand		
Deputy J.A. Martin (H)		Connétable of St. Ouen		
Deputy G.P. Southern (H)		Connétable of Trinity		
Deputy P.V.F. Le Claire (H)		Connétable of Grouville		
Deputy S. Pitman (H)		Connétable of St. Brelade		

Deputy M. Tadier (B)		Connétable of St. Saviour		
Deputy T.M. Pitman (H)		Connétable of St. Clement		
Deputy D.J. De Sousa (H)		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		

The Greffier of the States (in the Chair):

Very well, the next item listed is P.104. I was not sure, Deputy of St. Mary, if that was a matter that had been deferred or if it was being taken at this stage or have you ...

The Deputy of St. Mary:

I am quite happy to take it now. I think that is how I might interpret this note that I had from the Chairman of P.P.C. now.

The Greffier of the States (in the Chair):

Very well, it is listed next. I will ask the Greffier to read the proposition.

9. Migration and Population Policy: Review (P.104/2011)

The Deputy Greffier of the States:

The States were asked to decide whether they were of opinion (a) to suspend the present policy of net inward migration of 150 households each year until a debate has taken place on the future of migration and population policy and in the meantime to aim for zero population growth; (b) to request the Council of Ministers to commission an independent review into why the population policy of the last Strategic Plan 2006–2010 was not adhered to, how the mechanisms for controlling

the population failed and the implications of that failure to comply with the decision of the States and to report the findings to the States; (c) to request the Council of Ministers to lodge its 3-yearly revision of the policy on population as stipulated in the current Strategic Plan for States debate in 2012.

The Greffier of the States (in the Chair):

I call on the Deputy of St. Mary to propose his proposition.

9.1 The Deputy of St. Mary:

I think a good place to start is field 528; I think it is the field opposite St. Saviours School. That was a wake-up call. That was an open field in a very built-up parish, a field that for many aroused very strong feelings that it should not be built on. I think, for me, it marked some kind of Rubicon and I think possibly for others too. Where does this all end? I raised this matter in the Strategic Plan debate in 2009 and I make no apologies for bringing it again in 2011, 2 years on into the policy that we adopted then, and particularly no apology for bringing it a few months away from an election, because I think it is important that the public know where their candidates stand on an issue which is absolutely fundamental to everything that we do. The point about that was made most clearly in the Island Plan debate that we had where Deputy Le Claire brought it very forcibly to our attention that population and the calculations around population were absolutely the basis of everything we were discussing. When it came to the rezoning chapters of the plan it was hunt the site: "Not in my parish, not in my parish", and people who had voted in favour of increasing the population stood up and said: "Not in my parish." I have here, just as an example, from *Hansard*, Constable Norman talking about Samarès Manor: "So to fill them and indeed to build all these extra homes we will need to import people, and therefore increase immigration which is exactly what Deputy Le Claire and, indeed, most of us, do not want to happen."

[17:45]

Deputy P.V.F. Le Claire:

It was the nurseries, not the manor.

The Deputy of St. Mary:

It must come from my guiding days; I meant to look at manors and not nurseries.

Deputy P.V.F. Le Claire:

Because I am in enough trouble down there in St. Clements without this. **[Laughter]**

The Deputy of St. Mary:

Samarès Nurseries. I do think this is time to sharpen our pencils and see if we can be consistent. We do not like the consequences of never-ending population growth but when it comes to voting on it, well, we will see. First of all, the 3 issues at stake. The first paragraph is about suspending the present policy of increasing the population, or rather that is not the present policy; the present policy is that we have net inward migration of 150 households and the first paragraph is to suspend that. I think that what is at stake is the future of the Island, as I have said around the Island Plan. It is absolutely the key assumption which affects everything else. I would say that it is inevitable that one day the Island is full up so why not save it now? I will be addressing the problems that we face and how our population growth makes it almost impossible to do that and creates more problems than it solves. The second issue is the Council of Ministers' ability to control the population. We talked about this when we discussed the control of Housing and Work (Jersey) Law but I believe that in the past we have set targets in this House, recommended to us by the Council of Ministers, which have then been not met and we have to find out why. The third issue is that the result of the review that the Council of Ministers have to conduct next year into the population issue; that will have to come to this House whereas at present that is unclear. So, the debate on population cannot

be swept under the carpet; it will have to be aired. The new policy will have to come to this House for debate. The first thing to be clear about is that this debate is not about the mechanism, and I fear that it is an easy blind alley to go down, whether or not we have a mechanism, et cetera. But the mechanism is not what the debate is about. In P.37 and P.38 we have, depending on your point of view, strengthened the mechanism for controlling population; or we have not strengthened it. We have improved our information, we have improved our feedback but we have not strengthened the mechanism. Either way the tools are the same. The tools under P.37 will be the same whether we aim for a steady population or whether we aim for plus 150 households net inward migration. That is why part (b) of the proposition is so important, because that looks at why it is when we set targets in the past they are not met. What this proposition is about, it is not about the mechanism, because we could talk about that all day and it is the same whatever the target is. What it is about is the population. It is not about net inward migration on its own and it is not about births over deaths on its own; it is about how many people do we think should live in the Island. If we leave out one or other factor then, of course, we find ourselves talking nonsense. Any target for population must take into account births over deaths and they are currently running at around 240. There is an excess of about 240 more people being born than are dying, so there is a natural population growth happening anyway. Now, that is strange, and the reason I emphasise that point is that both the last targets, the target set by the Strategic Plan in 2006 and the target set by the Strategic Plan in 2009, omitted to mention births over deaths. They totally ignored whether deaths were exceeding births or vice versa and yet they have just said 240 is the amount of natural increase. We cannot have policy built on sand, especially when it is this important. It is astonishing that we simply overlooked that aspect and the Council of Ministers, in bringing forward policies, overlooked births over deaths. The second factor is net inward migration. The ebb and flow, we are told by the Statistics Unit, is around 2,500 people a year in each direction. So, if you want to correct for the 250 excess of births over deaths, then you let in 2,250 and you allow out the 2,500 who are leaving anyway. You just adjust downwards by 10 per cent the number of people coming in. So, the notion that aiming for a steady population involves stopping immigration or a closed door is pure fantasy. How can it be a closed door when 2,250 people are coming through it? It is clearly not a closed door in any sense of the word. It is interesting to note that it is not just States Members; our dear local paper had a headline on this proposition "Call to freeze the population" which excited much jovial comment about lack of insulation in old people's homes and so on but that is not what it was about. Anyway: "Call to freeze the population", then underneath that the first sentence of the story was: "Immigration should be frozen." I had to write a letter to point out that those 2 are not the same thing. The confusion is very easy to slip into, that we are stopping immigration by adopting this proposition. We are not. There would still be roughly 2,250 people coming in. It is an easy mistake to make but it is not academic and if we look at the comments of the Council of Ministers, there we have it again, the same concept that by adopting a steady population policy everything stops in terms of immigration. What they say is a sudden shift to a zero population growth policy would also mean that businesses would be restricted in recruiting specialist and skilled workers from outside the Island to steer activities which would provide opportunities for some of those currently seeking work. I have put in the margin: "No." It just imposes a duty on those responsible to choose, to select, which is what they do anyway. On Economic Scrutiny I have seen the lists of the ministerial decisions saying no to this business for a licence to import more people, and yes to this business for a licence to import these people. Those decisions about whom to allow a licence to, who can bring more people in and who cannot are being taken right now. So, it is not a question of closing the door, it is simply a matter of selecting, which is what we do anyway, solving the problems we face and creating more problems than it solves and at present we have a treadmill. We are on a treadmill and I would just give Members the figures for the build rate and then the waiting list. The build rate: in the 15 years between 1986 and 2001, Jersey was building 366 units of accommodation every year; 366 every year for 15 years on average. In the 8 years after 2002, 540 units of accommodation every year and we now propose to build another 4,000; another 400 every year. The first point to make is obviously it cannot go on. I would refer

Members, if they want to look, to the back page of my report where I list the 1999 list of social housing schemes supported by the Housing Development Fund. This takes you back in time to St. Paul's Gate, La Folie, Berkshire Hotel, Mont Millais Postal, Town Park Hotel; does anyone remember these sites? Albert Pier, Le Coie; some of these are big, big sites and it goes on for an entire page and yet we are still not there. So, those sites were not enough; we have to do that all over again. The waiting list has gone from 807 in 1990, in the year 2000 it was 405 and in 2010 425. The waiting list obstinately remains and the houses go on and on and on being built, so we are no nearer to solving the problem. We just push it off. That is the second point; it is a permanent housing shortage that we are creating with present policies, a permanent housing shortage and we all know what the results of that are. The first result is, of course, spiralling house prices beyond the reach of most Islanders. That acts not only, of course, as a dampener on people's ambitions here on the Island but it also acts as a block on returners who might wish to come back and inspire these industries, take up new ideas in the economy, but they say: "I will never be able to own my own house," spiralling rents of course and a rise in the underlying land values. Both of those may sound academic but they come straight back to the taxpayer in the form of increased bills, increased bills for rent support, increased bills ... now, for instance, the Sunshine Hotel site; that had to be bought at whatever the land value was. The land value, of course, is inflated by the scarcity so we paid, I think, £2 million. We paid a lot of money for the Sunshine Hotel site. We then found we could not put the social housing on there that we wanted to because it was too expensive, so then we had to sell it and so it went on. But there is a cost in there to the States of this madcap treadmill. Then the classic quote from Senator Breckon in the debate on G.S.T.: "You cannot afford where to live, here is some money." Of course it is the States, that is, the taxpayer, who is finding the money. Another effect of this endless treadmill is the division between town and country. This really does hurt me. Which is it to be? Where are we to put the houses? Are they going on field 528? Are they going on the field next to Coronation Park, which is now a little footballing place, and the field above it? Where are these houses going to go? Or are they going to go in town filling up every last space? I feel that that tension between town and country ... we saw it in the Island Plan. We saw people voting to have it somewhere else and if we go on like this we will go on voting for everything to be somewhere else and that is no model for an harmonious society. Solving the problems, and we are told by the Council of Ministers that we need more people to come in to solve the ageing society. Well, the first thing is that their own figures show that the additional income from these people over and above what they cost society would be a 19th. Well, a 19th, you really have to weigh that up against the problems that are caused by rising population. The second point is that the support ratio, which is the number of people in employment divided by the number of people who are over employment age, goes from 4.4 in 2005 to 1.9 or it goes from 4.4 to 1.75. It is a huge drop anyway and the difference of having a lot of extra people coming in is very, very small, because the numbers of ageing are growing far, far faster. The solutions will have to be community solutions; they are more important than bringing more people in. We are going to have to box very clever to create a good future for our elderly and our attitude to the elderly is going to have to change. We are going to have to completely reassess how we deliver services and how people can help each other in the community. It is not going to come from 150 heads of household coming in who themselves, of course, will become old.

[18:00]

The Connétable of St. Ouen:

If the Deputy will give way? Can I propose that to give the Deputy a chance to get his breath between this and the next session that we adjourn now?

The Greffier of the States (in the Chair):

I was wondering how long the Deputy. If you have much more to go I think we will want to adjourn.

The Deputy of St. Mary:

Ten minutes maybe; I think it is best to adjourn.

The Greffier of the States (in the Chair):

Very well, if Members are happy to adjourn the Assembly will adjourn until 9.00 a.m.

ADJOURNMENT