

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 2nd JULY 2013**

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[9:30]

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

## **COMMUNICATIONS BY THE PRESIDING OFFICER**

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

We start with A, Communications from the Chair. I am very happy to welcome His Excellency Lieutenant Governor as usual. **[Approbation]**

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

Can I also announce to Members that there is going to be a change to the order of questions? Deputy Higgins, I am pleased to see is still here, because his questions to the Solicitor General are going to be taken first. The reason for that is that the Attorney General is unwell, so the Solicitor is standing in for him, and the Solicitor General has to be in court in approximately three-quarters of an hour, so we are going to take those questions first. If Senator Routier has not returned from opening the event on behalf of the Chief Minister, we will take the question from Deputy Maçon when he returns to the Assembly.

[9:45]

## **QUESTIONS**

### **2. Written Questions**

#### **2.1 CONNÉTABLE OF ST. LAWRENCE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE INTRODUCTION OF CURRENT END OF LIFE STRATEGY:**

##### **Question**

When was the current 'end of life' care strategy introduced within the Health and Social Services Department and what is it?

##### **Answer**

HSSD is working in partnership with a range of stakeholders including FNHC, GPs and Hospice, to develop and agree an island-wide strategy for end of life care, as part of the White Paper key workstreams.

Based on local evidence and best practice from elsewhere, the strategy will focus on care and treatment in the last year of a patient's life, concentrating on strengthening the arrangements for end of life care, in areas including those provided by HSSD under the direction of the Palliative Care Team based at the General Hospital.

Through the joint work on the development of guidelines, education and training, and working with stakeholders, a key part of the strategy will be to support choice for patients in relation to decisions about how their care is managed, and where they are cared for.

This joint approach to strategy, in relation to end of life care, supports all care providers to ensure that the needs of patients, at the end of their lives, are met, and that the memory of good and caring management of their death is the legacy for family and friends, after the loss of a loved one.

## 2.2. DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING COSTS IN RESPECT OF DIABETIC FOOT CARE AND SCREENING FOR DIABETES:

### Question

Will the Minister explain the cost implications of caring for patients with diabetic foot ulcerations (including the cost of toe, foot and leg amputations and after care costs)?

What programme, if any, does the Minister intend to put in place to screen the population for diabetes with particular reference to the introduction of preventative medication methods?

### Answer

The on-going cost for patients with diabetic leg ulcers varies from patient to patient, as it is dependent on the type and frequency of outpatient appointments, dressings applied, and whether the patient requires hospitalisation and, potentially, surgery for the treatment of an infected foot/leg ulcer.

HSSD budgets are allocated at service-level and costs by treatment / condition are not routinely collated.

The department has a number of initiatives in place to encourage lifestyle changes such as losing weight, healthier eating and increasing physical activity. They include:

- A **Breastfeeding initiative**
- **Early years food guidance/training:** Covers basic food hygiene requirements as well as best practice in providing healthier foods suitable for the nutritional requirements of under 5's
- The **Jersey school food standard:** Secondary school canteens monitored in offering healthier foods and drinks with an emphasis on reduced fats and saturated fats, sugar and salt as well as increasing fruits and vegetables
- **Healthy Schools Programme:** Schools work to achieve best practice standard across four areas, in particular food and physical activity
- **Eco-Active schools:** Develops programmes and facilities that encourages, supports and promotes the benefits of walking and cycling to school
- **Strategic Travel plan:** Includes improvements in cycle routes and pedestrian friendly infrastructure, as well as walking and cycling awareness raising events
- **Provision of Health Education materials:** SoJ web basic fact sheet information with links to UK best practice sites
- The **Exercise Referral Scheme**
- A programme of **subsidised attendance at commercial weight-management groups**
- A programme for **bariatric (weight-loss) surgery** in a few carefully selected cases

The expert body that advises on population screening is the UK- based National Screening Committee (NSC). The NSC has considered universal screening for Type 2 Diabetes, but there is no randomised controlled trial evidence of its effectiveness, and universal population screening for diabetes is not recommended.

The NSC has provided risk management guidance, however, which led to the UK introducing a 'Vascular Risk Management Programme'. This programme involves UK GPs carrying out a



regular 'Health Check' to assess an individual's risk of developing diabetes (whilst at the same time also assessing the risk of developing heart or kidney disease or of having a stroke). Individuals who are identified as being at high risk of undiagnosed diabetes are then tested for the condition.

This strategy of 'targeted' testing for undiagnosed Type 2 Diabetes in high risk individuals is the one supported by most diabetes associations and charities worldwide. The UK Department of Health recently completed a roll out of this new 'Health Check' programme.

Introducing a similar, centrally coordinated programme in Jersey, would have obvious cost implications. This is an area for consideration as part of Phase 2 of the White Paper Health Service transformation.

### **2.3 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING NUMBER OF STAFF ADMINISTERING THE WATER RESOURCES LAW:**

#### **Question**

Would the Minister advise how many staff are currently involved in the administration of the Water Resources (Jersey) Law 2007 and would he provide an outline of the positive effects this Law has achieved to date?

#### **Answer**

##### **1. Staffing level**

One full-time member of staff (States of Jersey Hydrogeologist) administers the Water Resources (Jersey) Law 2007. During the initial stage of implementation, some additional administrative support was provided. The administration of the Water Resources (Jersey) Law 2007 is entirely self-financed by income received from licence fees.

##### **2. Positive effects of the Law**

Since the Law came into force in 2010, a total of 3205 water sources have been registered and 221 abstraction licences issued. Comprehensive hydrological and hydrogeological information has been gathered through the registration and licensing process including;

- The accurate locations of over 3500 water sources used to abstract water (inc. wells, boreholes, springs, streams, ponds and reservoirs)
- Information for each source (e.g. borehole/well depths, water levels abstraction rates etc.)
- Abstraction quantities, duration and use of abstracted water.

Other positive effects of the Law to date include;

- Greatly improved understanding of the overall hydrology and hydrogeology of Jersey.
- Pressures on water resources in each Island catchment can now be fully assessed and, where necessary, water use prioritised. Licenses can be conditioned appropriately to minimise adverse impacts on resources and the environment.
- Greater protection of water sources from pollution incidents and development. Site specific hydrogeological assessments can now be undertaken (for example, the siting of drainage fields for package sewage plants).

- Greater protection of water sources from agriculture. A Farm Risk Map details the location of boreholes and wells. This is accessible online and assists farmers to decide where and under what conditions slurry and other organic wastes can be spread as specified in the Water Code.
- Enhanced response to droughts and potential droughts. A stakeholder Drought Group has been formed and a Drought Plan produced to provide guidance on actions and procedures, so that negative impacts on people, economy and environment are minimised.
- Better overview of the Island’s water resources at any given time through water situation reports and an annual water balance. Water Situation reports provide essential information during drought periods and underpin decisions that will need to be taken in response to such an event.
- Informed long-term water use patterns and demand via annual abstraction data for each of the licensed sources.
- Provision of baseline data that will underpin Water Framework Directive assessments for the fresh water resources of the Island.
- Central storage of all data collected through the licensing and registration process in a readily usable format is available to provide the basis of future hydrological/hydrogeological research.

**2.4. DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE WAITING LISTS FOR SCANS:**

**Question**

Would the Minister advise the current waiting list for scans, such as MRI and justify the length?

**Answer**

**MRI Scans**

**Out-patient requests**

Urgent                    Done within the week

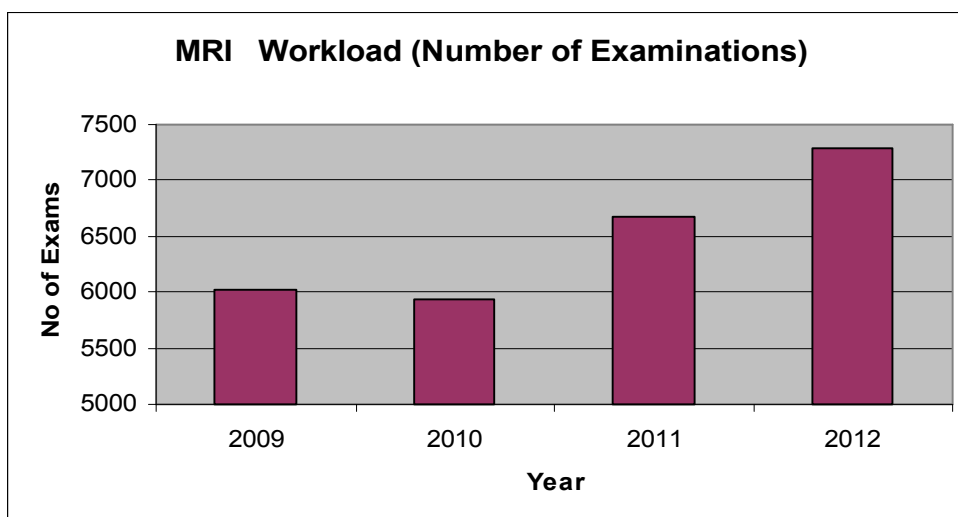
Moderate    Done within 2-3 weeks

Routine                Next available routine appointment – at present -9 week wait

**In-patients**

All requests are done on the same day where possible, Monday to Friday.

Demand for MRI scans increases every year. In addition to the demand for MRI scans for diagnostic reasons the complexity of some of the examinations is increasing which means that individual appointment times must now be longer.



The number of staff has not increased in this period and all efficiencies have been realised, this includes scrutinising the referrals to ensure that only appropriate requests are accepted. The only way to manage the increase in demand for this service is to increase the capacity. The service operates from 07.30 hours to 20.00 hours Monday to Friday.

To manage the increase in demand routine lists are now booked and undertaken by staff from 08.30 hours to 17.30 hours every Saturday with occasional Sunday lists.

The situation is being closely monitored. There is now little un-used time on the MRI scanner. If the demand continues to rise at the present level, a second MRI scanner and additional staff will be required in the next few years.

### **Ultrasound scans**

#### **Out-patient requests**

Urgent Done within the week

Moderate Done within 2-3 weeks

Routine Next available routine appointment – at present -10 week wait

#### **In-patients**

All requests are done on the same day where possible, Monday to Friday.

Out of normal working hours an on call service for urgent cases is provided (24/7 cover).

#### **Vascular ultrasound scans for venous insufficiency**

Routine wait of 28 weeks.

The demand for ultrasound scans increases every year.

The number of staff has not increased in the past three years (period of this analysis) and all efficiencies have been realised, this includes scrutinising the referrals to ensure that only appropriate requests are accepted. The only way to manage the increase in demand for this service

is to increase the capacity. At present routine lists are being booked and undertaken on a Saturday with staff working overtime.

The situation is being closely monitored. Funding has been agreed to manage the waiting list. However, if demand continues to rise, additional staff will be required. Recruiting sonographers to Jersey would, however, be difficult due to a national shortage.

**2.5. DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING NET IMMIGRATION FOR 2012:**

**Question**

Does the Chief Minister accept that the figure of 500 for net immigration in 2012 (resulting in an overall growth in population of 900 creating a population of 99,000) demonstrates that the Council of Ministers has failed in its attempt to meet one of the 7 priorities of its Strategic Plan, to “manage population growth and migration”?

In particular, will he advise whether one of the key actions “to bring realistic targets for population and immigration limits to the Assembly by July 2013” will be met and, if not, why?

Does he agree that to continue inward migration at this rate would see population in the short-term (2020) rise to over 104,000 for only a 2% reduction in the dependency ratio and, if so, does he consider this an appropriate way forward and, if not, why not?

In the light of the lack of success of current and past measures to control migration, will he commit to reduce inward migration further in 2013 and 2014 to create employment for local candidates and, if so, state what specific fresh measures he will bring to this task via the Control of Housing and Work Regulations or otherwise, and if not, why not?

**Answer**

The Strategic Plan is clearly focused on limiting non locally qualified permissions in order to support local employment, while also supporting permissions for 1(1)(j) employees where that creates and safeguards local employment.

The latest statistics show that this has taken place, as illustrated below, with an increasing trend toward higher value immigration and a lower reliance on lesser skilled non locally qualified permissions:

	Net non-locally qualified employees and dependents (rounded)	Net j-category employees and dependents (rounded)	Total net immigration (rounded)
2010	500	100	700
2011	300	300	600
2012	100	400	500

This is part of an overall trend of reducing net immigration levels, as illustrated:

- 3 year average net immigration, 2006 – 2008 = + 1,200
- 3 year average net immigration, 2007 – 2009 = + 1,000
- 3 year average net immigration, 2010 – 2012 = + 600
- 2012 – net immigration = + 500

The Migration Advisory Group, working closely with the Social Security Department, are facilitating this change, promoting local employment wherever possible, while also recognising that inward migration often creates, for example, when linked to inward investment and the expansion of existing businesses, and that the increased use of local labour in many sectors will take time if we are not to damage our economy and overall employment prospects.

All these matters will be reported on in Autumn 2013 by way of an “Interim Population Policy”, with a longer term policy direction to be established by a “Long Term Plan” that will be produced in Spring 2014, following a period of extensive consultation.

The “Long Term Plan” will properly not just take population and immigration as issues in isolation, but foremost will consider the type of Island we want with reference to our environment, economy, and community, recognising that each component is essential to our quality of life, and that best practise elsewhere clearly demonstrates how effective strategic planning needs to work to long term horizons.

As to speculating or commenting on precise future population levels on the basis of one year, when trends are clearly changing, this is misleading. Furthermore, it is premature in advance of the outlined work.

## **2.6. DEPUTY G.P. SOUTHERN OF ST. HELIER FO THE CHIEF MINISTER REGARDING CLARIFICATION OF TAX ISSUES DISCUSSED WITH THE U.K. PRIME MINISTER:**

### **Question**

Following his discussions with the UK Prime Minister and others, his statement on 18th June 2013 and the publication of the “action plan on beneficial ownership”, will the Chief Minister clarify -

- (a) in relation to ‘an enhanced tax information exchange agreement with the U.K’ does this refer to a FATCA-style transfer of tax information?
- (b) is the ‘multilateral approach’ advocated by the U.K. Prime Minister the same as Jersey’s “level playing field” whereby there would be agreement by all to any change before Jersey will act?
- (c) does “accurate information on the ownership” of Jersey trusts, mean a person, or might it include ownership by a different trust or company registered elsewhere in the world?
- (d) does “all information held in the Island is available to tax authorities on request” mean that the information will not be exchanged “automatically” but only as a result of a TIEA or double-tax agreement with that country?

Does he accept that as a result of this intense recent activity there has been no change in the way that Jersey conducts its business, especially with tax competition, and the Island is free to encourage companies to register in Jersey to avoid tax?

**Answer**

- a) Yes, the 'enhanced tax information exchange agreement' referred to is an agreement based on the US FATCA.
- b) The multilateral approach advocated by the UK Prime Minister is a reference to the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters. Jersey has informed the UK Government that it wishes to become a party to the Convention. In doing so it will be joined with its main competitors such as Luxembourg and Singapore. This is in accord with our level playing field requirement which is that there is an internationally agreed standard that will have global application and where our position is matched by that of our main competitors. Jersey in complying with international standards on financial regulation, AML or tax information exchange has never required agreement by every country to any change before agreeing to act.
- c) In accordance with the requirements of anti-money laundering legislation, the trust law, the financial services law and common law those acting as trustees in the Island are obliged to know who the settlor is and who the beneficiaries are in respect of the trusts for which they act. If a trust is part of a structure involving other trusts or companies these obligations extend to having a full knowledge of the structure which will include looking through the structures to the originating settlor and/or the ultimate beneficiaries.
- d) At the present time the only international standard that has global application is the provision of tax information on request. However automatic exchange of information is being extended through a number of bilateral arrangements. Thus automatic exchange of information will occur in due course with the implementation of the US FATCA agreement, the similar agreement being negotiated with the UK, and the EUSD. Parties to the OECD Multilateral Convention also have the opportunity to engage in automatic exchange of information on a bilateral basis. The expectation is that the OECD, working with the G20, will come forward later this year with a single standard for automatic exchange of information which it is intended should have global application.

Finally, I do not accept that the recent international activity to which we have responded positively is without effect on the way Jersey conducts its business. We have shared with the UK a desire to enhance further the action to be taken to combat tax evasion and aggressive tax avoidance. In this we are confident that we have the full support of the representative bodies making up the finance industry. We are continuing to work with the industry and the regulator on finding the best way to ensure that Jersey is not party to such activity that all agree can be damaging to the Island's reputation as a responsible well regulated quality international finance centre.

At the same time Jersey shares the view expressed by the UK Prime Minister that it is the right of every jurisdiction to manage its own fiscal affairs and be tax competitive providing it is also complying with the international standards of transparency and exchange of information. Jersey will continue to be compliant with the international standards and to

encourage business that legitimately is able to take full advantage of our tax neutrality.

**2.7. DEPUTY S. PITMAN OF ST. HELIER FO THE CHIEF MINISTER REGARDING ATTENDANCE AND COST OF EVENING MEAL WITH U.K. POLITICIANS:**

**Question**

How many individuals attended the evening meal with the Chief Minister on Sunday 23rd June 2013 at the 5 star Atlantic Hotel, who were they, what was the total cost, did this include alcohol, who paid the bill, what was the purpose and why was such an expensive venue deemed necessary?

**Answer**

12 individuals attended the dinner at the Atlantic Hotel on Sunday 23rd June.

The attendees were The Chief Minister, The Assistant Chief Minister for External Relations, The Treasury and Resources Minister, The Lieutenant-Governor, The Bailiff, the Director for International Affairs, the Deputy Director for International Affairs, an International Affairs officer, Sir Alan Beith MP, Elfyn Llwyd MP, Nick de Bois MP, and the Second Clerk to the Justice Select Committee.

The total cost of the dinner was £1084.75, including all drinks, and was met by the Chief Minister's Department.

This was a working dinner, the purpose of which was to discuss the Justice Committee's current inquiry, 'Crown Dependencies: Developments Since 2010'. The dinner provided the opportunity for the Committee to focus on the inquiry's main areas of interest, and ask related questions. The attendees from Jersey represent those whose roles involve the most frequent official engagement with the UK Ministry of Justice. They were therefore also able to inform the Committee of the many areas where progress has been made in Jersey's relationship with the UK Ministry of Justice following the Committee's 2010 report on the Crown Dependencies and of our further recommendations for developing and improving this relationship.

The Committee Members were staying overnight at the Atlantic Hotel, which is why the dinner was held at this venue. The Committee met the costs of their flights and accommodation.

**2.8. DEPUTY T.M. PITMAN OF ST. HELIER OF H.M ATTORNEY GENERAL REGARDING THE TOTAL COST OF COURT CASE AGAINST FORMER SENATOR SYVRET:**

**Question**

Now that the Court process against former Senator Syvret has concluded; will H.M. Attorney General clarify what has been the total cost thus far, whether public funding was made available equally to all four individuals involved, were they also required to utilise their own funds and was Mr. Syvret given "equality of financial arms"?

**Answer**

From the information provided, the Attorney General does not believe that the matter referred to in the question is a case in which the Law Officers' Department has had any involvement and the Attorney General is not from information held in the Law Officers' Department in a position to provide the information which is sought.

**2.9. DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING INFORMATION LEAKED TO A U.K. JOURNALIST BY THE FORMER DEPUTY CHIEF OFFICER:**

**Question**

Has the Minister now handed over all details to officers undertaking 'Operation Elvedon' relating to the information he advised the Assembly had been leaked to a UK journalist during a live child abuse investigation by Mr. Gradwell?

**Answer**

The States of Jersey Police last corresponded with the UK Metropolitan Police in respect of both Operation Elvedon (illegal payments) and Operation Weeting (phone hacking) during the autumn of 2011. At that time, the States of Jersey Police were advised that neither enquiry had uncovered any evidence to suggest any illegal payments or phone hacking by News International in respect of the Historical Abuse Investigation.

There has been no further correspondence since that time.

When I was last asked a question in relation to Mr Gradwell, on 14 May 2013, I indicated that I would discuss this with the Police Chief and I have done this.

**2.10. DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING INDIVIDUALS NAMED IN 2009 ABUSE CASE BUT NOT PROSECUTED:**

**Question**

Given that the court transcripts of a 2009 case, which resulted in James Donnelly being sentenced to 15 years in prison, revealed that a number of other individuals were also identified as abusers by both the individual eventually convicted and the victim, why was no prosecution pursued in this case?

**Answer**

Decisions whether to prosecute an individual are made in accordance with the Attorney General's Guidelines. The test which the Attorney General applies involves first an evidentiary test and if, and only if, a case passes the evidentiary test, a public interest test.

As the question indicates, the proceedings to which the Deputy refers took place in 2009. The matters to which he refers were identified at the time and given due consideration. It was decided



that there was insufficient evidence to bring charges against any of the individuals who were named during the course of the proceedings against Mr Donnelly.

**2.11. DEPUTY T.M. PITMAN OF ST. HELIER OF MINISTER FOR HOME AFFAIRS REGARDING CONFIDENTIAL DOCUMENTS READ ON A PLANE BY ASSISTANT CHIEF MINISTER:**

**Question**

Given that two independent businessmen have alleged that documents, including police witness statements, relating to the Dean's suspension and the HG abuse case were read in view of passengers on a flight from Gatwick on 21st March 2013 by the Assistant Chief Minister Senator P.M. Bailhache, can the Minister confirm whether such confidential police documents were supplied to a politician acting, as we are told, simply as a lay member of the Church of England and not within his capacity as a States member and why?

**Answer**

I am aware that Deputy Pitman has recently been in correspondence with the Chief Officer, States of Jersey Police, regarding this issue and the States of Jersey Police await details of both businessmen in order that they may speak with them in order to secure 'best evidence' in respect of these assertions.

My information is that the States of Jersey Police have not released any confidential police documents concerning these matters.

**2.12. DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE NUMBER OF COMPLAINTS ALLEGING PERVERTING THE COURSE OF JUSTICE:**

**Question**

Will the Minister advise members –

- a) how many complaints alleging the perverting of the course of justice, if any, have been levelled against the Chief and Deputy Chief of the States of Jersey Police to him as Minister, the Department and to the Chief Executive of the States of Jersey?
- b) How many of these complaints have been levelled by former police officers?
- c) Why he has not called in an external police force to investigate them?

**Answer**

As I indicated to Deputy Higgins when he asked a similar question on 4 June, it is not, generally, appropriate for me to speak publicly about any complaints that may or may not have been made against any police officer, including the Chief or Deputy Chief Officer of Police whilst the complaint is pending. That principle applies equally to public employees. It is extremely unfair for such allegations to be aired publicly.

In the event of a criminal allegation such as perverting or attempting to pervert the course of justice being made against the Chief Officer and Deputy Chief Officer of the States of Jersey Police, the Attorney General would advise as to whether or not a criminal investigation were merited. If the Attorney General were to advise that there should be a criminal investigation then I would expect the investigation to be conducted by a senior officer from another force.

Disciplinary issues in relation to the Chief Officer or Deputy Chief Officer of Police currently fall within the responsibility of the Minister for Home Affairs. Members will be aware that I have lodged P.78/2013, the draft States of Jersey Police Force Law 2012 (Appointed Day) Act 201-, which will bring certain Articles of the 2012 Law into force. One Article of the Law which is not yet in force is Article 9, which relates to the appointment of the Chief Officer and Deputy Chief Officer and gives Regulation making powers to the States in relation to such matters as the circumstances in which and the manner in which these officers may be suspended from office, dismissed from office and the general disciplinary arrangements. Work is ongoing on the preparation of law drafting instructions for these Regulations and members will have the opportunity to decide upon the procedures contained in such Regulations.

## **2.13 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING REHABILITATION OF OFFENDERS BACK INTO SOCIETY:**

### **Question**

Will the Minister explain –

- a) what action, if any, has been taken to rehabilitate offenders back into society i.e. those who have committed a criminal offence or served their punishment;
- b) whether there is evidence that businesses are circumventing the Rehabilitation of Offenders (Jersey) Law 2001 and, if so, what steps he is taking to tackle this?

### **Answer**

- a) The importance of offender rehabilitation is recognised in a number of ways by a variety of agencies within the Island, not all of which fall within my remit as Minister for Home Affairs. Further details can be found within Pillar 9 of the Criminal Justice Policy, which specifically addresses the issue of rehabilitation of offenders.

Centeniers have the power to decide not to charge offenders, in certain circumstances, even when an offence is known to have been committed, as does the Attorney General. The Code on the decision to prosecute, issued by the Attorney General, sets out the two stages in any

decision to prosecute – the evidential test and the public interest test. Centeniers will only prosecute where a case has passed both tests.

Where a person has been convicted of an offence, the Loi (1937) sur l'atténuation des peines et sur la mise en liberté surveillée enables the Court to impose a probation order. As part of the Probation Order, appropriate interventions are identified to address offending behaviour, needs, victim awareness and community reintegration.

Alternatively, the Criminal Justice (Community Service Orders) (Jersey) Law 2001 enables the Court to impose a community service order as a credible community based custodial alternative penalty. Every person sentenced to Community Service would otherwise be serving a sentence of prison or youth detention. This benefits the offenders as well as the placement beneficiaries, who are charitable or non-profit making organisations.

Where a person is sentenced to a period of imprisonment or youth detention, there are a variety of learning and skills and work activities that are available to benefit the prisoners and increase their employability upon release. The recent HMI report into La Moye commented *“There was a useful learning and skills strategy which was managed particularly well. Much had been done to improve the provisions and the prison provided a varied and flexible curriculum with a good range of courses. Prisoners’ achievements were impressive. There was a reasonable and improving variety of vocational training in place. The library was accessible and spacious and provision was very good. Physical education was well managed with impressive facilities and high levels of attendance. Outcomes for prisoner were good.”*

The prison runs a temporary release scheme for eligible prisoners as a function of the Prison (Jersey) Rules 2007, which allows the Minister to temporarily release a prisoner for the purpose of engaging in employment or receiving instruction or training; or in such other circumstances as may be approved by the Minister.

Prisoners become eligible for different types of temporary release at different stages of their sentence and are rigorously assessed for their suitability to be released temporarily by a Board, which comprises the Prison Governor, the Prison Probation Officer, the Prison Psychologist and an independent member.

Temporary release is used for the following:

- **Community visits** - to allow a prisoner to spend up to 4 hours in the community with a friend or relative, in whose company they remain during that time, and who collects them from and returns them to the prison.
- **Home leave** – for a maximum of 2 days, one overnight, per month. This helps to restore self-confidence by placing trust in a prisoner outside the prison environment and helps them re-adjust to life outside the prison.
- **Outside work** – this allows a prisoner to be involved in community work, progressing to paid work with an employer, who may retain them beyond their date of release. This enables prisoners to give financial support to their families prior to their release and equips them to make a constructive contribution to the community following release.
- **Home curfew** - this enables the prisoner to be at home, subject to a curfew, for a period prior to the end of their sentence. They can engage in paid employment and re-establish a home and relationship with family and friends.

Once a person's sentence has been completed, the Rehabilitation of Offenders (Jersey) Law 2001 generally allows people not to have to declare certain convictions once they become 'spent'. The rehabilitation period may vary depending on the age of the person at the time of conviction. After the rehabilitation period, an ex-offender is not normally obliged to mention the conviction when applying for a job, obtaining insurance or when involved in criminal or civil convictions.

There are, however, a number of exceptions to this, where people are expected to declare all their convictions, even if they are 'spent'. These are in cases where people are working with children or vulnerable adults; where people are working in such professions as health, pharmacy or the law; where they are senior managers in banking and financial services; or are in professions where national security may be at risk. Where a person is applying for such a position, where all convictions will need to be declared, it should clearly state on the application form that the position is excepted from the provisions of the Rehabilitation of Offenders (Jersey) Law 2001. A sentence of imprisonment or youth custody exceeding 30 months will never become 'spent'.

- b) There is anecdotal evidence that some employers may ask a person to obtain information held about them by way of a 'subject access request'.

A person has a right under the Data Protection (Jersey) Law 2005 to be told whether any information is held about them on police systems and they also have a right to a copy of that information. This is a 'subject access request'. In order to obtain a full conviction history, a person will have to apply for the records held on them on the Police National Computer (PNC) and also on local States of Jersey Police conviction records. This is because some Jersey convictions are recorded directly onto PNC and are not locally recorded. The individual will also have to prove their identity.

A 'subject access request' will contain full details of all recorded convictions, whether they are 'spent' under the Rehabilitation of Offenders (Jersey) Law 2001 or not.

If a person is asked by their employer to obtain a 'subject access request' to disclose to the employer, this may, depending on the nature of the work that they are applying for, negate any protections afforded by the Rehabilitation of Offenders (Jersey) Law 2001, as the employer may not be entitled to see the 'spent' convictions.

'Subject access requests' are different from Disclosure and Barring Service (DBS) checks. Certain organisations and employers are legally entitled under the Rehabilitation of Offenders (Exceptions) (Jersey) Regulations 2002, to request anyone wishing to volunteer or work for them in a role set out in the Regulations, to obtain a criminal record check through the DBS. The types of roles that may require a DBS check are any role where a person comes into contact with children or vulnerable adults.

It is difficult to quantify the instances of employers seeking to circumvent the Rehabilitation of Offenders (Jersey) Law 2001 and it is therefore important that people understand the difference between 'subject access requests' and criminal record checks through the DBS. If a person is applying for a role and is unsure as to whether or not their employer has a right to see all their convictions, they can find further information on the 'criminal records checks' page on the States of Jersey Police website.

I have given thought as to how former offenders who have ‘spent’ convictions can be safeguarded against unreasonable employers who insist on seeing the outcome of a subject access request in circumstances which do not lead to an exemption applying. The only possible solution to this problem which has occurred to me is to make the making of such an unreasonable request a criminal offence. However, I am concerned that this could criminalise individuals who have not understood what is, already, a complicated law.

**2.14. DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING GST ON FUEL AND OTHER GOODS WHERE DUTY IS ALREADY PAYABLE:**

**Question**

Will the Minister explain and justify to members why GST is being charged on the price of fuel and other goods upon which duty is already payable and does he not think that the doubling of taxation in this way is wrong?

**Answer**

Impôts duties are applied when certain goods are imported into Jersey, whilst Goods and Services Tax (“GST”) is applied when goods are supplied in Jersey. Hence certain goods, such as fuel, are within the charge of both impôts duties and GST.

This form of double taxation is a commonly accepted feature of tax systems across the globe. For example, all EU Member States apply both excise duties and consumption taxes on fuel and a number of other goods.

In the context of fuel, Jersey’s overall effective tax rate, from the combination of impôts duty and GST, is amongst the lowest in the developed world.

To stop this double taxation from occurring would require the removal of either the impôts duty or the GST from the relevant goods. Using fuel as an example, the recently published States accounts indicate that the impôts duty on fuel raised £20m in 2012; if the impôts duty on fuel were removed, this £20m of revenue would have to be raised from other sources.

The removal of GST from fuel would also reduce existing States revenues; whilst adding complexity to the tax system and increasing the compliance burden falling on both businesses and the Taxes Office.

**2.15. CONNÉTABLE OF ST. LAWRENCE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING HOSPITALS IN THE U.K. WITH AGREEMENTS TO TREAT JERSEY PAYMENTS:**

**Question**

Would the Minister name those hospitals on the UK mainland with which the Health and Social Services Department has agreements to provide treatment to patients referred from Jersey?

## Answer

The department has agreements in place with the following UK Hospitals for the provision of hospital or social care services to Islanders:

- Southampton University Hospitals NHS Foundation Trust
- Oxford University Hospitals NHS Foundation Trust
- University College London Hospitals NHS Foundation Trust
- Guy's and St Thomas' Hospital NHS Foundation Trust
- Portsmouth Hospitals NHS Trust
- The Royal Bournemouth and Christchurch NHS Foundation Trust
- Barnet and Chase Farm Hospitals NHS Trust
- South London and Maudsley NHS Foundation Trust
- St Andrews Healthcare
- South Essex Partnership Trust

In addition referrals were made in 2012 to other UK providers including:

- Great Ormond Street Hospital for Children NHS Foundation Trust
- Hampshire Hospitals NHS Foundation Trust
- Parkside Hospital London
- Royal Free London NHS Foundation Trust
- Royal Marsden NHS Foundation Trust
- Central Manchester University Hospitals NHS Foundation Trust
- Royal Surrey County Hospital NHS Trust
- Royal National Orthopaedic Hospital NHS Foundation Trust
- Salisbury NHS Foundation Trust
- St Georges' Healthcare NHS Trust
- Royal National Hospital for Rheumatic Diseases NHS Foundation Trust
- Bart's Health NHS Trust
- Cambridge University Hospitals NHS Foundation Trust
- Imperial College Healthcare NHS Trust
- King's College Hospital NHS Foundation Trust
- Moorefield's Eye Hospital NHS Foundation Trust
- North West London Hospital NHS Trust
- Nuffield Health Private Hospitals UK
- Royal Brompton & Harefield NHS Foundation Trust
- Taunton and Somerset NHS Foundation Trust
- University Hospitals Bristol NHS Foundation Trust
- University Hospital of South Manchester NHS Foundation Trust

There are also a number of individual agreements in place with

- Medical Consultants from the UK who provide services on Jersey
- UK providers of residential care services, for children and adults with complex health and social care needs
- UK providers giving specific expertise on individual cases in Jersey

This represents a significant portfolio of providers, and a review is currently underway to ensure that current arrangements are providing the best value for money, the highest standards of care and treatment, and good quality experience and outcomes for the people of Jersey.

### **3. Oral Questions**

#### **3.1 Deputy M.R. Higgins of St. Helier of the Attorney General regarding the professional standards and disciplinary procedures applied to the Law Officers and Jersey qualified lawyers within the Law Officers Department:**

Will Her Majesty's Attorney General - in this case the Solicitor General - explain whether the Law Officers and the Jersey qualified lawyers within his department are subject to the same professional standards and disciplinary procedures of the Law Society of Jersey, which are applied to Jersey advocates or solicitors in private practice, and if not, why not?

##### **Mr. H. Sharp Q.C., H.M. Solicitor General (Rapporteur):**

The Law Society of Jersey Law 2005 does not require any advocate or solicitor of the Royal Court to be a member of the Law Society of Jersey in order to practice as an advocate or solicitor during the course of his or her employment in the Law Officers' Department. Anyone who is not a member of the Law Society of Jersey is neither subject to that society's Code of Conduct nor to its disciplinary procedures.

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

It is my understanding... in fact I think the current Chair as Attorney General was responsible for taking that provision out of the 2005 law or recommending it be taken out of the 2005 law. In all other jurisdictions in the United Kingdom, the Law Officers are subject to the disciplinary panels of their respective law societies, so the Isle of Man, Guernsey and the United Kingdom; can the Solicitor General tell us why he believes that they should not be subject to the same disciplinary powers? Who is accountable, if they are not accountable to them?

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

The history of the Law Society Law 2005 is that there was a dialogue between the Law Society and the Law Officers in early 2006 and as a result of that dialogue the Law Society supported an amendment to the law, which removed Law Officers' Department lawyers from the ambit of the Law Society's disciplinary procedures. That matter was debated by the States Assembly and the States Assembly agreed to amend the law with the support of the Law Society. At the time of that debate, which took place on 19th September 2006, the Solicitor General, at that time, Stephanie Nicolle Q.C., advised States Members that the Law Officers' Department, if they pass the amendment, would be taken outside the ambit of the Law Society. So the first answer to the Deputy's many questions is that this was a decision taken by States Members at the time with the support, at that time, of the Law Society. As to what other systems might prevail elsewhere, I have not done an extensive review but, as I understand it, in the Isle of Man the Law Society does not discipline anyone. There is an external body that looks at disciplinary matters. I understand in Guernsey it is the Law Officers in the first instance who look at complaints about the lawyer in the Law Officers' Department. Finally, may I say this, when the Solicitor General, back in 2006, was advising the States Assembly as to the consequences of the amendment, she highlighted a number of points of public policy, which are there for all to see in Hansard, as to why the change was desired. One point I wish to emphasise today is that there is concern that employees of the Law Officers' Department are particularly vulnerable and susceptible to malicious complaints by, in

particular, defendants who wish to use the complaint to gain some sort of advantage in criminal proceedings. That concern remains today, and advocates remain at risk of malicious complaint.

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

Notwithstanding what the Solicitor General has said, could the Solicitor General tell us how the aims of the legislation is applied to non-Crown Officers in the legal profession, how those aims are dealt with within the Crown Officers' Department? In other words, how are the professional standards upheld? How are complaints dealt with so that people feel internally justice has been done?

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

The Law Officers' Department have codes of conduct which apply to all lawyers within their department, whether or not they are Jersey-qualified. So for example, if an English-qualified lawyer is in the department they are still subject to those codes. There are 2 codes. The first code is the Civil Service Code, which applies to all public sector employees. The second code is a Code of Conduct of lawyers at the Law Officer's Department. That was a code that I started work on over a year ago, and is now in force and applies to all lawyers. Thirdly, if one looks at the Law Society of Jersey Law, in respect of Law Society members, it is the Attorney General who decides in those cases whether or not to refer an advocate or solicitor to the Royal Court for disciplinary action in serious cases. Of course the Attorney General retains that power in respect of his own employees. Furthermore, the Law Officers' Department has a procedure in place whereby if there is a complaint that is not vexatious and is sufficiently serious we will appoint an independent Q.C. to investigate the matter so as to bring an independent mind to bear on those things.

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

Just for clarification: would the Solicitor General not acknowledge that the great innovation in dealing with non-Crown Officer lawyers was that there is now a lay element at an important part of the proceedings? It is not lawyers judging lawyers.

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

I believe the Deputy is referring to the fact that in the Law Society procedure a President of the Law Society can refer a complaint to a disciplinary committee of the Law Society, which consists, I entirely accept, of some lay members. However, as I have said, in serious cases it is still the Attorney General who has the power to refer disciplinary matters to the Royal Court. It is the Attorney General who can overrule the President of the Law Society if he chooses not to take any action. So in terms of the serious cases, it is still the Attorney General in all cases that deals with these matters.

### **3.1.4 Deputy T.M. Pitman of St. Helier:**

I have to say... and certainly a few of us still are under the impression that these officers are not under any external responsibility or accountable to anyone. But my question is, the Solicitor General referred to a dialogue between the Law Society; is it not a fact that that was more of a confrontation and there was the threat of legal action if those amendments were not agreed?

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

In 2006 there was a letter from the Attorney General to the President of the Law Society, I may have the date wrong, but it was something like 11th January, inviting a conversation about this proposed amendment in the law. There was a meeting. I have seen some record of the meeting between the Law Officers and the Law Society. It was a perfectly amicable meeting, there was a perfectly amicable response from the Law Society, there were no threats of any kind by anyone to anyone.



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

Have there been any disciplinary procedures since you became Solicitor General?

**The Solicitor General:**

At the Law Officers' Department or generally?

**Senator S.C. Ferguson:**

In the Law Officers' Department.

**The Solicitor General:**

No.

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

I was interested to hear what the Solicitor General was saying about the amicable relationship with the Law Society, which is different to my understanding because I believe there is a current dispute between the Law Society and the Law Officers over the Law Society wanting to discipline or bring a case to the Royal Court regarding a Crown Advocate and the Attorney General has refused. Would the Solicitor General care to elaborate on this dispute that is going on, which is obviously straining relations between the 2 bodies?

**The Solicitor General:**

I entirely accept that the employees of the Law Officers' Department have to be held to high standards, and they accept that and they understand it.

[10:00]

However, they like everybody else are entitled to be treated with some fairness and they are and should not be subjected to any disciplinary procedure that is unlawful. If the Law Society do not now, notwithstanding their support for it in 2006, accept the current state of the law then that is of course entirely within their right and they can have any discussions they wish. But in my view it is not appropriate to commence any sort of disciplinary procedure, which just is not in the law. That cannot be right.

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

Supplementary, Sir, because the Solicitor General has not fully answered the question. There is currently a dispute between the Law Society and the Law Officers' Department. It is my understanding that the Law Society would like to bring an action against a Crown Advocate and that the Attorney General has refused and is contentious. Will you confirm that there is a disagreement going on at the present time over whether one of your officers should be disciplined?

**The Solicitor General:**

No, that is simply not right. The President of the Law Society or rather the Law Society Committee have reached the view that they have a power to discipline or start disciplinary proceeding in respect of an advocate of the Law Officers' Department. I do not share that view. My view is they do not have any such power. That is the dispute. Nobody has stopped the Law Society from doing anything they wanted to, they have chosen not to take action.

## **3.2 Deputy M.R. Higgins of the Attorney General regarding the use of disclosure rules in respect of enforcement actions under the Planning and Building Law (Jersey) 2002:**

Again the question was phrased to the Attorney General but I will phrase it to the Solicitor General. Will the Solicitor General advise Members of the rules relating to a prosecutor's duty to disclose or have disclosed to defendants in criminal cases, all information relevant to a case and confirm whether such disclosure rules have been adhered to since the beginning of 2010 in respect of enforcement actions under the Planning and Building Law (Jersey) 2002 and, if not, why not

**The Solicitor General (Rapporteur):**

The *Attorney General's Guidelines on Disclosure in Criminal Cases* were published in August 2006 and available on the Law Officers' Department website. In summary, the prosecution's duty is to disclose all material which either undermines the prosecution case or might assist the defence. This test for disclosure is well-established, well-known, is applied by prosecution advocates as a matter of practice and I have no reason to believe that full and proper disclosure has not been made in prosecutions arising from breaches of the 2002 Planning Law.

**3.2.1 Deputy M.R. Higgins:**

I am aware of 2 cases where emails exist which show that ... it almost implies in the information that is being sought from the Planning Department that if the information is not available, and in the case of one of the enforcement officers who circulated to his colleagues asking for information which was to be disclosed in the court: "If you cannot find it, it has been lost or whatever, you do not need to worry about it." Is that acceptable as a policy? Surely every effort should be made to hand over everything, including going through the backup tapes at Cyril Le Marquand House on all emails, which have not been done to date. Would the Solicitor General feel that the department should do everything to reveal everything regarding the case to give the defendant equality of arms in a case?

**The Solicitor General:**

Clearly, if a defendant feels that they are not getting full disclosure they can apply to the trial judge or court that is dealing with their case to seek orders for disclosure. If the defendant feels there has been a disclosure problem that has only materialised after the proceedings have ended that disclosure issue may give right to an appeal. It is the courts that should decide issues of disclosure and therefore I decline to comment on the specific cases. But I entirely accept, of course, that a prosecution should take all reasonable steps to ensure that there has been disclosure in respect of the test I have already outlined.

**3.3 Deputy G.P. Southern of St. Helier of the Chief Minister regarding short-term changes to the way Jersey conducted its business as an offshore finance centre as a consequence of recent discussions with the U.K:**

What short-term changes, if any, will there be in the way Jersey conducts its business as an offshore finance centre as a consequence of agreements reached between the Chief Minister and the U.K. (United Kingdom) Prime Minister prior to the recent G8 meeting?

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

The Chief Minister was already committed to taking action to combat tax evasion and aggressive tax avoidance and the Chief Minister's agreement with the United Kingdom Prime Minister ahead of the G8 summit will further enhance this. An action plan was presented on the prevention of the misuse of companies and trusts, which builds on our present internationally recognised leading position on transparency and beneficial ownership. Work will continue with industry and a regulator in Jersey's continued support of the international initiatives referred to in a communiqué issued following the G8 summit.

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

I note the use again of “aggressive tax avoidance”. Will the Deputy Chief Minister give us his definition at what is aggressive tax avoidance and state how many cases of aggressive tax avoidance has Jersey investigated and stopped in, say, the past 5 years?

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

I have no idea in relation to the second part of the question. Many have attempted definitions of this and it is quite difficult to define. People have talked about sniff tests and things of this nature but defining what is aggressive tax avoidance and what is legitimate tax avoidance is quite difficult.

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

If we have not got a definition of it and we do not know how many cases are there how can we convince ourselves to suppressing aggressive tax avoidance, which we have?

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

There are 2 specific pieces of work which are being attempted in this area. I have described already the sniff test but there I also the setting up, following up the recommendations of McKinsey, of a sound business practice committee with the Director of Financial Services, the Director General of the J.F.S.C. (Jersey Financial Services Commission) and the Chief Executive of Jersey Finance Limited as members, which will seek to identify business practices which conflict with Jersey’s aim to be a quality, well-regulated international finance centre and will recommend action to address activity that that is not in line with this aim. So that is a practical approach which is being taken by setting up of a sound business practice committee.

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

With reference to the McKinsey Committee, which the Deputy Chief Minister has now raised, would the Deputy Chief Minister outline whether the recommendations made by that committee, other than very vague generalities, which quite frankly could have been found in a Jack and Jill guide to future business development, would he outline how those recommendations have been affected by the meeting that was held in 10 Downing Street?

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

I am sorry, I missed which committee the Deputy was referring to.

### **Deputy R.G. Le Hérissier:**

The McKinsey Report, the famous McKinsey Report which has only been revealed to the States in a very limited way.

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

The McKinsey Report of course is not a committee, it is essentially advice as to the future direction in which we should seek to go because of the changes which are happening in the finance world generally, particularly in the banking world. In a sense, one of the recommendations that I understand of McKinsey was that we should continue to comply with international standards and that of course is what we will be seeking to do.

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

No, that is not satisfactory and I think most of us could have reached that conclusion without being paid £1 million. Could the Minister outline in more detail whether those recommendations have been, for example, derailed by the meeting that was held or the recommendations that emerged from G8?

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

No, I do not think they have. I think we are talking about parallel things here, as I understand it. Essentially one is advising us on a direction in which our finance business should be going, the sort of markets which we should be seeking to enter into or gain further ground in, the sort of structures that we should have in place, and the other is about the issue of international standards and how we are going to be part of that. I do not see those as being in any way in contradiction with each other. They virtually support it.

**3.3.5 Deputy G.P. Southern:**

I will try and be specific. Is it not the case that the final statement to written question 6 given by the Chief Minister: "Jersey will continue to encourage business that is able to take full advantage of our tax neutrality." When applied to mining and oil companies booking profits here in Jersey simply to avoid tax does that constitute aggressive tax avoidance?

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

I would have thought it probably did because what we are about is tax neutrality not about preventing tax being paid in appropriate jurisdictions.

**The Deputy Bailiff:**

We come to question 3 which Deputy Trevor Pitman will ask of the Deputy Chief Minister.

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

Before the Deputy asks his question; oral question 3 has been fully answered by written question 7 and I would ask the Deputy to withdraw the question on the basis that I cannot understand the relevance of this question to the business of the Chamber and I suggest the question is a complete waste of the Chamber time.

**The Deputy Bailiff:**

Deputy Trevor Pitman, you are invited to withdraw it. The question has been approved, you may put it.

**3.4 Deputy T.M. Pitman of the Chief Minister regarding the total cost of the dinner at the Atlantic Hotel on Sunday 23rd June 2013 with representatives of the U.K. Justice Select Committee:**

No, Sir, I suggest my colleague find something better to do with his time. What was the total cost of the dinner at the Atlantic Hotel on Sunday 23rd June 2013 when the Chief Minister and selected members of the Council of Ministers met the representatives of the U.K. Justice Select Committee; and why was this venue used?

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

As answer 7 indicates, the cost was £1,084.75. This venue was used because the U.K. Justice Select Committee M.P.s (Members of Parliament) were staying overnight at that hotel. I would point out that the Select Committee covered the costs of their flights and accommodation in the Island.

**3.4.1 Deputy T.M. Pitman:**

That is quite interesting because during the meeting with the Select Committee they said the entire cost of everything was down to Jersey, so there are obviously some crossed wires there. But my question is: did all 12 members eat and drink and does the Minister see any conflict of attitude here

with the absolute feral and media frenzy when Mr. Harper spent far less money on a meal to do with the police investigation?

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

I was not there, presumably because I was not considered to be sufficiently select, nor I hasten to add was my friend, the Minister for Economic Development; clearly there is a very high test being applied in this. I think that it is not unusual when there are visiting people, particularly ambassadors, people of that nature, for a dinner to be put on for them. That normally involves a larger number of people and is normally held in the old library. I certainly have attended a number of those. It seems to me that probably what happened here was what was decided that something on a lesser scale, which would also have a working element to it, should take place. I do not see anything unreasonable in that at all.

**3.4.2 Senator S.C. Ferguson:**

The first comment: I do not think it is quite as bad as the notorious lobster dinner which the more senior of us may remember of the Tourism Department, but I was going to ask why the Deputy Chief Minister was not at the dinner.

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

I think I have already confessed the fact that I clearly was not sufficiently select. I think that if one looks at the Ministers who were there, they were those who were particularly involved, the Chief Minister, the Minister for Treasury and Resources, Assistant Minister for Foreign Affairs matters, plus other officers in those sorts of areas. I was of course at a meeting which happened on the Monday morning at Cyril Le Marquand House when myself and others had the opportunity to meet with these officers. I am not sore.

[10:15]

**3.4.3 Deputy M.R. Higgins:**

I am resisting the thought of asking what was on the menu, but I was aware that meetings were taking place the following day. For example, we know that the Select Committee met with the Chief Minister, we know that they met with His Excellency, The Lieutenant Governor, we know that they met with the Law Officers, and while I am not against the idea of a social thing and everything else, but the point is, there were meetings scheduled and States Members got an hour as well at the end. I am not convinced that it was such - I may be wrong, I was not present - whether it was such a working lunch or whether it added anything extra to what would have been received in the individual briefings by the officers. Does the Deputy Chief Minister agree?

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

No, I do think it is perfectly reasonable that such a dinner take place, as it were. There would be 2 functions to it, as I would understand it. One would be a working aspect, hence why you had officers there in the relevant areas as well as Ministers, but also it is perfectly normal for visiting dignitaries that such a dinner take place.

**3.4.4 Deputy R.G. Le Hérisier:**

Would the Deputy Chief Minister not acknowledge it was impossible under rules to offer a sandwich lunch within this building to those dignitaries and, second, and possibly more seriously, would he not support the view that when a committee comes to deal with sensitive issues it is probably better, quite frankly, that they remain separate from all vested interests while they are carrying out their investigations?

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

I think that is essentially a matter for them, if they had thought there was any conflict in any way. This is a Select Committee. It is equivalent, I think, of a Scrutiny Committee although there are subtle differences in the U.K. Their primary interest, if I may say from the meeting that I attended with them, was to see how arrangements, which had been put in place as a result of their previous work, improved arrangements in relation to the working of the Ministry for Justice in terms of the things it does for Jersey was working. That was their primary interest. There were other matters they discussed as well, but they wanted to know how it was going, as it were. They have, I have to say, been extremely supportive and helpful in improving the level of service which we have received from the Justice Ministry.

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

Does the Deputy Chief Minister think that given the remit of the committee, which is in the domain of justice, that the Minister for Home Affairs may have ordinarily been invited to such a dinner?

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

I think there is a misunderstanding here, because I think that it just so happens that the Justice Ministry is our co-ordinating ministry into the U.K. and that was their primary interest. I believe that U.K. authorities have made it perfectly clear in the past that this is a mature democracy with very strong and resilient institutions and that they are simply not going to intervene in that unless there was some horrendous breakdown of the system. That is not their primary purpose at all. Their primary purpose was to look at the functioning of the Justice Ministry in terms of its relation as a conduit, as a point of contact, *et cetera*, into the U.K.

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

One of the members did say that these types of justice abuses which are going on in Jersey left, right and centre are part of the mandate of the Select Committee. However my question is to the Minister, being as Deputy Higgins and I just shared a couple of coffees, had a couple of drinks and almost had to wash the dishes it is so expensive, could that taxpayers' money not have been better used with a more constructive working environment, rather than sitting around talking over with the wine flowing? Could it not have been a meeting perhaps in the States Building with all those hours concentrated on work rather than socialising?

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

I am sure that that could have been considered but this was the decision that was made. I of course was not a party to that decision.

### **3.5 Deputy M. Tadier of the Minister for Social Security regarding an earnings cap for the 1% increase in Social Security/Income Tax contributions to fund long-term care:**

Will the Minister confirm whether those earning over £152,232 will be insulated from the proposed 1 per cent increase in social security/income tax contributions to fund long-term care, and if so will he explain the reason for the decision?

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

Most Members will recall the debate in July 2011, which agreed to set up the new long-term care fund to provide ring-fenced funding for the new long-term care benefit. As explained at that time, the legal liability for the contributions into the new fund will be set out in the Social Security Law and will be clearly identified as long-term care contributions. My proposal is to set an initial long-term care contribution rate of 1 per cent. To be clear, this is not an increase in social security contributions, nor an increase in income tax. It is a new contribution specifically set up for long-

term care costs. As has already been made public, long-term care contributions will be levied on both earned and unearned incomes. There will be a maximum level of contribution for long-term care and this will be based on the existing social security upper earnings limit, which as the Deputy reports, is £152,232 in 2013. Individuals with total income above this level will pay a maximum contribution based on this upper earnings limit which is increased automatically each year. As I have explained, the long-term care contribution will be a legal liability under the Social Security Law and, as with contributions to the Social Security Fund and the Health Insurance Fund, it is appropriate that a maximum level of contribution is identified.

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

The Minister has confirmed that it is neither a social security contribution or a tax, it is something in between. Will the Minister confirm that somebody who is earning £120,000 will be paying 1 per cent tax, and that somebody who earns twice the limit of roughly £300,000 will be paying 0.5 per cent tax, therefore the wealthier you are the lower your percentage contribution over and above the threshold?

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

If somebody had a gross income of £120,000 they would have an income tax assessment of £24,000 and in respect of the long-term care contribution, their contribution would be £1,200. In other words, £100 of the £24,000 you pay £5 totalling £1,200. In respect of higher incomes above the upper earnings limit, I have to repeat that the fact is that this is not a tax and it is a social security contribution, and it is right and proper that we use the upper earnings limit to cap the contributions.

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

The Minister says it is not a tax but according to the text on his own website it says that if you pay income tax directly the long-term care contribution will be shown as a separate item on your tax bill. If you are pensioner the long-term contribution will be shown as a separate item on your income tax bill. Does the Minister therefore think that it is reasonable for anybody in the future who looks at their tax bill and those paying I.T.I.S. (Income Tax Instalment System) who will find it as a separate item on their tax bill, is it reasonable for them to think that this is a tax, especially if they are paying up to 1 per cent when the most wealthy in our society will be paying far less than 1 per cent?

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

It is quite right and proper that as the tax officers working as an agent for the Social Security Department in collecting the contribution, that it will be identified separately on their effective rate notices, if they are earners and on any half-yearly bill submitted to non-earners such as pensioners. The money collected by the Tax Department on our behalf will be paid across to the department on a monthly basis and will be kept in the ring-fenced fund for long-term care, and I think it is absolutely clear that we do need to collect money. I should just wish to add that the current cost to the taxpayer of long-term care provided in the Island is £33 million and that is due to rise threefold by 2044, to just under £100 million and therefore it is right and proper that we start to collect this money now otherwise we will face much larger tax bills in the future.

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

The Minister is quite proud of the fact that he has introduced a bit of progressive taxation here. Yet he stopped short. Did he consider with this long-term care levy not putting a ceiling on it and letting it go through the ceiling he currently has so that 1 per cent means 1 per cent and 20 means 20?

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

We did not consider not having a ceiling for the very reason the Deputy has just described, because if we did that it would be regarded as a tax and, in fact, it is a social security contribution.

**3.5.4 Deputy R.G. Le Hérisier:**

Very much on the lines of Deputy Southern. Would the Minister not acknowledge that there was continuing controversy about the cap and it was only with great reluctance that his predecessors raised it? Would he not acknowledge that this was a perfect opportunity to remove the cap and to show that the much better-off in society were taking the strain, notwithstanding I should add, the excellent work he is doing with his project?

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

I can only repeat and keep repeating until I am probably blue in the face. This is not a tax and therefore taking the cap off - which is applied to all social security contributions - of the £152,000 would be incorrect. It is a social security contribution. We need, as I have repeated before, to collect the money if we are going to deliver a long-term care benefit. We need to start as soon as possible and my proposals required us to collect money from pensioners. There was no method to collect social security contributions from pensioners and therefore to combine our work with the work of the Tax Department using the tax thresholds and marginal rate was the best way and certainly the cheapest way regards administration, to collect money from pensioners who pay tax.

**3.5.5 Deputy T.M. Pitman:**

Give the Minister a chance to go a bit bluer in the face. For the members of the public listening, could the Minister just make it quite clear, with what Deputy Tadier has put to him, and forget the niceties, is this not a fact that what this amounts to is the better-off you are the less ultimately you contribute, whether it is a tax or whatever else we want to call it? If that is so, which I believe it is, does the Minister not think there is a tension there, because as he has pointed out, £33 million for long-term care, was this not an ideal chance to do something about making that burden a bit easier by some of those who are very wealthy, have huge incomes, contributing a bit more?

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

If Members are unhappy with the upper earnings limit for social security contributions they are quite welcome to bring a proposition to remove it. At the moment that limit is in place and that is why we are applying it to the new long-term care contribution.

**Deputy T.M. Pitman:**

He did not answer the question.

**The Deputy Bailiff:**

I think he did. Deputy Higgins.

**3.5.6 Deputy M.R. Higgins:**

First of all, I will make it quite clear, I am pleased that we did bring in some long-term care legislation and I commend the Minister for that. I am surprised however that if the cost is going to rise towards £90 million and £100 million, that we did not remove that cap because it is going to become unsustainable unless we do find additional income. However, can the Minister tell us whether the people who are earning over £152,000 will be able to claim assistance from the States for their long-term care anyway? In other words, they will still be able to claim but they are not going to pay the full show, is that correct?

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



Unlike perhaps other social security contributions, the qualifying for long-term care benefit is not based on your contribution record. It depends on your length of residence and the assessment of your care needs. Anybody who meets those 2 criteria on residents and care needs will be eligible to receive benefit but only after they have paid £50,000 of care costs in the first instance. So there is sort of a full-safe mechanism for higher income people and people with assets to pay the first £50,000. So there are 2 mechanisms there, other than the cap on the contributions, to make sure that the better-off in our society make the biggest contribution to the provision of long-term care.

[10:30]

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

Will the Minister for Social Security renew his commitment that he made during a Senatorial campaign, that he is committed to progressive taxation whereby those who earn the most in our society contribute proportionately more than those who are less well-off?

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

I do not think that is a question in my capacity as Minister for Social Security, but I can inform Members that as a Member of this Assembly I still remain of the view that a taxation is the right way forward and I have never changed those views, and if you look at my voting record I have stuck to that.

### **The Deputy Bailiff:**

We will now come to question 1 as Senator Routier, the Assistant Chief Minister, has joined us.

### **3.6 Deputy J.M. Maçon of St. Saviour of the Chief Minister regarding the delay in lodging the new population policy for debate:**

Would the Assistant Chief Minister explain why, despite various undertakings, the new population policy has not been placed before the Assembly for debate before the summer recess? Thank you.

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

Before I answer the question, I would just like to thank Members' indulgence in recognising that I was speaking at the opening of a very important union conference at Hotel de France where there are 400 delegates which we welcome to the Island. They are discussing lots of things which are of importance to their union, so that was good to be able to do that. So, a report outlining the decision-making policy under the new Control of Housing and Work (Jersey) 2012 Law will be published after the summer recess and then a broader, more-inclusive long-term plan following wide consultation will be brought for debate in the early part of next year. This approach has been chosen because it does not seem sensible to bring a population policy forward in advance of a wide debate about what sort of Island we want.

### **3.6.1 Deputy J.M. Maçon:**

How can the Assistant Minister make that statement when we had that particular discussion about what type of society we want in the Strategic Plan and that is why the population component of the policy was drafted into that plan, which the States agreed, and while during that debate the population policy was supposed to come back in the next summer. It was supposed to be delayed until this summer and now it is going to be delayed again until the beginning of next year. When are we going to get this policy when we have already had that vision debate in the Strategic Plan?

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

I think what has been recognised is that this is a major piece of work for us all. We need to look at things with regard to the economy, the environment and all the community matters that we all want to think about. The Economic Department and the long-term strategy team are working very hard on bringing forward those pieces of policy for us to discuss. It is just too early, unfortunately, currently but perhaps the decision was in the Strategic Plan ... we believe we are still meeting it in line with the Strategic Plan by having introduced the new Control of Housing and Work (Jersey) 2012 Law which came into place yesterday and is already making some considerable difference to the way we are going to manage the decisions that we need to make. I understand the frustration of the Deputy but I think we need to do this in a structured way and consult with the whole of the Island.

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

I have had discussions with the Assistant Minister and I am absolutely convinced that he does not believe in restricting population within this Island. I feel that his colleagues on the Council of Ministers also do not believe in restricting and capping the population of this Island. I will ask him if he will confirm the fact, but is it not that they are afraid to bring it to the House because they know that we will see things like the hospital, because I think they are projecting about 150,000 population, and other things that you know it will be unacceptable so you are putting off the date. Will the Minister not confirm that?

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

No, I cannot confirm that at all. I think the Deputy has not recognised the work that has been going on in the recent years with the Migration Advisory Group and the decisions that we have been taking. We have slowed down the inward migration over the last few years. There has been a real turnaround of the decision-making policy where more people are coming to the Island who were in the non-skilled environment.

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

A point of order. The Minister is clearly misleading the House. A written answer has been given which statistically shows that the inward migration has not been slowed; it has increased.

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

No, I think it has been slowed down over the last few years. I think the Deputy may be reading that incorrectly because what we have done is switched around the amount of people coming into the Island. The decisions that we are making are that people with higher skills will get permission to come to the Island if we need those skills. Only if we need those skills. But with regard to the unskilled labour force, we have really dried that up completely in the last few years.

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

Could the Assistant Minister tell us whether he personally believes that we should be restricting the population and not allowing it to go much further than the 100,000 that we are already at?

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

Restricting the population is what we are doing currently and I believe that it is something we need to do. A number is very difficult to decide upon because I do not think that ... even the number that we currently have, that is a number that was at December of last year. We all know from years of experience that during the summer months ... we are probably well over 100,000 right now because people do come and flow in and out of the Island regularly. We know from statistics that there is a turnaround of 5,000 to 6,000 people a year, so it is quite possible at this very moment that we are over a 100,000 but that is an ebb and flow that happens every year.

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

Will the Minister stop prevaricating and do the right thing? Will he apologise on behalf of the Chief Minister for having failed to meet one of his 7 strategic aims with a clear priority of bringing a policy to this House by July of this year?

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

I hope Members will recognise that we need to do this in an orderly manner and with the right information to have a proper debate. It is all very well rushing a debate through this House with incorrect and incomplete information. I would urge Members to understand that we need to do this in a proper manner.

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

The Chief Minister and the Assistant Chief Minister have failed to do that in a timely manner. They have had the population projections from the Statistics Office for the last 8 months. Why has no action been taken already? Will the Minister simply apologise for having failed to meet his targets?

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

I am quite prepared to give the Assembly an apology about not having met that target date but I hope in doing that that Members will accept and recognise that we need to do this in an orderly manner.

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

The Assistant Minister seems to be reluctant to answer the question. Perhaps he would like a simple question like: why is the anecdotal reference to a projected 350,000 population being used for evaluating the required size of a new hospital?

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

I am unable to comment on anecdotal information.

### **3.6.7 Deputy R.G. Le Hérisier:**

Would the Assistant Minister not acknowledge that it is misleading to just dwell on entry figures, that the big issue is the transfer at the 5-year point?

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

Yes, that is certainly an issue to recognise that people's qualifications do change at 5 years with regard to their ability to work. That is something which we are reviewing in the Migration Advisory Group in the way we implement the new law and that is something we will be looking at possibly changing in the future.

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

I do owe the Assistant Minister an apology because if you look at question 5, it does show a decrease in the last 3 years, so I put that on record. But I do have to ask the Assistant Minister based on question 5, can he confirm that we used to be working from 5-year averages so we would look over a period of 5 years of what the net inward immigration changes were and it has been presented here as 3-year averages? Can the Assistant Minister explain why that is the case and how that would affect the figures?

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

I cannot at this stage. I would have to look at that. I think it was just trying to show the progress that had been made in the last 3 years. I honestly cannot give an answer.

### **3.6.9 Deputy J.M. Maçon:**

I hope the Assistant Minister will appreciate I did direct this to the Chief Minister, given that in his election towards becoming Chief Minister he outlined quite clearly the type of population policy he wanted, given that the models and a lot of the backbone work to bring a population policy already exists; they are already established. Given the methods that the Statistics Unit and the Social Security Department have in measuring the population, how can the Assistant Minister explain to the Assembly that more time is needed in coming up with a policy when we have had all this work which is already in existence, when a policy has already been thought out by the election of the Chief Minister and that we have a lot of this information already to hand? How does the Assistant Minister expect the Assembly to accept that this policy can be delayed until the beginning of next year when a lot of those components already exist and already been agreed?

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

I thank the Deputy for that question. Obviously it is difficult for me to comment on the position the Chief Minister made during election time but I know, having discussed it with him, he does endorse the way we are progressing because he recognises that we need to do this in a structured way. But the other information which is missing is since those comments were made in the Strategic Plan and have been around for some time, is the economy has slowed down dramatically and we have high unemployment in our Island. There are all those sorts of factors that we really need to have a greater understanding on and how we are going to change that; how the future of the finance industry is going to reshape. There are all those sorts of issues. We need to understand how we are going to react to that. That is the information which is being pulled together with all the other information we already have to give a full picture.

### **3.7 Deputy G.C.L. Baudains of St. Clement of the Minister for Economic Development regarding arrangements for local fishing vessels to be registered:**

Would the Minister advise what arrangements, if any, are in place for local fishing vessels to be registered whenever those qualified and delegated to undertake this task, as indicated in R.12/2011, are on leave or otherwise unavailable?

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

I have investigated this matter and discovered that there has been a problem concerning a local fisherman only a few weeks ago. In this case the fisherman was fishing with an unregistered boat and was stopped by the States Fisheries Section and told he must have the vessel registered. It is illegal of course not to do so and crucially it is not safe until it has had its safety check carried out. The Fisheries Section did not take the hard-line option which they could have done in such circumstances by ordering the fisherman to destroy his catch. Instead, a more pragmatic approach required him to immediately register the vessel. From the time that he was stopped operating his unregistered vessel until the safety check was carried out was a total of 13 days. The Deputy will understand that the registration process, including a safety check on the vessel and its equipment, and legitimate checks on the applicant, as well as other legal and documentary tasks, takes time. Achieving this in accordance with the law and working with the applicant can indeed take some weeks. However, I am conscious that the Ship's Registry is a very small unit with effectively only 1½ staff to carry out the administration for all Jersey ships. I therefore accept that there may well need to be more than one person able to complete an urgent registration, and so I am asking for this to be reviewed. I would like to thank the Deputy for raising the issue. Thank you.

[10:45]

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

I am obliged to the Minister for his recognition of the issue because it was brought to my attention that when the person who normally does the work is unavailable, either on leave or whatever, then you have to wait until they come back and then further wait while they catch up on any work that was waiting for them before they left. Will the Minister now be ensuring that there are more people qualified to undertake the task and that the details of those people will be readily available so that those requiring the service do know who to contact as opposed to being told: "Well I am sorry, you have to wait 2 or 3 weeks"?

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

Certainly, as I have said, we will be reviewing the whole matter of registration. There are in fact, to put it into context for Members, approximately 50 new fishing boat registrations over a 3-year period. It is not high volumes but obviously this instance does raise a point that needs to be investigated. We will be reviewing the whole process to make sure that it is more streamlined in the future and a similar circumstance does not happen again.

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

I am concerned in the reply that we have had from the Minister. Being a former charter boat operator where we had our boats examined every year, this work was done in due form at a very short notice and you would have your certificate within several days, not running into weeks, so it is a real concern. Would the Minister ensure that you could have a much quicker turnaround i.e. within 7 days not in weeks or nearly months as he has indicated? Will he please give an undertaking?

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

What I said was nothing to do with months. I mentioned that the process can take a few weeks, which was the case in this particular instance. I have also stated that we are going to review the process to ensure it is as efficient and effective as it possibly can be. I do not think I can add much more than that.

**3.7.3 The Connétable of St. John:**

Given that this is all done through the Ports Department now that this has been farmed-off as another one of our quangos, will he ensure - and I mean ensure - that this does not slip down the list of things to do? This is urgent. This is people's livelihoods we are talking about.

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

This is not a quango. I do not know what the Connétable is referring to. I have already undertaken that we are going to review this matter. We will do so to ensure it is as effective and efficient as we possibly can and there is not much more that I can add to that.

**3.7.4 Senator S.C. Ferguson:**

Does the Minister, with his new responsibility for reform of the States, not agree that this is a perfect example of red tape getting in the way of business?

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

Not necessarily until we have had a closer look at it. This may well just be an unfortunate but simple isolated incident. We need to get the facts, clearly, before we can form an opinion. In fact, I would have thought that the Senator would have been pleased to hear that the department only has 1½ posts in this area. We are trying to be as efficient and as effective as possible with a minimum number of staff but we need to make sure that we can deliver. Thank you.

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

One-and-a-half people is always difficult to imagine but I will do my best. Is it not the case that there can be other people within the department who are qualified to do this, who could step in as required, rather than having people dedicated to the job?

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

The Deputy raises a good point and I think this is part of reviewing the process. It is all about process, quite often that a failure - if this can be described as a failure - should be considered. I think when we review it we will see indeed whether we need more staff or just a better process to ensure that this incident, or an incident like it, does not happen again.

### **3.8 Deputy S. Pitman of St. Helier of the Minister for Social Security regarding income support overpayments:**

What is the department's policy when it is discovered that a mistake has been made and an income support recipient has been overpaid?

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

It is the duty of each adult within an income support household to notify the department of changes in their earnings and any other change in their circumstances which could affect their income support entitlement. Failure to do this may result in an overpayment which will need to be repaid or, in the most serious cases, the individual may face prosecution under the Income Support (Jersey) Law 2007. In the small number of cases where a mistake has been made on a claim due to departmental error, the claim will be corrected and the claimant will not be required to repay any overpayment. A claimant has the right to request redetermination by another officer if they dispute an overpayment. If the decision is upheld the claimant has the right of appeal to the Income Support Tribunal.

#### **3.8.1 Deputy S. Pitman:**

That is the first I have ever heard that if such a mistake is made that the department will not ask for the recipient to repay that sum of money. Why I am asking is on behalf of a constituent who is a pensioner who, with his income support as required, gave in bank statements and the department overlooked a sum of money that he was regularly receiving. A while later he received a bill of £700. He is on income support and he is a pensioner and this is a shock to somebody with that kind of money. So I just wondered on this particular case would the Minister review it and take a decision.

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

I am not aware of the case that the Deputy describes. I am happy to look into it if she would like to give me more detail.

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

Does the Minister accept that the reclaiming of overpayments up to £21 per week can and indeed does cause hardship? Because income support is calculated on the needs of that particular household and then, in many cases, all too often, the income support is reduced by up to £21 a week. Does the Minister accept that this causes hardship and is he prepared to consider paying in arrears rather than paying in advance which produces more incidents of overpayment than would otherwise seem likely?

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

Officers, when they are assessing whether an overpayment has occurred, will always take into account the circumstances of the claimant and, as the Deputy states, the minimum amount that we

will collect is £3 a day or £21 a week. However, the maximum amount is £6.50 a day which would take the maximum amount that we would take up to half of the personal component. Very rarely do we use that level but that is the maximum we would take. Insofar as paying in arrears, this would disadvantage a lot of people, particularly when they find employment because we allow people who have found a job to have a further 4 weeks of benefit when they start a job because obviously some jobs, people are not paid until they have completed a month's work. That is an extra benefit at the end of a period of time on income support and something I would not wish to take away.

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

A point of clarification, if I may. I have just heard a set of new figures. I believe that the practice has been from £7 to £21 or £21 clawback as the maximum. I have never heard in the same circumstances a simple overpayment of the department trying to claim half the adult component back. Is that really the rules that he is imposing because that is guaranteed to produce severe hardship?

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

The original questioner asked for the policy and I am just merely telling the House the policy.

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

Perhaps I should shelve my original question and ask the Minister then, is that higher sum ever enforced? Because as Deputy Southern said, the impact on a person's income and ability to live would be absolutely catastrophic. So, if it is a policy, is it ever used?

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

As Members would expect, we have in excess of 6,780 claimants. I would hardly be aware of all the change of circumstances, which can sometimes exceed 20,000 in a year. I would hardly be aware of all the different arrangements. However, that is the extreme position usually where fraud has occurred.

### **3.8.5 Deputy J.M. Maçon:**

Does the Minister acknowledge that many mistakes are made as the same member of the public, depending on which officer they will see, or depending on which day of the week, might get totally different advice, and what is the Minister doing to address this problem?

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

I do not agree with that.

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

The Minister referred to a small number of cases of which the error is due to departmental consequences. Can the Minister tell us about that small number, put a number on it and relativise it compared to those which are not due to departmental error?

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

I can tell the Assembly, because this was in the published States Accounts, that in 2012 a total of £131,000 was identified by the department in overpayments arising from departmental error. This is a massive improvement on 2011 where the figure was £309,000.

### **3.8.7 Deputy S. Pitman:**

Contrary to what the Minister said about the policy of the department not requiring payment in certain cases, in this particular case I contacted an officer and had a few words with him and he told

me that in any case, even if it was the department's fault, that the income support recipient would have to pay back that debt and in this case that is £700. Although it was the department's fault who overlooked information that they were given, in this case the pensioner was asked to pay £700, so I ask the Minister if he would make that policy publicly available to income support recipients?

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

The Income Support Scheme is a very complicated scheme and if we were to make available every single policy document that officers use when determining claims, we would be publishing the equivalent of the Holy Bible. I could not do that but what I said today about the policy will be recorded on Hansard and that is the policy we currently have. I have no plans to change the policy but in respect of the particular case that the Deputy is concerned about, I have already agreed to look into if she would like to give me more details.

**3.8.8 Deputy S. Pitman:**

The fact that that information is not made public is costing these vulnerable people. Is that fair? I am not asking for a whole wave of legislation be published, it is just a line maybe on the website. So, is that fair that people are having to pay because this information is not available?

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

The key thing here is that all recipients of income support, when they receive their first letter notifying them of their benefit, are advised in black and white on the back of the letter that it is their responsibility to notify us of change in circumstances. This is not the other way round and therefore it is unreasonable for me to necessarily be publishing a policy of how we reclaim money when, in many cases, it is due to the failure of the claimant to notify us of their change in circumstances.

**Deputy S. Pitman:**

In this case the claimant did make the information available and it was the department who failed to recognise it.

**The Deputy Bailiff:**

I think the Minister has agreed to review the case if you give him details of it.

### **3.9 Deputy R.G. Le Hérissier of the Minister for Treasury and Resources regarding the subsidisation of monopoly infrastructure services provided by JT:**

To what extent are the monopoly infrastructure services provided by Jersey Telecom cross-subsidised by other cost centres within the Jersey Telecom Group?

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

I am acting Minister for Treasury and Resources for this purpose. Deputy Le Hérissier's question refers to monopoly infrastructure services and I have interpreted this as meaning the provision of a fixed line basic voice service to all premises on the Island as required by the Universal Service Obligation under the current C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities) licence. As at the end of December 2011 this business generated a turnover of £9 million and a loss of £1.6 million based on the recently published separate accounts available on J.T.'s (Jersey Telecom) website. The loss arises principally out of the 3 historical subsidies: the first subsidy being that given to those of a pensionable age in Jersey which costs about £1.3 million per annum, the second being the cost of running the 999 emergency service line and the third the cost of operating the phone kiosks across the Island.



[11:00]

The loss is paid for by the profits that J.T. generates in other parts of its business such as calls, mobile data and its international business. No target profit level has been set by the Minister for J.T. and so the effect of this loss of £1.6 million is merely to reduce the profits of J.T.

### **3.9.1 Deputy R.G. Le Hérisier:**

Would the Deputy Chief Minister not acknowledge that the issue is not necessarily with the O.A.P. (Old Age Pensioners) subsidy, for example, the issue is with other operators who wish to attach themselves to the J.T. infrastructure and are finding when they do so that the prices charged by J.T. are undermining the kind of packages they can offer? That is the real issue. Would he not also acknowledge that to put the shop, for example, as a loss-making operation in the separated accounts is stretching the bounds of incredulity?

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

I may have misheard the Deputy's second question but did he say "to put the shop"? I am afraid I am not familiar with that level of detail of the accounts to be able to answer in relation to that. I think the issue in relation to what charges that J.T. would seek to make to other potential users of the hard line, the normal traditional telephone line thing, if there is a dispute on that it seems to me that must be a matter to be determined by C.I.C.R.A. because of the monopoly position.

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

The Assistant Deputy Chief Treasury Chief Minister a moment ago spoke about the ... he talks about the burden of services such as the emergency calls service and telephone boxes being borne by Jersey Telecom exclusively and, therefore, part of the consideration to do with the monopoly status and also the use of their infrastructure. Does the Minister, answering questions on behalf of the Minister for Treasury and Resources, believe that in the 21st century in a competitive market it is appropriate for one sole agency, one company to be shouldering the burden of these services and should they not be paid for out of general taxation and the budget, for example, of the emergency services themselves?

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

The historical position is the historical position but the Deputy is quite right, there are other ways in which arrangements could be made. It could be we organise in such a way that, effectively, these were treated as an expense of the States of Jersey as part of our social obligations, if that were deemed to be the appropriate thing. The effect of that, of course, would mean that the profits of J.T. would go up, presumably then they would be able to pay a higher dividend to the States of Jersey that could then pay for it. But the Deputy is quite right, it could be reorganised in that way.

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

If I heard correctly and perhaps the Minister would correct me if I did not, he spoke of the level of profit as directed by the Minister. Can the Minister explain this, please?

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

No, I said the reverse of that. I said that no target profit level had ever been set by the Minister. That is precisely the reverse of the question.

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

Yes, but the implication is that the Minister can set a profit level. Why should it be phrased like that?

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

The Minister acts, effectively, as shareholder in relation to the company, which is wholly owned, effectively, by the States of Jersey. He could, I think, give directions to the directors as to what he hoped they would be able to produce in relation to profit levels but has not done so in the past. They, of course, could, theoretically, ignore him because this is a separate company with separate directors and they have to consider things like they need to reinvest and things of that nature. All I am saying is that that has not happened, their hands have not been tied.

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

Is the Minister saying that in fact the Minister for Treasury and Resources is in a position to be able to manipulate the board if he so wished?

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

I think he is in a position to be able to influence in relation to that, if he so wished because, ultimately, the shareholder appoints and can remove directors but he has no wish so to do.

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

The Minister knows that his colleague would have no wish to do this. How would he know this? Could he please explain?

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

I know that it is generally policy of the Minister to try to keep such matters at arm's length and to preserve the gap. One of the difficulties that he and other Ministers have in the same area is that they are constantly asked detailed questions, looking towards the Deputy but not in an accusing fashion, in relation to detailed operation of matters. He is perfectly entitled to take the view: "None of my business, this is a matter for the directors." But it is, in fact, the Members of this Assembly that seek to draw him into a managerial-type role. I have to say he always seeks to resist.

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

Could the Minister, for not being invited to dinner, outline whether he will press the Minister for Treasury and Resources to question why cross-subsidisation is not outlawed in the Competition Law, hence, the very timid response that some complainants feel they are getting from the Competition Authority?

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

I do not see this as cross-subsidisation. I see this as fulfilling a social burden that leads to a situation where there is a loss being made, hence, my answer to Deputy Tadier. But I think it is perfectly legitimate that if there are other organisations that have concerns in relation to this area that they be raising this with C.I.C.R.A. and also with the Minister who has responsibility for C.I.C.R.A. who, if my memory serves me right, is the Minister for Economic Development and not the Minister for Treasury and Resources.

### **3.10 Deputy T.A. Vallois of St. Saviour of the Minister for Economic Development regarding a delay in publishing a skills strategy, as agreed within Strategic Aim 4 of the economic growth and diversification strategy approved by the States Assembly in 2012:**

Could the Minister advise why there has been a delay in publishing a skills strategy, as agreed within Strategic Aim 4 of the economic growth and diversification strategy, approved by the States Assembly last year and how much of the allocated £0.75 million has been expended?"

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

I respond to this question as former Chair of the Skills Executive who approved the draft skills strategy, to which the Deputy refers, last year. However, given the importance of skills development in tackling the consequences of the current difficult economic issues, it is important that this strategy completes a rigorous States due diligence process, which has resulted, unfortunately, in the delay in the publication to which the Deputy refers. Nevertheless, while this process is completed it has not stopped the progression of the essential skills agenda to ongoing programmes such as the historical apprenticeship scheme, the Undergraduate Internship programme and Enterprise Education, plus the new Trackers apprenticeship scheme run by Education, Sport and Culture, which continued to be delivered under the supervision of the Skills Jersey Board. To date approximately 10 per cent of the Economic Development allocated budget for skills in 2013 has been expended, although I would correct the Deputy that the figure is not in fact £0.75 million, in fact it is £588,000.

**3.10.1 Deputy T.A. Vallois:**

Could the Minister explain what that rigorous process is?

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

Most recently the strategy went to the Council of Ministers who felt that further economic advice would be valuable in terms of determining the final shape of the strategy and so it has gone to the Economic Adviser. We hope to have that feedback fairly shortly and be in a position, I understand, for the publication.

**3.10.2 Deputy M.R. Higgins:**

Can the Minister tell us that obviously you do not develop a skills strategy in a vacuum, we know there are certain skills that are essential for all jobs but which direction do you see the economy going in the future and which skills are you going to be training-up the population to do? In other words, can you tell us what your vision is ...

**The Deputy Bailiff:**

Through the Chair.

**Deputy M.R. Higgins:**

Through the Chair, could the Minister tell us the vision the Council of Ministers have for the future of our economy and the skills that we require for it?

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

That was a wide-ranging question. Clearly, first of all, the Deputy is right. There needs to be a connection between what business requires and the skills that the Government feels should be put in place. That was the purpose for the introduction of the Skills Board and the Skills Executive, recognising that more than one department was involved in the delivery of effective programmes to support this area. In terms of which skills are going to be required, largely, as I have said, that is going to be guided by what enterprises are requiring. We are seeing now a lot of work, for example, of Digital Jersey and their tag groups that are looking at areas that are going to be applicable to the development of a digital economy, which we are working on. We are trying to tie-in the necessary skills base to be able to support that, as one example, but it is pretty broad-based. We are seeing apprentices going into health. We are seeing care assistants. We are seeing a pretty broad-based application of the skills agenda.

**3.10.3 Deputy M.R. Higgins:**

Coming back to the idea of the diversification strategy, besides Digital Jersey, what other skills do you think are required by our population, bearing in mind that the Council of Ministers' policy on diversification and the areas that they think we should be going into?

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

It is not just skills, it is also upskilling that is important. We have seen some very good work happening with regard to hospitality, encouraging local people to go into hospitality and get appropriately trained and upskilled to take on those particular roles. One of the key elements of the strategy is trying to reduce the need for additional migration. What we are seeking to do is ensure that our local young people have the necessary skills. There is going to be quite a demand across a broad base of industries as we seek to diversify. We have seen some very interesting developments through inward investment, for example, with the cluster built up around the mining sector. That provides, in the future, opportunities for geology, other skills and examination results to be developed that would ensure that those activities can be undertaken on Island.

**3.10.4 Deputy T.A. Vallois:**

I, myself, find it unacceptable that it has taken to this point that we still do not have a skills strategy published. Could the Minister explain then for the Assembly, firstly, whether he believes it is acceptable where we are at the moment and whether he is still able to meet the target or meet the expectations within the economic growth and diversification strategy?

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

I certainly do not find it acceptable that we have not published the strategy to date. No, it has fallen behind. It should have been published. Having said that, many of the initiatives and the direction in which the strategy is going and the activities are being undertaken at the moment. It is not as if nothing is happening at all in this very important area. There has been investment and that will continue to happen. I cannot really add very much more to that. I think the Deputy asked a second part of the question, so if she could perhaps repeat that.

**Deputy T.A. Vallois:**

The second part of the question was whether the Minister believes he is still able to meet the requirements under the economic growth and diversification strategy of Strategic Aim 4.

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

Is the Deputy so referring specifically to skills or just the economic growth and diversification strategy aims and objectives at key 4 that were referred to?

**Deputy T.A. Vallois:**

Strategic Aim 4 relates to, I think, about 4 different areas or 3 different areas and they have all had target datelines, which is why I am asking the Minister whether he believes he is still able to meet the requirements under that strategy.

**The Deputy Bailiff:**

There you have it, Minister, you are asked to address a variety of matters.

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

Yes, Sir, I realise that. All I can say is, yes, we are working hard in order to do that. It is more difficult than it was because it has slipped behind but I believe there is every opportunity to catch up. The skills accelerator, for example, which is one key element that is coming through on our skills strategy, is being progressed and I am very hopeful that that will be in a position to be launched shortly.

### **3.11 Deputy T.M. Pitman of the Minister for Economic Development regarding the control of outlying port management:**

Would the Minister confirm whether the Harbours Department has effectively handed over control of outlying port management to groups of private individuals who use their vessels simply for pleasure - such as associations - resulting in the exclusion of others and, in certain instances, leaving members of the public who rely on fishing as their livelihood without access to fresh water to hose their boats and their gear?

[11:15]

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

Absolutely not, as the Deputy knows very well. Indeed, he invited himself to a recent mediation meeting and will, therefore, be well aware that the law makes no distinction between commercial and leisure activities with regard to the use of facilities and the provision of services at outlying harbours. In one outlying harbour, my department is working with all users, commercial and leisure, where a dispute has arisen to reach an amicable resolution that ensures that no one interest group will have a controlling interest over the other. This includes access to all facilities, including the supply of water. I would urge all parties to exercise common sense and work towards a quick and equitable resolution. This is a much more preferable outcome than the Harbours Department being forced to impose one.

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

I should just correct the Minister, I did not invite myself, I was invited by constituents, the fact they happened to live in St. Brelade and fish in Trinity is irrelevant, I help everyone. However, could the Minister say why it is some 2 months since Deputy Duhamel and I attended that meeting, 2 months in which his department by this association have not managed to obtain a simple key to allow fishermen, father and son, who have been victimised, to have water, to wash their boats? They have had their craft and their equipment vandalised and his department, effectively, do nothing, apart from put up a C.C.T.V. (closed-circuit television) camera that has already been vandalised.

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

That is completely untrue. The department has been working extremely hard with both parties and it is not just 2 individuals. On the one hand there are 2 fishermen who feel aggrieved and on the other hand there are a group of leisure users of the particular facilities that the Deputy is referring to. What the department has been seeking to do is find a fair and reasonable mediation between the views of both parties that are fairly well entrenched. As I made clear in my opening remarks, I would urge both parties to ensure that they do move towards that rapidly, otherwise the Harbours Department will reluctantly, for obvious reasons, be forced into a position of trying to impose a solution. I hope that we have a very quick solution. I am told that one is almost imminent and I hope that is the case.

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

Will the Minister ensure that by at least the end of this week all padlocks, bars and chains, which have been used at the Bouley Bay incident, are removed and, if need be, go down himself and ensure that calm is restored to the bay and all parties have an agreed way forward?

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

Will you bring calm to Bouley Bay, Minister?

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

Sir, both with your wisdom and also the Connétable's I would be very much delighted to hear exactly how that could be achieved. I would suggest that by going down there and removing padlocks will enrage one set of individuals, by putting them in place will enrage the other part and that seems to be the issue. There are very, very clearly entrenched views over this particular matter. If the Connétable, with his wisdom, has a solution I would be delighted to hear about it and so would the Harbours Department. But if we do not get one pretty soon we are going to have to impose one and that is not satisfactory, in my view.

**3.11.3 Deputy T.M. Pitman:**

[Aside]. The Minister said that his department are working hard. Let us be quite fair here, I could go down and get a key cut in the time it takes some Members to make a speech. The Minister has had 2 months. That would go a very long way to alleviating this problem. How difficult is that to achieve and can he give us a deadline basically when we will have some sort of solution to this problem?

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

I think I have made the point abundantly clear that this matter is not straightforward, due to the feelings on both sides. The Connétable of St. John, whose Parish falls within Bouley Bay or Bouley Bay falls within the Parish. Oh, it is in Trinity, all right. I am mistaken. I understand that the Connétable is down there on a regular basis. I assumed it was in his Parish but obviously that is not the case. To try and put a date on the resolution is impossible but I would expect one to be reached very rapidly, as I have said, otherwise the department will be forced to impose one, which is not the ideal solution but that will happen within a very short timeframe if there is not a solution between the parties.

**3.11.4 Deputy T.M. Pitman:**

Sir, could I have a final supplementary? It is just that the water, which is at the root cause of a lot of this, does not belong to the Boat Association. It should be free to everyone to use sensibly. Why is that so difficult to achieve?

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

That is one of the key issues, establishing the actual ownership of the water has been an issue that has taken some time to resolve. That accounts certainly for some of the delay in reaching an agreement as to what is going to happen here. We believe we are almost there, I am told by the Harbours Department and, as I say, I am very hopeful that there will be a resolution in this long-running and rather acrimonious and unpleasant event.

**3.12 Deputy S. Pitman of the Minister for Social Security regarding the impact of the adoption of the Income Support (Amendment No. 8) (Jersey) Regulations 2012 on Income Support recipients:**

Following the adoption of the Income Support (Amendment No. 8) (Jersey) Regulations 2012 by the Assembly on 17th July 2012, would the Minister advise how many former income support recipients have had this benefit stopped?

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

The Income Support amendment that the Deputy refers to changed the residency conditions of income support. All adult members of a household were required to demonstrate a set period of continuous residency in Jersey in order to be entitled to benefit. This condition can be satisfied by

either 5 years continuous residence in Jersey immediately prior to claiming income support or 10 years continuous residency at any time in the past. Some exceptions are available for people born in Jersey and for the children of Jersey-born parents. These people can satisfy 10 years' residence through aggregate periods spent in Jersey. Prior to the change only one adult member of the household was required to satisfy these conditions. This meant that a partner who had recently arrived in the Island would be eligible for the full benefit of income support, despite never having contributed to the local economy. As a result of the change 180 claims were reduced when adult partners ceased to be eligible for some components of income support. This will lead to a full-year saving of approximately £700,000.

**3.12.1 Deputy S. Pitman:**

I agree with the Regulations in stopping people coming to Jersey and abusing the system but I do not agree with the money being taken away from recipients who are already receiving income support because, as we know, a lot of people on income support are vulnerable, pensioners and on incapacity benefits. Firstly, I bring this question because, again, I have constituents, a couple have lost their income support completely and the partner is on long-term incapacity benefit and cannot work. The couple have lost £500 a month that goes towards paying their States rent and the partner, who claimed the income support, is earning too much on her own to receive the benefit. They are in dire straits and has left them in a position where they cannot pay their rent and will be kicked-out, possibly, of housing because of this. This affects 180 people and I am guessing a lot of them have lost a lot of money as well. Given that, does the Minister think this is a fair Regulation?

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

The vote on this amendment that related to the 5-years residency for all adults was 32 Members in favour, 7 against. I would say that that is a strong indication that this Assembly was in favour of my proposals.

**3.12.2 Deputy G.P. Southern:**

I think those numbers give a gloss to the endorsement that suggests that people did not really know what they were voting for. Does the Minister accept that, contrary to his intention to target those people who come for a free ride at the last minute, his amendment targets people with a long-term commitment to Jersey, who remain committed to Jersey but who have a short gap in their residence in Jersey? It is impacting on all sorts of people with a serious commitment to Jersey and who have made a contribution to the Jersey economy and not just those who are having a free ride.

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

If somebody has a short gap, as the Deputy puts it, in their residency it is up to that person to prove to us why they should be considered as an exception. There are cases where people may need to go away for hospital treatment or to look after a sick relative and that could be considered as an extension of their residency period in Jersey, particularly if they retain a place of abode in the Island, in which case we would allow those situations to occur. But if somebody leaves the Island for more than 4 weeks then the rule says that their personal component will cease and that is still the current position.

**3.12.3 Deputy G.P. Southern:**

Sir, supplementary, if I may. I am glad to hear that the Minister would consider medical absence from the Island as continuous residence and I hope he gets round to answering the email that should have already arrived on his desk on a particular individual case.

**The Deputy Bailiff:**

Is that a question then?

**Deputy G.P. Southern:**

Will he get round to it soon?

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

The Deputy is well aware that officers are dealing with this particular case and I think the person concerned has already been contacted.

**3.12.4 Senator P.F. Routier:**

Does the Minister share my concern and distaste at the questioner's inference that States Members were not aware of the amendments to the Income Support (Jersey) Law that was brought forward?

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

In preparation for today's Question Time I brought the proposition with me and the report is quite clear. The report stretched to something in the order of 11 pages and set out, as most of Social Security reports do, a full explanation of why we were bringing in this change, to make it more equitable for people who arrive in the Island, who are single as opposed to moving into a couple relationship. We made it clear the amount of money and the number of people affected by the changes. I agree with the Senator that Members were fully aware of all the circumstances.

**3.12.5 Deputy S. Pitman:**

I did not say, when I was speaking, that the constituent who I am talking about, he has had it aggregated. He comes under housing regulations 1(1) and (3), which are aggregated years. He has had a commitment to Jersey and he is now unable to work due to sickness. I wonder how many people are in this situation. The Minister did not answer my question about whether he thought the Regulation was unfair. Does he think then that this situation that this couple are left in now, unable to afford social housing because of this policy, is fair? Does he think that situation is fair for people who are committed to this Island?

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

I am reluctant to talk about individual cases but the situation is that if somebody has completed 5 years continuous residence in the past within the last 10 years, if they leave the Island for any length of time when they return they can make up the period. If they are away for a year they can remain in the Island for a year and then they qualify for the benefit again. In the case in point the absence was about 3 months and that time has already been made up.

**3.13 Deputy G.C.L. Baudains of the Minister for Economic Development regarding the benefit to tourism generated by the Festival of Motoring:**

Would the Minister advise whether the benefit to tourism generated by the Festival of Motoring has been calculated and state what assistance, both financial and practical, that the Economic Development Department gives to this event?

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

The Festival of Motoring was first launched in 2001 by some motoring enthusiasts.

[11:30]

The principal sponsor is RUBiS, the fuel distribution company, and the event is now professionally organised by an event management company. In the past it has received financial support from the Tourism Development Fund but not since 2010 and no funding was requested in 2013, although I understand that a commercial sponsor did withdraw regrettably at the last minute. The principal



benefit to the economy is derived from those who come to Jersey to attend and participate in the festival. The organisers estimate that between 200 to 400 non-resident visitors may have attended the event in 2013. The Tourism Department helps to promote the festival in a number of ways, including websites and other calendars that are distributed to visitors and elsewhere.

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

As the Minister rightly says, this event brings hundreds of visitors to Jersey. What I would like to know, in the first instance, is why did the department wait until last Friday, following the lodging of my question, before attempting to quantify the benefit of this event to tourism? Why have they not done this before on the several occasions that the organisers of the event approached the department but were turned away?

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

I am not, as I mentioned in my opening remarks, aware that the department was approached on a number of occasions. If the Deputy would like to provide further information I am more than happy to look at that. The only approach that I am aware of was with regard to the future where I believe the organisers have an interest in trying to raise the profile of this particular event. There has been a discussion about putting together an investment and business case to support that. That I would welcome and I think indeed the source of funding for that would be the Tourism Development Fund, where Members will be aware now has some £500,000, is open to the private sector working with Economic Development, and a suitably put together business plan, should - I would imagine - seek some support.

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

Is the Minister aware that in fact the event is not likely to run next year because it is costing the organisers money?

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

I am not beyond the facts that some of the organisers have approached the department, as I have said, and there is an intention to work with them to put together a business plan, an investment proposal, to make a valid approach to the Tourism Development Fund. That is all I am aware of at this moment and I certainly hope that progresses. I think there is some merit in it and look forward to seeing that proposal in due course.

**3.13.3 Connétable A.S. Crowcroft of St. Helier:**

Is the Minister aware that Jersey is almost unique in holding motor racing on public roads, courtesy of the Minister for Transport and Technical Services and the Parish of St. Helier? Will he allocate resources to explore the potential to develop a Jersey road-race revival along the lines of the Goodwood Festival?

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

It is interesting that the Connétable mentions the Goodwood Festival. Obviously it is extremely well known. It is a significant investment and it has been built up over a long period of time. The aspiration I think perhaps is that the event we are referring to would like to get somewhere towards that and I would welcome it. I think it is a good idea. Clearly, there is a lot of work to be done in order to get there and in a community of our size there would need to be a great deal of buy-in to support an event of that nature. I am certainly happy to pass that thought across to, for example, the Shadow Tourism Board that are now in place as of April. They are looking at a new tourism strategy for the Island and I think events of this nature should have very serious prominence in their thoughts and considerations in that regard.

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

Is the Minister aware that as late as last year the organisers applied to Tourism and were told that apparently all the budget goes to T.V. (television) and consumer advertising in the national press and niche publications such as *Walking* and they were unable to help?

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

I can understand if that is indeed what the organisers were told going to Tourism. Of course, one of the primary aims of Tourism is destination marketing, in other words, selling and promoting the Island to get people to come here. The other issue is, of course, having valued events for when visitors do arrive. It is as much to do with not just capture but retention in the future, ensuring that the visit and the experience and the range and variety of activities are as broad as they possibly can be. As I have said, there are different areas where funding should come from. In my view, T.D.F. (Tourism Development Fund) is certainly one of those that we should be looking to support, with the funds available now, some of these types of initiatives.

### **3.14 Deputy G.P. Southern of the Chief Minister regarding measures to control immigration and population numbers before the population exceeds 100,000:**

What measures, if any, will the Chief Minister propose to control immigration and population numbers before the population exceeds 100,000 and, if none, why?

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

The Migration Advisory Group has been pursuing a policy of limiting immigration and supporting local employment and focusing permissions on higher value activities that create and safeguard local employment. This is the right approach for our economy and environment and is wholly consistent with the Strategic Plan. The M.A.G. (Migration Advisory Group) will use the new Control of Housing and Work legislation to continue this work.

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

But despite this move from non-locally qualified immigrant employees to (j) categories, the numbers have remained stubbornly high and the population is going up by around 1,000 a year still. Does the Minister consider that the demands of (j) categories are somehow less in terms of housing, health need and schools when compared to non-locally qualified immigrants?

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

The difference between - you call it a (j) person - a licensed person coming to the Island and somebody without skills... we judge there is significance in what they can contribute to the Island. They are less likely to be calling on the services of Social Security Departments, they probably have their high net-worth people. The average salary for somebody on licence is around the £80,000 to £90,000 mark and they will probably have private health insurance. It is that sort of level we are aiming at and certainly that has been the decision making that we have been carrying out. I think as Members should recognise that the process that has been going through in the last couple of years of having that switch around is that immigration levels have halved over that period while we have been doing that.

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

Supplementary from me, Sir. Does the Minister not accept that that is largely due to the recession and will he address the question, does he not consider that (j) categories make a demand on Jersey's resources in terms of demand for housing, demand for health and demand for schools, in particular?

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

When we are making that decision about the demands that licensed people coming to the Island have we have to balance that with what the services are going to provide. If they are going to be working as perhaps teachers or nurses or doctors we need to ensure that the Island has sufficient skills in the Island. They do have, obviously, a demand on services but we have to balance that on the needs of the rest of the community.

**3.14.3 The Connétable of St. John:**

Can I congratulate the Assistant Minister on having put in the new legislation and issue of employment cards/housing cards that will hopefully help alleviate some of the problems that the questioner is putting. Having been in this morning and picked up my own registration card, where it says I am entitled, it was a pleasure to walk into a States department, go in, show your identification and walk out with a card within a couple of minutes. It appears things are working well. Can I congratulate him and he may be ...

**The Deputy Bailiff:**

Is there a question in there, Connétable? **[Laughter]** No question then.

**The Connétable of St. John:**

There was a question. Will he explain to the questioner?

**The Deputy Bailiff:**

Obviously yes or no, no doubt.

**Senator P.F. Routier:**

I am grateful for the Connétable's comments this morning and the answer is, yes, I do appreciate that the new legislation is going to be a major step forward for this community.

**Senator L.J. Farnham:**

Only this, I thought you were meant to pick up one of those cards if you were thinking of changing jobs. **[Laughter]**

**3.14.4 Deputy J.M. Maçon:**

Can the Assistant Minister confirm that while the rate of increase may be slowing there is no policy to prevent the population exceeding 100,000 and the policy is there for exponential growth, albeit at a slower rate?

**Senator P.F. Routier:**

The policy we are working to is to slow down immigration, there is no doubt about it, especially as we have so many local people unemployed. We have to ensure we shift the need for people to come into this Island and that is the decision making that we are going through at the present time. If there are skills already in the Island we will do our utmost to ensure that local people do have access to those jobs, rather than anybody being brought in from outside the Island.

**3.14.5 Deputy M. Tadier:**

Does the Assistant Minister believe that the official figure for the population will reach 100,000 before or after the 2014 election?

**Senator P.F. Routier:**

As of today I would imagine that the population is over that number because, as I have said in an earlier question this morning, the population rises during the summer months ordinarily because of the people who come to work in the hospitality industry and the agricultural industry and that

probably has already happened. But if we look at the equivalent numbers in the December time when the Statistics Unit carries out this judgment about what the population is, with natural births over deaths, no doubt we will be near that number, if not over it.

**3.14.6 Deputy G.P. Southern:**

It appears that the Deputy Chief Minister intends to have a period of extensive consultation very similar to the exercise called Imagine Jersey. Will he assure this House that he will do his utmost to make sure that this consultation is more open and transparent than the last one, in particular, to put the questions to the Stats Department to ensure that questions are open and not leading and do not contain non-exclusive options, which happened last time?

**Senator P.F. Routier:**

I think lessons can be learned from the previous process that went through and certainly the Deputy's suggestion of ensuring that the Stats Units look at the questions prior to the consultation taking place is a good one.

**3.15 Deputy M. Tadier of the Chief Minister regarding changes to the 20% maximum Income Tax rate as a result of the proposed 1% increase to pay for the long-term care of the elderly:**

Will the Minister explain whether the proposed 1 per cent increase to pay for the long-term care of the elderly represents a departure from the 20 per cent maximum income tax rate?

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

The proposed initial 1 per cent long-term care contribution rate is not an increase in income tax. It is a new contribution specifically set up to meet long-term care costs. It could be viewed as a kind of insurance against future residential care costs. I want to make it absolutely clear, it is not a departure from the 20 per cent maximum income tax rate. The Minister for Social Security has explained the proposed long-term care contribution rate of 1 per cent will become an additional liability under the Social Security Law. The long-term care of contributions will be paid into a long-term care fund and used to meet the future costs of long-term care benefit. The Social Security and Treasury and Resources Departments are working very closely together to use existing collection methods to collect the new contribution that will be levied on contributors of both working age and pensionable age. As the Taxes Office already collects money from both of these groups it is a sensible and cost-effective solution to collect the new contribution through these existing taxes office processes.

**3.15.1 Deputy M. Tadier:**

Will the Minister confirm that, despite his statement that it is not an increase in income tax, will he acknowledge that there is to be up to a 1 per cent levy and which is paid on the basis of income? Is that correct?

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

Initially 1 per cent, yes, that is indeed my understanding. I have made inquiries from the Treasury in relation to this who tell me that, effectively, people will have one bill but with 2 parts to it; one which is an income tax liability and the other which is their liability under this, with the 2 being added together as to the total sum due.

[11:45]

**3.15.2 Senator L.J. Farnham:**

Could the Deputy Chief Minister confirm from where currently long-term funding for the elderly comes from?

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

This is not just long term. The scheme is not just for the elderly. It is available to any adult age 18 and above who has long-term care needs; that is the new scheme. The current situation is, of course, that those who can afford to pay, pay, those who cannot afford to pay it is effectively paid for, I am trying to remember, from income support. Thank you very much to the Minister for Social Security.

**3.15.3 Deputy M. Tadier:**

Can the Minister see how it could quite easily be confused that this is an increase in income tax, given that it is not appearing on anyone's social security contributions as a separate item, it is appearing on their income tax form as a separate item and it is being collected by income tax? Will the Minister perhaps respond to that first?

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

It is very difficult for me to comment as to what may or may not confuse people as some people are extremely easily confused as is readily seen in this Assembly by some of the questions and possibly by some of the answers. I think that every effort will be made to make it clear on the forms that this is a separate sum being collected for a separate purpose.

**3.15.4 Deputy M. Tadier:**

So essentially, Minister, you are saying that 1 per cent of income tax will be ring-fenced for a separate purpose. Do you acknowledge that just because it is ring-fenced in itself does not make it not an income tax as far as those who have been charged are concerned?

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

I am not 100 per cent certain that the calculation of the 1 per cent will be done on exactly the same basis as income tax is done. I am afraid I do not have that level of detail but essentially it is a 1 per cent levy which is based upon income but which is being collected for a separate purpose and not as part of the collection of income tax.

**3.15.5 Deputy M. Tadier:**

I appreciate the Minister ... it is not his immediate domain. Nonetheless, he has stepped-up to the plate. Will the Minister advise what the implications would be, both positive and negative, were there to be no upper limit earning cap on the one per cent non income tax levy that is being proposed?

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

The difficulty I have, of course, is that the detail of this is in the area of the Minister for Social Security and not in the area of the Minister for Treasury and Resources. I do not feel able to answer detailed questions on the exact charging method. I do not have a brief for that.

#### **4. Questions to Ministers without notice - The Minister for Economic Development**

**The Deputy Bailiff:**

We come now come to questions to Ministers without notice and the first period is for questions to the Minister for Economic Development.

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

Picking up on this Motoring Festival issue again, not long ago his department felt able to grant £200,000 for a film that may never be made yet the Motoring Festival is a proven event, as we know, bringing hundreds of visitors to Jersey each year which could be grown to be even bigger than the Battle of Flowers. What I am asking is will the Minister guarantee that there will be some funding for this event because, as I said previously, the club running it loses money and may not run it next year and if I may just briefly quote from the club. It says: “Why is it the organisers have to approach a department which shows little interest in any form of assistance other than giving brochures and by telephone call from Tourism the year we were refused funding to ask if they could have some programmes with lots of people asking about it. The response, of course, was that we did not have the funds to provide a programme. We could not manage to gain support for it.”

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

I cannot, as I have said earlier on this morning, guarantee funding for an event until we see an investment and a business case. I am sure the Deputy and Members would expect that to be absolutely the case. We cannot hand out money willy-nilly until we know what we are handing it out to. With regard to the other comment that the Deputy made about the investment in the film, I think I should just correct that for not the first time. It was not an investment in a film. What we were investing in was £200,000 to investigate the potential of a film and the majority of that money is for on-Island spend into the local economy. I hope that clarifies that particular position but I will undertake for the Deputy to look at and work with the organisers of this event with the department to work up a business proposition to take to the T.D.F. for funding in the future.

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

Perhaps the Motoring Festival should create a film of their event and then his department would be more forthcoming.

**4.2 The Connétable of St. John:**

Can the Minister explain how our cousins from Guernsey can do air fares at £38 to the Island and we do not seem to be able to compete, albeit they are showing a picture of Sark with a Guernsey logo on it and I did not know there was a Guernsey airport in Sark but that said, they seem to be doing it for £38. Why can we not compete?

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

I clearly do not know the details of the bit of paper that the Connétable has held up. All I would say is I would prefer to be in our position with our airport with our array of air routes across the whole of the U.K. and into Europe and a tourism season last year which showed, although it fell 1.9 per cent - the net figure was 1.7 per cent in number terms - stood up very well compared to many other jurisdictions, including areas very close to us in France which saw up to 30 per cent falls in visitor numbers last year. The economic climate is tough. We have to work hard. We have to be innovative and we have to look at new markets and I support that and I am very convinced that the Tourism Shadow Board that are now in place will bring forward a strategy that will capture many of those aspirations.

**4.2.1 The Connétable of St. John:**

Could the Minister tell us how we compared with Guernsey last year, please?

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

It depends what measure the Connétable would like. Is it numbers he wants? Is it value to the economy? The 2 tourism industries are very different. What I would say to the Connétable, we have in the past in many other areas, and in tourism as well, sought ways in which we can collaborate in developing, for example, the European market which is to the benefit ... and further

afield of a Channel Island brand. I think there is some future discussion that we should have in that area which is to the benefit of both islands and the Channel Islands as a whole.

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

Does the Minister consider that the continued arrival of mining and oil companies registering an office in Jersey to enable it to book profits or dividends here constitutes acceptable or aggressive tax avoidance?

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

The Deputy is simply not right and, in fact, he has been invited to the department to come and hear about the development of the cluster around mining, oil and gas that we have been developing from an inward investment perspective. These are real businesses. They are locating their headquarters here. They are carrying out functions. They have employed at least one, probably more, local people in areas like geology. It is a developing and valuable industry for the Island and I welcome it and I wish the Deputy would come forward and hear first-hand what is happening.

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

If I may, a supplementary. What investigations has his department done into the potential for transfer pricing among the subsidiary companies and the Island, either through his department or through the Comptroller of Income Tax under Article 134A?

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

These businesses... I do not know how many times to repeat, we are satisfied that they are legitimate businesses, that they are carrying out legitimate business within the confines of the law and they are operating in a perfectly legitimate way in terms of their international practices. I cannot add anything further to that.

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

I wonder, just back to tourism briefly, if the Minister would just remind the Assembly if he has the figures to hand of how we are faring this year on staying leisure visitors to date and airport arrivals?

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

I am almost reluctant to mention figures when we are only part way through the year. What I can say though, not wishing to put a curse on the figures, is that the year started quite promisingly. We were a couple of per cent up in the first quarter. I hope a contribution to that will have been our investment in Jersey Rugby Club. It is very important to get visitors to the Island in off-peak periods and that has been very successful. I hope this continues through the year. I know April was a very difficult month but however we are doing... as far as numbers are concerned, we must never forget that businesses are finding it tough. Margins are being squeezed. We are having to compete in an increasingly competitive world.

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

Just may I ...

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

I give notice to Members we now have lots of Members wanting to ask questions which is not the position, so there will not be supplementary questions.

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

I was just going to briefly ask if the Minister would circulate the half-yearly figures as soon as they are available.

**The Deputy Bailiff:**

Thank you. Deputy Trevor Pitman?

**4.5 Deputy T.M. Pitman:**

Would the Minister for Economic Development be willing to pledge some financial support to the forthcoming celebrations for Reform Day when the people of Jersey stormed the corrupt Jersey Court and would he help to make this a really good festival in the Royal Square, perhaps contribute to a statue or something of the brave people at the time? A great opportunity for tourism.

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

I will commit to something positive when the Deputy himself stops attacking the Island, stops potentially threatening jobs here by making outrageous statements to the national media.

**Deputy T.M. Pitman:**

That is absolutely wrong to impugn me. I will have to call the Minister a liar if he does not review ... pull that back.

**The Deputy Bailiff:**

Deputy, kindly sit down. The Connétable of St. Helier

**4.6 The Connétable of St. Helier:**

Does the Minister agree with me that the retail and hospitality sector are a vital part of the Island's economy and that being the case, would he be willing to look at the possibility of his department assisting the Parish in defraying the costs of town centre management which is clearly something which is very important to both him and me?

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

The Parish is extremely wealthy, as the Connétable well knows [**Laughter**] and I am surprised that he does not see the value in investing that small sum to further enhance the rates that he already benefits from.

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

Will the Minister commit to considering the reintroduction of a ferry link from Gorey to Barneville-Carteret for the summer of 2014?

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

I think I would need a little bit more detail than that. Is the Connétable suggesting there is a commercial operator who wishes to bring forward such a venture and if so, we would need to see a business case, as I am sure the ports will, and see what support is for a venture of that nature if it is in the economic interest of the Island.

**4.8 Deputy T.A. Vallois:**

I asked the Minister for Economic Development a question almost a month ago via email so I wonder if he could answer it for me today. What authority does the Minister for Economic Development have to publish the Treasurer's comments?

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

The Minister for Economic Development has an authority to publish details that he sees fit and if it is in the public interest, then it is only right that it should be published. I do not know exactly what it is that the Deputy is referring to.



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

Referring to the mining companies and others that are developing in the Island, the Minister mentioned that there is a geologist employed. Could he tell us how many people are employed and what their actual contribution is to the Island because obviously they are foreign-owned companies. They are not paying any tax in the Island so what is their direct contribution to the Island or indirect contribution?

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

I think I have mentioned this before. I am very happy to get the up-to-date statistics for the Deputy and circulate them to him but it is about employment. These are real businesses operating in the Island, operating headquarters. The attraction of Jersey to these businesses is manifold, including geographical location and ease of access to where their mining operations are. It is very easy to get forward and backward from here and do business and also the other big attraction are the professional services that exist within Jersey to support their operations. I mentioned the geologist. There are also, of course, the ability to leverage the professional services provided and built-up over many years through financial services, accountancy and such like.

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

I should imagine we are grateful for the mining industry in Jersey, given the downturn in our local banana industry of late. Could I ask the Minister, given on page 22 of the Tourism Report, which makes interesting reading, he will note that the language students' on-Island spend exceeds most other visitor spends enormously and twice that almost of conference delegates. Could the Minister advise initially how reliable those statistics are and if they are correct, why are we not doing more to encourage language students to visit the Island, and that is page 22 for reference?

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

Yes, well, the Deputy raises a good point. It is a niche market. There is capacity within the Island to be able to facilitate the courses necessary but there is an opportunity to develop further, in my view, languages and they do tend to be reasonably decent spenders, as, indeed, are some of the other key areas I have already mentioned this morning, the Rugby Club. One of the reasons for the investment there was the high spend per individual. We have to concentrate on targeting these niche markets, as the Deputy mentions, and, indeed, that is something that I would expect the Tourism Shadow Board who are working, as I have said, on a new tourism strategy together with industry, to come forward with the opportunities for these to be developed. More importantly, they are in very many cases year round and that is where we want to move to with tourism.

[12:00]

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

Would the Minister be able to give the Assembly an update on the ticket sales for the summer lottery and whether he believes it has been promoted as professionally and as successfully as it could be?

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

That sounded like a loaded question. As far as I am concerned, I have seen recent reports in the media about the summer lottery. I can repeat to Members that in excess of a quarter of the allocation has been sold. I tend to look at that as a positive. We need to build on that. What I would hope is that Members and also the community in the Island would get behind the summer lottery. The summer lottery is there to provide much needed funds for charitable causes and if everybody can buy a ticket and we can get to the full sell-out, then we can raise a significant amount of additional money for charities. As far as promotion is concerned, we have been working

quite closely with an agency to help promote the lottery. We have been working closely with the major retailers who are providing incentives to staff to encourage them to sell them more. I think we have got more to do otherwise we will not sell them all, but I am very hopeful that we will.

**4.12 Deputy J.M. Maçon:**

Can the Minister please explain with regards to the summer lottery the logic behind encouraging more people to participate in the lottery by making the tickets more expensive?

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

Well, the logic could quite simply be that we need less people to participate if the tickets are more expensive because you have to sell less tickets. Quite simply, the numbers are there for all to see. The target is £500,000 in terms of the prize money. We need to sell the tickets, which are £10 apiece. We have sold about a quarter of them so far and the draw is not until the end of August, 30th August, I believe, is the actual draw date so there is still plenty of time left in order to sell these tickets and I certainly hope that the community get fully behind this lottery for the good causes that it will ultimately support.

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

Would the Minister confirm that if say a small retailer takes lottery tickets and they are unsold, that they can go back to the centre or are they pursuing that if ... this is what I am told, smaller retailers will not take the tickets because if they are not sold, they are left hanging on to that money.

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

That has always been the case with the lottery full stop, that whoever the suppliers are, they take the lottery tickets and they cannot return them after they have been taken. That is to protect, of course, the integrity of the draw. I have not heard specifically that there are small retailers not taking tickets. I think, if anything, they might be taking smaller amounts to minimise their risk but I cannot see that they would not be taking them, full stop. It just simply would not make sense. There are very attractive incentives, by the way, in place for retailers to sell lottery tickets.

**5. Questions to Ministers without notice - The Chief Minister**

**The Deputy Bailiff:**

That brings question time to the Minister for Economic Development to an end. We now have questions for the Deputy Chief Minister. The Connétable of St. John.

**5.1 The Connétable of St. John:**

Given that the new police headquarters has been passed and the press release has been put out, is it the intention of the Minister to return to the Chamber for a debate about the parking in the area, given that we are going to be losing most of Green Street for a considerable period?

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

I have not seen the permit but I very much welcome the decision which has been made by the Minister for Planning and Environment today. It is my understanding that that would include a condition ... I have not seen the permit but my understanding is that it would include a condition that there would be an additional half a storey of parking accommodation built on the neighbouring Green Street car park. That is the condition that I was anticipating though I have not seen the permit.

**5.2 Deputy T.M. Pitman:**

I wanted to ask the proper Chief Minister about how more and more of his Ministers are attacking Members, calling them liars, in effect. However, with data protection, I believe this comes under the Chief Minister's office so when one considers the answer to question 8, could the Deputy Chief Minister tell us who is responsible for the huge amount of public money that has been spent on this secret case against former Senator Syvret because it far outstrips the Data Protection Officer's budget and no one is answering any questions on it, even though the Attorney General did tell us that they had to go to his department for more money.

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

It is not unusual for the court to be asked to consider whether or not it should sit in camera in relation to a matter. If it is asked to do that, it will consider that and will make a judicial decision. So the use of the word "secret" in relation to any set of legal proceedings is, I think, a misnomer if a decision has been made to sit in camera. The constitutional position of the Data Protection Registrar is, of course, protected in relation to their independence. They have to have a degree of independence in order to function because they may have to make decisions which affect the Chief Minister's Department or other Ministries or the States of Jersey, *et cetera*. I am not able to comment on any particular case, firstly because I do not have knowledge of it and, secondly, it does not seem to me that that would be right.

**5.2.1 Deputy T.M. Pitman:**

Supplementary. How does a Member go about finding out about this case because it seems no one will talk about it? It is hundreds and hundreds and hundreds of thousands of pounds of taxpayers' money and there is an injunction stopping people talking about that case. Is this democracy and why are we giving money, as I said, to people, including convicted criminals?

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

The Data Protection Registrar has duties under the law to assist people whose rights are being infringed. I can only assume, although I have no direct knowledge of this matter, that that is what is occurring in relation to this case. I have no knowledge whatsoever of what costs may or may not have arisen from the case.

**5.3 Deputy M.R. Higgins:**

In fact, Deputy Pitman stole my question but what I would say is I do think it is an appalling state of affairs that, in this Island, cases can be brought before a court- except in family matters or matters of that sort- which are not in the public area. There are matters of public importance here because of the people who were assisted by the Data Protection Commissioner. The public have no knowledge whatsoever of how much was spent on this case or anything surrounding it and that is not justice. Justice should be seen and we should also know what the cost is because it is the public that is paying it. Does the Minister not think that it is totally unacceptable that information should be withheld, not only from this House, but from the public on the cost and the administration of justice?

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

I have to disagree with the Deputy on the first point. It is quite right and proper that in certain cases that matters be held in camera. That is particularly so in cases where publicity of the event might, in fact, have the same negative effect as the matter which is being attempted to be avoided or, indeed, cases where monies are being pursued across jurisdictions where you do not want the people who have wrongly got the money in the first place to know what is happening. The question in relation to access to information as to what costs may or may not have been incurred in relation to a matter is an interesting question. It may well be that it will depend upon the circumstances and it will depend upon the exact timing of the matter. My own view is that there may well be a public

interest in knowing what sort of sums may have been spent on a particular matter but without knowing the details of the facts of the matter, it is difficult for me to comment. All I think I can say properly is that there may well be a public interest in that.

**5.4 Deputy M. Tadier:**

Does the Deputy Chief Minister think that there is a difference between holding some of the proceedings in camera and the knowledge that a case is taking place because that is what has happened here? We have had a case that has been before the court. I believe the court has made its decision. We do not know what the decision is. We do not know that the case took place in the first place. We have had to sort of scratch around trying to find information. That is not good for democracy. Does the Minister not agree?

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

I take the view that the interests of justice prevail here and that is the view that the courts would take. Courts are reluctant to sit in camera for that very reason but there are cases in which that is necessary in order to do justice to the parties and that principle I would very strongly uphold.

**5.5 Deputy R.G. Le Hérissier:**

Would the Deputy Chief Minister confirm whether a protocol exists in the Council of Ministers which would prevent Ministers making statements on planning decisions that are outside of the protocols observed by members of the public in commenting upon such decisions? Would he not also accept that clear conflicts when such expressions are made must be announced, for example, that the Minister in question may play a major role in having political responsibility for the States major development company?

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

I am afraid that question has completely defeated me. I am completely unable to understand it.

**Deputy R.G. Le Hérissier:**

Was it right that the Minister for Treasury and Resources commented on a planning application at the very last minute when he is holding political responsibility for the Jersey Development Company?

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

I am so sorry, I am working my way towards this one but I got side-tracked by the comments which were made on the Co-op so I think this must be a question in relation to comments made in relation to a planning application on the Esplanade. I wonder if the Deputy could confirm that so that my mind is accurately targeted.

**Deputy R.G. Le Hérissier:**

It relates to comments made, as I am sure the Minister will now acknowledge, on the Co-op application but there is a bigger issue of principle behind this.

**The Deputy Bailiff:**

You cannot use up your time by thinking. [Laughter]

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

I am sorry, Sir, my brain is working but I am not coming to any useful conclusion. [Laughter]

**The Deputy Bailiff:**

I think there is no answer to that, Deputy Le Hérissier. Deputy Southern.

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

I thought we were never going to get to it. Following the commissioning of the Capital Economics Report on the value of Jersey to the City of London, will the Deputy Chief Minister state who paid for the report, how much did it cost and who are the backers or sponsors of Capital Economics?

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

The report was commissioned by Jersey Finance. Who ultimately paid for the report I do not know. My understanding is that Capital Economics are an independent firm of economists, as their name suggests.

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

But you will come back to me with confirmation of those 2 factors, who paid and who are the sponsors?

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

I do not think there is a problem in indicating who ultimately paid for the report.

## **5.7 The Connétable of St. Lawrence:**

A member of the public recently paid to attend a conference in order to gain access to a number of Ministers. What inquiries has the Chief Minister made to establish the validity of the claims that this gentleman had been unable to speak to the Ministers?

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

I am unable to answer that question because it is asking me to have knowledge of what is in the mind of the Chief Minister, which I do not have.

#### **5.7.1 The Connétable of St. Lawrence:**

No, it is not asking the Deputy Chief Minister to have knowledge of what is the mind of the Chief Minister but rather it is asking him to speak about the actions that the Chief Minister took following the assertions that this gentleman had been unable to reach Ministers.

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

I do not know.

## **5.8 Deputy S. Power:**

Does the Deputy Chief Minister acknowledge that a duty of care is required by senior civil servants and States employees by the States and by the States Employment Board when they are named in national newspapers with allegations against them and, indeed, in local social media circles?

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

I agree that there is a duty of care owed by the States of Jersey as a good employer but it is quite difficult to know how precisely to exercise that duty of care because of the nature of social media. That has been something which has exercised successive States of Employment Boards and other Ministers for some time.

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

Does the Deputy Chief Minister think that it is irresponsible for an Assembly to try and base a future electoral system on a fundamentally unfair model?

[12:15]

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

My own views are well known in relation to this matter but as I am answering today as Deputy Chief Minister, I do not think I can properly answer the question.

**5.9.1 Deputy M. Tadier:**

If I press the Deputy Chief Minister, purely objectively speaking, it is a simple question. As a principle, is it desirable for any government to put forward a system which fundamentally and statistically provenly disenfranchises and undervalues the votes of huge swathes of the urban population of its own Island? As a principle, is that something that any democracy should be following?

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

That is not a principle that one would expect a responsible democracy to follow but in the Council of Ministers we have a completely free vote on this matter. These are not matters which are part of the Chief Minister's policy as Chief Minister or policy of the Council of Ministers.

**5.10 Deputy S. Pitman:**

Can the Deputy Chief Minister explain why the Justice Select Committee did not meet with the public, given that taxpayers pay for their work?

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

I do not believe that taxpayers did pay for their work. As I have already indicated, it is my understanding, and that is my briefing, that they paid their own costs both in coming to the Island and their hotel costs. I have to say that it is entirely a matter for them. They are an independent body, part of another sovereign parliament. It is entirely for them to decide how they proceed.

**5.10.1 Deputy S. Pitman:**

Does he not think that the Justice Select Committee could have been advised by Jersey Government that certain public bodies would have been ... it would have been helpful if they had met certain bodies, for example, the Care Leavers' Association, which has particular knowledge on certain justice issues?

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

I do not think that it would have been appropriate for the Chief Minister or his department or the Council of Ministers to try to tell a body such as this how they should or should not proceed.

**5.11 Deputy R.J. Rondel:**

Would the Deputy Chief Minister please advise his colleague in a question earlier on I posed to the Minister for Economic Development, that it was in no way loaded and in an effort to be helpful, the Parish of St. Helier are having a rather large event on July 20th and 21st in which we are hoping to draw many thousands of people to and I would suggest we are happy to offer him a pitch free of charge in order to help sell some of those lottery tickets. **[Laughter]**

**STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

**6. The Chairman of the Comité des Connétables - statement regarding the Island-wide rate for 2013:**

**The Deputy Bailiff:**

The time for asking questions of the Deputy Chief Minister has now expired and there is nothing under J. We come to Statements on a Matter of Official Responsibility. The Chairman of the Comité des Connétables will make a statement regarding the Island-wide rate for 2013.

## **6.1 Connétable J.L.S. Gallichan of Trinity (Chairman, Comité des Connétables):**

I wish to inform the Members of the cost to ratepayers across the Island of the Island-wide rate for 2013 which has been determined in accordance with the Rates (Jersey) Law 2005. The 2013 annual Island-wide rate fixture is the 2012 figure of £11,480,403 increased by the Jersey Retail Price Index for the 12 months to March 2013 of 1.4 per cent resulting in the sum of £11,641,129. In accordance with the Rates Apportionment (Jersey) Regulations 2006, 55 per cent of the annual Island-wide figure is to be met by the domestic rate and 45 per cent of the annual Island-wide rate figure is to be met by non-domestic rate. A sum of £6,402,621 is therefore raised from the domestic rate and the sum of £5,238,508 from the non-domestic rate. The rates are determined by dividing the sum to be raised between the number of quarters assessed on domestic and non-domestic property. The rates, therefore, will be 0.69 pence per quarter for domestic and 1.21 pence per quarter for non-domestic ratepayers. I am delighted to inform the Assembly this is exactly the same amount as last year. There will be no increase. Due to the number of quarters and the low percentage of increase over the year, the rates will be the same as the previous year.

### **The Deputy Bailiff:**

Are there any questions for the Connétable? Deputy Trevor Pitman.

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

Would the Connétable agree with me, join with me in advising that if option B goes through unamended and then all residents are disenfranchised, members of St. Helier should refuse to pay the Island-wide rate in protest at their becoming second-class citizens in terms of voting equality?

### **The Connétable of Trinity:**

I am not sure that has anything to do with the Island-wide rate but ...

### **The Deputy Bailiff:**

At its margins, Connétable. [Laughter]

### **The Connétable of Trinity:**

At its margins, yes.

### **The Deputy Bailiff:**

He did manage to get the words into the question.

### **The Connétable of Trinity:**

I know we have not got a lot on the agenda today. I suppose we can go with this. No, I do not think so. They have a house to live in. They have exactly the same sort of problems for St. Helier. They have all their refuse collected, they are just ordinary citizens. I would say this is part of the Island-wide rate that helps towards the economy of the Island and I am afraid where the ... it is down to the members of the Parish of St. Helier to come out and vote occasionally and that might help their cause.

#### **6.1.2 Senator A. Breckon:**

I wonder of the Chairman of the Comité des Connétables could say whether this will have any effect on Parish Assemblies when they are setting the rate to be taxed in the various Parishes?

### **The Connétable of Trinity:**

It should not have any effect on Parish Assemblies at all. This is the Island-wide rate. The Parish runs its accounts and their rates are levied on the budget that the Parish runs. This is very similar. I am not going to get into it but it is something that the Parishes do very well for Treasury. This is

collecting on behalf of the Parishes, we collect it for the Treasury and that saves them incurring great costs to the Island.

**6.1.3 Senator A. Breckon:**

Could the Constable confirm that a Parish Assembly could vote to reduce the Island-wide rate or not?

**The Connétable of Trinity:**

No.

**6.1.4 Senator S.C. Ferguson:**

Following the Senator's previous question, will this encourage the Connétables to peg their rates rather than increase them?

**The Connétable of Trinity:**

I would have thought ... in this climate, I do not know many Connétables that will be raising their rates. Obviously if something comes up in their Parish which would need a major sum of money, they may review that but, in general, most of the Connétables I am talking to try to keep their budgets very, very tight because of the climate we are in.

**6.1.5 Senator L.J. Farnham:**

I wonder if the Constables would just be kind enough to indicate now to the Assembly who are going to raise their rates?

**The Deputy Bailiff:**

That is not a matter for the Chairman of the Comité des Connétables.

**6.1.6 The Connétable of St. Helier:**

Is the Chairman aware that the board responsible for agreeing wage increases in the public sector has agreed a 4 per cent increase next year and that is clearly going to have an impact on any Parish which employs a large number of manual workers?

**The Connétable of Trinity:**

Well, we are dealing with 2013. We will look at 2014 next year.

**The Deputy Bailiff:**

Are there any other questions for the Chairman? If not, that will bring question time to an end. I give notice to Members there has been lodged a second amendment to the Draft States of Jersey (Amendment No. 7) Law, P.64. This was lodged by Deputy Green.

**PUBLIC BUSINESS**

**7. Ratification of the Convention between Jersey and the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital (P.58/2013)**

**The Deputy Bailiff:**

We now come to Public Business. The first item of business is the Ratification of the Convention between Jersey and the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and



the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital, P.58, lodged by the Chief Minister. I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to ratify the Convention between Jersey and the Grand Duchy of Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, as set out in Appendix 1 to the report of the Chief Minister dated 1st May 2013.

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

In recent years, we have been endeavouring to sign Double Taxation Agreements and Tax Information Exchange Agreements with other countries and, in particular, the countries which are members of the E.U. (European Union), the O.E.C.D. (Organisation for Economic Co-operation and Development) or the G20. The preference is for Double Taxation Agreements because they include T.I.A. arrangements and are more beneficial to local residents. So far we have signed 8 Double Taxation Agreements and 31 T.I.A.s, and 24 T.I.A.s and 3 Double Taxation Agreements are in force. The difference in these is caused mainly by delays in other countries in terms of procedures for ratification. Today I present to the States as a schedule to this proposition one of the 8 Double Taxation Agreements, this one with Luxembourg, which is an E.U. member and an O.E.C.D. member. The agreement is in line with the O.E.C.D. Model Tax Convention and includes information exchange arrangements to the agreed international standard. The finance industry was consulted and fully supports the signing of this convention and I maintain the proposition to ratify the convention.

**The Deputy Bailiff:**

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

**7.1.1 Deputy G.P. Southern:**

Can the Deputy Chief Minister explain to Members whether Jersey residents who earn income from royalties are able to transfer those royalties to a company or other entity in Luxembourg and thereby avoid paying Jersey tax on those royalties?

**The Deputy Bailiff:**

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

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

I do not know the answer to that detailed question but of course, the purpose of Double Taxation Agreements is to prevent people having to pay twice. It is not designed to prevent them paying at all.

**Deputy G.P. Southern:**

Can I seek elucidation on the information that Luxembourg charges a variable rate between 0.5 per cent and 2 per cent on royalties earned so therefore they would be avoiding 20 per cent tax here?

**The Deputy Bailiff:**

Do you have anything to add, Deputy Chief Minister?

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

No, Sir, I am afraid I do not have that sort of detailed information. It is a detailed tax question that really should be addressed probably to the real Minister for Treasury and Resources.

**The Deputy Bailiff:**

Well, all Members in favour of adopting the proposition...

**Deputy M. Tadier:**

I do not know if it is appropriate or even within Standing Orders but the Deputy has asked for some information which cannot be provided by the rapporteur and I think that provides a sufficient basis for a reference back so that the rapporteur can go away, seek the information that is required and bring it back to the Deputy and the rest of the Assembly so that we can all vote for this in an assured manner.

**Senator P.F. Routier:**

Just as an observation, this Double Taxation Agreement is exactly the same or in a similar format to all the other ones we have passed in this House and I really implore Members to enable us to progress this because it is part of our international statements we need to make in our agreements we are having with other countries and for us to continue to have a well-regulated and maintained finance industry.

**The Deputy Bailiff:**

Senator, the question is whether or not there should be a reference back. What is the precise question, Deputy, that you say ought to be answered?

**Deputy M. Tadier:**

It is the question which Deputy Southern asked the acting rapporteur, which is to do with does this in any way facilitate tax avoidance and the Minister said he did not have the information available. The Deputy also asked a detailed question about the royalty rate from Luxembourg which, again, the Minister was not able to answer and I think certain Members would like reassurance about that. I appreciate the Minister should not be in a position to be expected to have that information anyway. I would also add that when these kinds of propositions are brought which we are told are very important, it should be done by somebody who has got the wherewithal because that is his portfolio to answer those questions.

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

I think that is quite unreasonable. I do not think that anybody presenting this could be expected to provide this kind of ...

**The Deputy Bailiff:**

Deputy Chief Minister, the question is whether the matter should be referred back and you will have an opportunity to speak on that proposition if it is allowed. The question which had been going through my mind was whether or not the debate was over. It seems because a Member may propose without notice during a debate on a proposition that the proposition be referred back. The Deputy Chief Minister had sat down after his reply and therefore it is right at the margins of whether or not the debate was over. I think, on balance, I am going to take the view on this occasion without, as it were, forming a precedent for the future, that I will allow the debate to take place on whether the proposition should be referred back although I can see that on another occasion, the Chair might well take the view that the debate was over because the proposer had sat down after making his replies. So, Deputy Tadier, do you wish to propose the motion?

**Deputy M. Tadier:**

Just to add on that point, clearly one can only judge whether or not the information is there after the person has responded and answered and if the information has not been given on the summing up ... and that is the point at which one decides whether or not further information is sought and that is why I would concur in this instance with the ruling. But that is just to explain the difficulty one

has. You cannot tell until the summing up has been made whether or not the information is there. I think there is a fundamental principle here. The Assembly is often used for rubberstamping purposes and in many ways, these could be called uncontroversial. They are very important and I think it is important that when these things are brought to the Assembly, it is done by the person directly who has the knowledge of the portfolio. We know that in his regular job, the Deputy Chief Minister has the Home Affairs portfolio. He is not expected and it is not fair for him to be able to answer these questions whereas it would be completely within the realms for the quite right questions that Deputy Southern, and on other occasions others, ask to be answered because there are very serious matters that are being debated and that is why I would like this to be brought back because we are going to get a series of these and the question will come up every time from one Member or another as to what really constitutes boundaries between double taxation and tax neutrality/tax avoidance and it is fundamental that every Member in this Assembly gets his and her head around what those nuances may be so that we are not inadvertently passing legislation or propositions, signing-up to agreements which may be deficient in one way or another. So I do not think it is unreasonable that we should expect for questions to be answered. I do not think it edifies the Assembly when questions are asked regularly, the proposer says: "I do not have that information" and then we all go on to press the pour button anyway, even though the information is not there. That is not the way we should be doing business and I think it is important for once that we just stand up and say: "We do not have that information. We can get it." It is not time-critical that this be passed now. It could be done at the next sitting and I just make the proposition.

**The Deputy Bailiff:**

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

**LUNCHEON ADJOURNMENT PROPOSED**

**Senator P.F. Routier:**

I wondered whether, looking at the time, whether it would be advantageous to adjourn now and ask that we have the Solicitor General or some legal advice available to us because I believe that the questions could easily be answered by having the legal advice which is quite normal when we are dealing with legislation that we turn to the advice of our advisers, and I would propose that we adjourn now and ask for the Solicitor General to be present.

**The Deputy Bailiff:**

Is it going to be giving advice on the reference back motion?

**Senator P.F. Routier:**

No, Sir, on the detail of the question.

**The Deputy Bailiff:**

It seems to me that we are now dealing with the reference back matter.

**Deputy M. Tadier:**

I am happy to withdraw the proposition. That sounds like an eminently sensible way forward. If that can be achieved, then we can get the information that is sought today and we can proceed with it so I am happy to withdraw on that basis, Sir, but it is conditional, I guess.

**The Deputy Bailiff:**

Do Members agree we should adjourn at this stage?

**Deputy G.P. Southern:**

Can before we do that, Sir, if we are going to seek advice from anyone, can I say that the question, while I chose royalties as an exemplar, could apply to capital gains, could apply to dividends, where there is any difference between the tax regimes, could apply to income from property ownership, *et cetera*.

**The Deputy Bailiff:**

Well, Deputy, can I suggest that you formulate your questions in some detail because if the Law Officer is required to answer them, he is going to need to know precisely what it is you are asking for?

**Deputy M. Tadier:**

Can I just ask: is the Solicitor General the appropriate person to say this because surely a lot of these matters are to do with tax matters and finance? I am not sure that is within the knowledge of the Solicitor General. I know he is very capable but ...

**The Deputy Bailiff:**

The Assembly will learn that after lunch, Deputy. Very well, the adjournment is proposed. We will reconvene at 2.15 p.m. this afternoon.

**LUNCHEON ADJOURNMENT**

[12:36]

[14:16]

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

Now, before the lunch adjournment members asked for the Solicitor General to give advice but I am afraid he is in court and will not be free for about an hour, but Senator Le Marquand I understand it to be that you might be able to address the Assembly with their concerns.

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

Yes, Sir I managed to assemble the best tax brains in the Tax Department plus a very eminent gentleman well known to us all who advises on the T.I.A.s and so on and received some advice by email from the Solicitor General. So I think I am in a position to give an answer to the Deputy to different questions. Firstly, this is a Double Taxation Agreement and the purpose of that is to ensure that people are not taxed in 2 places and so what it does is it allocates to different sources of income which of the 2 possible places it is taxed in. So if we look at real property, the taxation of that takes place in the place where the real property is. If we look at capital gains in relation to real property; the same. Essentially, the taxation takes place in the place where the asset is. It is more complex than that because Article 13 goes into different categories of capital gains. I am prepared to go through those if Members want me to. In relation to royalties and shares, that is dealt with specifically in the Agreement. Article 12 deals with royalties. Article 10 deals with dividends and in both cases, the taxation takes place where the individual taxpayer is resident. Now, in addition to those which were the main questions asked by the Deputy, I have considered, together with the accumulated tax experts, the issue as to whether a person could seek to use structures in Luxembourg in order to avoid tax in Jersey. The view is that that would be a very strange thing to do because the corporate taxation rating in Luxembourg is higher than it is in Jersey and so it could not possibly be advantageous to seek to do that in any shape or form. As I said, in addition to that, any dividends received from a company would be taxable in Jersey. There are inevitably some losses of taxation but these are entirely legitimate. I am going to give the Assembly 2 examples of that. One, of course, is real property. If a Jersey taxpayer owned real property in Luxembourg, they would be taxed in Luxembourg and not in Jersey. Another example, interestingly, would be

pension rights which I know is a matter of some interest to at least one Member in this Assembly in relation to a different jurisdiction and that there the taxation of the pension rights takes place in the country where the pension is paid. Now, that is not avoidance of any kind. That is a legitimate part of double taxation. There will be a loss of revenue to Jersey but it is fairer to the individuals involved because they will not be paying tax twice in 2 different jurisdictions and that is the whole purpose. I hope that I have answered the questions and the points but if there are any subsidiary points, I will attempt to do so on the basis of the briefing which I have received during the lunch hour.

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

Very well. Are Members content with the explanation given? Deputy Tadier, you have missed some of the explanation. The Deputy Chief Minister has sought advice and was able to advise the Assembly, so are you happy not to proceed with your reference back?

**Deputy M. Tadier:**

Yes, Sir, that is correct. I think some information has been given and that is appreciated and I gather that all other Members seem to be content so there is no need to proceed with any reference back.

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

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

**8. Draft Taxation (Double Taxation) (Amendment No. 2) (Jersey) Regulations 201-(P.59/2013)**

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

We come now to the Draft Taxation (Double Taxation) (Amendment No. 2) (Jersey) Regulations. I will ask the Greffier to read the citation.

**The Assistant Greffier of the States:**

The States, in pursuance of Article 2 of the Taxation (Implementation) (Jersey) Law 2004, and having regard to P.46/2013 and P.47/2013 both adopted by the States on 4th June 2013, and following the decision of the States taken on the day these Regulations are made, to adopt P.58/2013, have made the following Regulations.

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

Proposition 59 partly follows on and not just arithmetically from P.58 and also follows from previous decisions of the Assembly to ratify Double Taxation Agreements with Guernsey and with the Isle of Man. These Regulations insert Guernsey, the Isle of Man and Luxembourg in the Schedule to the Double Taxation Regulations in order to give effect to the Double Taxation Agreements. However, at the same time, it is necessary for the existing 1956 Double Taxation Agreement with Guernsey to be repealed with effect from the start of 2014. I seem to recall that being raised and mentioned during the ratification of the previous agreement with Guernsey. I therefore move the principles of the Regulation.

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

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? No? All those in favour of adopting the principles, kindly show? Those against? The principles are adopted. Senator Ferguson, this falls to the remit of your panel. Do you wish to ...

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

No, thank you.

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

Deputy Chief Minister, do you wish to propose the Regulation ...

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

I simply propose the Articles. I think I have already gone through them in some detail in my original statement so I do not think anything further is necessary unless people have questions.

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

So Regulations 1 to 3 are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations? All Members in favour of adopting Regulations 1 to 3, kindly show? Those against? They are adopted. Do you propose the Regulations in Third Reading?

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

I most certainly do, Sir.

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

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

## **9. Draft Amendment (No. 21) of the Standing Orders of the States of Jersey (P.65/2013)**

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

We come now to the Draft Amendment (No. 21) of the Standing Orders of the States of Jersey and I will ask the Greffier to read the citation.

**The Assistant Greffier of the States:**

The States, in pursuance of Article 48 of the States of Jersey Law 2005, have made the following amendments to the Standing Orders of the States of Jersey.

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

Chairman, with Standing Orders, as you know, the Standing Orders are proposed individually. There is no debate on the principles. How do you wish to proceed to ...

### **9.1 The Connétable of St. Helier (Chairman, Privileges and Procedures Committee):**

If I could outline the purpose of these amendments to the Assembly and then I would suggest that if I can start with Amendments 1 and 2 together.

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

Yes. You propose 1 and 2?

**The Connétable of St. Helier:**

And then I will be looking taking them *en bloc* except for 9 and 16, which I will propose individually.

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

Very well. So you wish to propose 1 and 2.

### The Connétable of St. Helier:

Yes. These amendments, as Members will be aware, take forward 3 main areas of changes to our Standing Orders, the first being to extend the minimum lodging period for a draft budget at the request of the Minister for Treasury and Resources to allow an extra 2 weeks from the 6 weeks to 8 weeks, which I am sure Members agree has got to be a good thing. So I propose Amendments 1 and 2.

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

Are Amendments 1 and 2 seconded? **[Seconded]** Does any Member wish to speak on either of the 2 amendments? All those in favour of adopting the amendments, kindly show? Those against? They are adopted. So you said, Chairman, you propose all those relating to the ballot which is all the amendments except 9 and 16.

### 9.2 The Connétable of St. Helier:

Yes. These relate to the proposition by Deputy Trevor Pitman of St. Helier to introduce open ballots for the election of Ministers, chairmen, committees and panels and no longer by secret ballot. That has already been approved by the States and these amendments put the various arrangements into effect. I would like to propose them *en bloc* but I can answer individual questions if necessary.

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

Are those amendments seconded? **[Seconded]** Does any Member wish to speak on any of those amendments? The appel is called for. This is on Amendments 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14 and 15. Members are in their designated seats. I will ask the Greffier to open the voting.

<b>POUR: 30</b>		<b>CONTRE: 6</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator B.I. Le Marquand		
Senator A. Breckon		Connétable of St. John		
Senator S.C. Ferguson		Deputy S.S.P.A. Power (B)		
Senator A.J.H. Maclean		Deputy G.C.L. Baudains (C)		
Senator F. du H. Le Gresley		Deputy of St. John		
Connétable of St. Helier		Deputy J.P.G. Baker (H)		
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S. Pitman (H)				
Deputy M. Tadier (B)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				

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

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

Very well. So you propose Standing Order 9?

**9.3 The Connétable of St. Helier:**

Yes, Sir. Standing Order 9 makes permanent the trial allowing States Members to use electronic devices and this means that any device, and we are not prescriptive, can be used as long as it does not disturb the proceedings or impede decorum. P.P.C. is very pleased with the way the trial has gone. I am not aware of any complaints, either from inside or outside the Chamber, and so I propose Standing Order 9 and would hope that my Vice-Chairman would second it.

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

Is the Standing Order seconded? I think the Vice-Chairman is looking at his electronic device.

**Deputy M. Tadier:**

I was just having to think a great deal about whether I can support this, but I think the answer is yes in this case.

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

**[Seconded]** Does anyone wish to speak on Standing Order 9?

**9.3.1 Senator A. Breckon:**

Just a few words. It may be progress but I would ask also Members to have some balances. It is okay, there is a leap in technology but to some extent if Members are using gadgets and gizmos in this House, then it should have some relevance. I say that, I think there is something in Standing Orders where you cannot read a newspaper unless it is relevant to the debate or you are going to demonstrate in the debate. To show that respect, Members should pay attention if somebody is speaking. Senator Ferguson has just switched the *J.E.P. (Jersey Evening Post)* off. There was a high profile funeral across the water somewhere in the last week or so and somebody who was at the funeral was communicating with somebody else about nothing to do with it. Something like that is obviously very disrespectful and there was a certain amount of publicity about it. The same here; if it is relevant to what we are doing, then it is legitimate use. But if it just fiddling about then maybe Members should pay attention and pay respect, especially if it is a Back-Bench Member speaking about something and has done some research, doing their best. Members might not agree with them, but that is up to that and if they are looking for something to make an argument about why they do not agree with it, that is relevant; but others are not. I think that there may be a creep with this where in other Assemblies where it is there, I have seen something on the parliamentary channel where somebody is speaking and nobody is taking any notice. Everybody is fiddling about. So I do not think we want to go that far. So although I have qualified support, I also have some concerns that we perhaps may drift too far if people are playing games or cards or whatever it is, rather than paying attention. That is possible in the confines of whatever gadget you hold in your hand. I do not know if the Constable might want to watch the football or the racing or whatever it is.

[14:30]



People could, I suppose, do that if they wanted to, but we need to keep it in context and keep it relevant. So with that my support is qualified, but it is something if it is abused and everybody is fiddling about, then it will come back again certainly.

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

Following on from the previous speaker, it has not become too much of a problem at the moment. I would not like to see what small problem there is exacerbate where people are not paying attention. It is essentially a debating chamber and while you are speaking you find people playing noughts and crosses or whatever the modern equivalent is on a device. But I would like to ask the Constable of St. Helier, the Chairman of Privileges and Procedures, whether any health assessment has been carried out with so many wireless devices being used in such a confined space. I believe there have been problems in some schools and they have been banned in some classrooms.

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

Although I am not yet the proud owner of an iPad myself, I do support this. I think it is useful and important. But I do have one plea, and that is a plea for the expansion of the current system of fines in relation to: "Oh, my phone is going off" because I was recently at a meeting when suddenly we were being spoken to by no less a person than Winston Churchill on the device. It seems to me that there ought to be some sort of penalty agreed on a voluntary basis for such indiscretions in the same way. It seems a logical extension.

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

I certainly do support this, but I do hope that there will be some understanding that with everybody having on their devices that sometimes the capacity of what can be downloaded can be reduced. Whether there could be a review of the capacity of the system that we have within the Chamber, because certainly I have been trying to download something this morning and I could not open it at all because everybody around me had theirs on already. I just wonder perhaps if a review could be carried out to see if we have sufficient capacity within the Chamber.

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

I have concerns about, for want of a better word, overheating in this building, given that at our last sitting and I know today that our air conditioner is still not operational.

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

It is operational.

#### **The Connétable of St. John:**

If it is, I do not see where. If everyone has an iPad or whatever you call these gadgets that make a lot of noise when they turn them on, I hope they are going to be fined. But I am concerned that an ancient building like this, and I am not one generally for supporting historical buildings and so on, but this one is historical and I would hate to think that if we were going to heat the building up so much given all this lovely woodwork in here it will get damaged with time. I cannot support this for that reason, because this is the wrong building to have all this electronic gadgetry in. We see banks getting pulled down because of overheating within them and being rebuilt, and this old building here or this room, I would hate to think would get damaged with time by an increase in heat.

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

If it is any consolation to the Constable we will be planning to reduce the number of States Members by 9; so that may in fact reduce ... I have not spoken, I just seconded and I retained my right to speak on this very worthwhile amendment. I think we have to move with the times. It

might be worth noting that we could have a 2-way win for the States because I understand that there are talks of a shaft being inserted into the States Chamber to extract the geothermal energy from in here. So heat could be taken out at the same time, cooling it and the vast amounts of hot air could be used to power energy in a more sustainable way for our Island. But realistically I think there was a lot of debate getting to this point. It was not something that was easy. We had to hold debates: do we have laptops, do we not have laptops? It was decided in the end because technology just overtook us. Before we knew it everyone was moving from phones, or still had phones to androids, to having these tablets on a more regular basis. So it is more a case of moving with the times and making sure that we have the correct safeguards. My personal opinion - it may not represent those of P.P.C. (Privileges and Procedures Committee) although it may also - is that I think this is very much self-regulating. So the first point to make is that if one wants to ignore a speech that is being made or be rude, which is not advisory in any capacity, one does not need a laptop or any other electronic device to do that. This is simply about showing respect to those who are speaking. I think we all agree that is a courteous thing to do. The other point is, I think that moving forward in terms of technology and also retaining the historic nature of the building are not 2 incongruous concepts. We know that the House of Commons, for example, they have a different view to electronic devices, but their chambers do have big screens there where Members and the public can access information and I think that certainly on a personal basis, and it may be something also shared by P.P.C., is why do we not have digital screens up here so we can see exactly who is speaking, how many items we have left, how many minutes we have left of question time and also a clock just to remind Members how long they might have been speaking for. All these things are being addressed by P.P.C. and we are looking into those issues to see if we can have a modern and more efficient Chamber in the way we work. I do not think we need to overly worry about this amendment. I think, as I said, it would be self-policing and hopefully as one user of a laptop now and again, although not today, I have taken soundings from those around me and that they do not seem to be put off by the laptop although they may be put off by other things which are not related to the laptop.

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

Just very briefly, I fully support this amendment and I think anybody who has worked in this Assembly and knows at times the amount of papers that you have to have on the desk and try to find things and things dropping off, it is absolutely essential that we move with the times and cut down the clutter. What I would though is, if I have any criticism at all of electronic devices in the States Assembly it is inane twitters who are sending out twitter messages on about either insulting people or just coming up with their names for a comment; and that I think is one thing that I would like to see an end of. But I fully support this proposal.

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

If no one wishes to speak I will call on the Chairman to reply.

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

The Vice-Chairman of P.P.C. has dealt with I think the concerns about overheating. One can always roll up one's trousers, of course; though he did not deal with the historic building aspect. Perhaps the Minister for Planning and Environment can look into that. As the last several speakers said, the capacity not to pay attention is not new, and you could switch off just as easily when we had the old technology. In my experience anyway, daydreaming is much best done without the benefit of a laptop. So I do not think anything has been raised apart from 3 issues. We have been asked to do a health assessment, a review of the fines - the informal fines - and capacity or band width. I am sure those 3 points can all be taken forward in due course. But otherwise I think possibly Deputy Higgins was alluding to the environmental benefits, which I think are worth

stressing. I know that several Members now no longer print out their Order Papers and the propositions, but they read them on line. That is clearly a much more responsible view of the environment than to print everything out, although a lot of people still print out, of course, everything which comes to them on the email which is something we have got to get out of the habit of doing if we do it. So with that I maintain Standing Order 9.

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

The appel is called for on Standing Order 9. I ask Members to return to their seats and the Greffier will open the voting.

<b>POUR: 36</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Connétable of St. John		
Senator A. Breckon		Connétable of St. Saviour		
Senator S.C. Ferguson		Deputy S. Pitman (H)		
Senator A.J.H. Maclean		Deputy G.C.L. Baudains (C)		
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Brelade				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy M. Tadier (B)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

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

I think that just leaves the citation Standing Order 16, Chairman.

**9.4 The Connétable of St. Helier:**

Standing Order 16 is the citation and comments provision and I maintain.

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

Is Standing Order 16 seconded? **[Seconded]** Does any Member wish to speak on Standing Order 16? All those in favour of adopting Standing Order 16 kindly show. The appel is called for on Standing Order 16. The Greffier will open the voting.

<b>POUR: 36</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator B.I. Le Marquand		
Senator A. Breckon		Connétable of St. John		
Senator S.C. Ferguson		Deputy S. Pitman (H)		
Senator A.J.H. Maclean				
Senator F. du H. Le Gresley				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy M. Tadier (B)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

**10. Island Plan Review (P.71/2013)**

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

That concludes the Standing Orders. We move now to the Island Plan Review, P.71 in the name of Deputy Young. I will ask the Greffier to read the proposition.

**The Assistant Greffier of the States:**

The States are asked to decide whether they are of opinion (a) to request the Minister for Planning and Environment to carry out an interim review of the Island Plan policies adopted by the States in June 2011 to take account of economic circumstances, and consider the practical consequences and effect of the policies of the Island Plan 2011 as set out in sections 6(a)–(i) of the attached report, with the review to include, but not be limited to, the following policies: Housing Policies H1, H2, H3, H5 and multi-generation homes; ERE7 Derelict and Redundant Glasshouses; SP5 Economic Growth and Diversification; E1 Protection of Employment land; SP1 Spatial Strategy, for settlements outside the main built-up area; GD3 Density of Development; NE6 Coastal National Park; SCO6 Allotments; GD8 Percentage for Art; and to further request the Minister, if he considers that amendments are needed to the Plan in light of his review, to conduct the required public consultation under the Planning and Building (Jersey) Law 2002 and, having taken account of the results of this public consultation, to bring forward for approval by the Assembly any amendments to the policies of the Island Plan that are deemed appropriate, no later than June 2014; (b) to request the Minister for Treasury and Resources to allocate sufficient funds from central reserves to enable the Minister for Planning and Environment to carry out the interim review in accordance with paragraph (a).

**Deputy S. Power:**

I wonder if Deputy Young would allow me to speak first. There is a problem with the potential conduct of this debate in relation to how the Planning Applications Panel may deal with this report and proposition. The reason is this: the Panel on a monthly basis deals with a specific case related applications to do with some of these issues and on a monthly basis I meet with the Minister and discuss aspects of some of these Island Plan policies and how they might be reviewed. So there is an ongoing review that does occur on a monthly basis with regard to the Island Plan and indeed the Minister is already working on some of this work.

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

Do you have a conflict?

**Deputy S. Power:**

For that reason, 6 of the 7 members of the Planning Panel feel uncomfortable in taking part in this debate and Deputy Baudains will wish to speak briefly on the debate itself. But for that reason the Planning Applications Panel feels it safer to withdraw from this debate.

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

That is for you. I do not see any need to, but it is a matter for your judgment.

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

I am still not sure whether we will have the panel members with us or not but I will start. The Plan, we all know what it is like. It is a States document by which the States decide the way in which land is used in this Island. The law requires it to be produced by the Minister every 10 years. In the last 30 years we have had 3. It is a huge task. This particular Plan that I am seeking to have an interim mini review emanated in 2008 with a Green Paper which went to consultation. Then in 2009 a Draft Island Plan which contained the proposals, and then the Plan itself which came to this Assembly. We have over 50 amendments. On 40 hours debate finally it was approved. So I submit these are important matters. I know that Members would like me to be short and I will try, but this is a major proposition and I think in reviewing a proposal as I have set out in my proposition is common sense. The proposition, I think I want to start by just pointing out and highlighting the key words. This is an interim review for wide economic circumstances and the effect of the policy, the practical consequences' effect of the way the policies are working in the Island Plan which I have set out in the report and I have listed there. It is quite clear that a review

should include those which I have listed but not be limited to the policies. Then it leaves the way open for the Minister to do the review. If he considers that the amendments are needed to the Plan, to carry out public consultation and then bring those forward to the Assembly for amendments. I have set a timetable which I will explain later, no later than June, but it need not be that long. It likely could be sooner.

[14:45]

Then the other part of the proposition is to provide the necessary resources, which I know from the many discussions with the Minister are crucial to him performing his role. Now Members will be relieved that I am not going to set about to try and go through the detail. In other jurisdictions they also have Island Plans; it is a fundamental basis because all applications are decided on the basis of the policies. Guernsey has a process of regular review. In Alderney their Land Use Plan is every 5 years; I know because I once did a planning inspection up there; and the U.K. do this more frequently. Why they do it more frequently is because they need to update it with events and in the light of knowledge and experience. How would it be, for example, if the U.K. Government did not review its policies for 10 years despite changes of government; it would be a nonsense. Now I had hoped to be short, but as I understand it, there may not be a unanimous view that my proposal is a commonsense one, a no-brainer, and ought to be approved. I understand this morning talking with the Deputy Chief Minister, and I thank him here for his honesty, he said to me this morning because I had been away for a week and obviously I expected to see comments for a long, long time, having looked for them in hope, as it were, but we have not got them, is that the concern that Council of Ministers have is that my proposition may divert the Minister from achieving tasks of reviewing the Housing Policies, which they have already asked him to do. I think this is being unfair to the Minister because there is only one person that can do this review, and that is the Minister for Planning and Environment. The law makes him responsible; nobody else can change it. What my proposition seeks to do is to ask him, would he please do this? Would he please go through the process, and I think it is right that he is given that opportunity to do so. So the process by which the planning policies are arrived at is set out in subordinate legislation. Thankfully the Minister has the opportunity himself to change that by Order. The previous Minister set out a very long complex procedure which is overly so in my view, but I think there is nothing in my proposition that does not allow him to take a step by step or phased approach to doing this review. I understand again from talking to the Minister and the Chief Officer, is that parts of this work could well be done well before June 2014. But of course they have to go through the statutory consultation processes. There will be no way the Plan would be amended if that were chosen without that. But the Minister has control. So I took the view, if there is going to be a review of the housing policies, I think it is right that the opportunity is also taken to widen that out to including some other matters which I have listed in the report. Now our Minister inherited the Plan and I think it is right that our Minister that was elected by this Assembly at the end of 2011 has the opportunity to reshape these policies in the light of circumstances. It would be wrong in my view if that opportunity is denied to him. So my proposition seeks to give it the backing of the States. He has sufficient flexibility in it to do it in the way he chooses and to provide him with the resources which are fundamentally important because I know the Minister has not had access to the resources to do this type of thing in the past. Why I am saying that we should do this I have set out in my report. The Minister himself, as suggested, asked the Council of Ministers as part of the Medium-Term Financial Plan that resources should be given to allow him to do the review of the Plan, as it were, during his reign as Minister; I can well understand that. Any Minister would want to make the policies his own. Of course, there are new policies in there, really important ones. I will explain in a bit more detail, but just to mention them. The policy H3 for housing developments on privately-owned sites was a completely new one to Jersey and I will have more to say on that one later. The Coastal National Park was a very new proposal, and an employment land policy; very,

very well-intentioned policies. So I think there is the need 2 years on to be able to look at and ask ourselves or the Minister to ask the question and review to ask the question in proper process, are there any unintended effects of these policies? If so, are they perverse and are they to be changed? So I hope that members of the Planning Applications Panel - I see several of them have gone - but I am disappointed if they either have withdrawn or intend to withdraw because it is important I think that the States are able to benefit from knowledge of how policies are working out in practice. Otherwise States policy-setting, which is our job, will be done in a vacuum. We have never had the opportunity to update it and that seems an unnecessary restriction. So we need that role and of course the role of the Panel is set up by the Minister anyway. There is no way I hope today ... I certainly do not plan to get into any details of applications, nor do I want to use it as an opportunity to run those sort of issues. This is about high level policy. So in my paragraph 4, I think it is right that the changed economic conditions are paramount in the review. The credit crunch hit the Island in the autumn of 2008. I remember that working in the private sector, and I remember how immediately one saw an immediate impact of the credit crunch in businesses generally. I think we all hoped that this would be short-lived. But of course we now know that these changes are fundamental and that the adverse economic changes are fundamental and are longer lasting. Even the most optimistic experts do not expect an early return to anything like 2008 economic conditions. One has to ask oneself, policies that were drafted and prepared well before those conditions hit us, are they still soundly based in order to be able to achieve the best use of land and encourage our businesses to take up economic opportunities in sites which the Island where they have the potential to do that without causing damage. Also we need to ask ourselves, are some of these policies in here over-complex, unnecessarily complex, difficult to interpret and imposing a tendency towards a bureaucratic process-based planning regime? If so, are they acting as a damper on economic opportunity? Is there economic initiative in taking those up? I have heard for and against on that, but I think it is right that a review asks that question and answers it. So on the questions of competitors as well, I have also heard it said that there are many contradictions and ambiguities in these policies, and of course one knows that it is possible for such things as drafting policies by committees which ends up with disastrous results, how these things get changed. So I think it is important to have a fresh look. Is there a case for some simplification of these policies? At the moment I have had people, applicants and architects, say to me that they are overly complex and difficult to interpret and therefore it is very difficult for investors and people bringing forward proposals in the planning system to predict with any certainty what the outcomes of their application is going to be. So therefore that inhibits investment and taking up economic opportunities. Bear in mind that our planning system is wholly funded by charges. We are talking about 100 per cent of the department's costs being recovered in planning charges. Some of the charges are very high indeed. I think the figures I asked for, well over £100,000 and north of that I think some fees are being charged; and those are big investments. That is just planning; so there are other fees to pay after that. Then I have heard, and this is in my role as Chairman of the Environment Scrutiny Panel, in fact a number of questions have been put in the Assembly which I have had to answer about concerns of some Members to say: "Look; what are we doing about reviewing policies because they are too complex? They are difficult to interpret; they are bogging us down. They are very difficult." What are we doing about that? I took the view, well, no, the proper place I think for that kind of review is the Minister. That is his prime responsibility. I think it is not comfortably set within the Scrutiny Panel role. But members of our panel, we looked at those issues. Here we have some members of the panel saying those things; not all. Not the Chairman. But nonetheless one does not ignore them. So I think there is evidence there that there is complexity which we should look at. We know that the Minister is trying to deal with this. He has had to issue things called S.P.G.s (Supplementary Planning Guidance); great long documents; supplementary planning documents and of course we end up with very long documents to explain some of these policies and I wonder if we need that level of long documents to explain policies why

do we just review them? Now the main issues, the issues that I have put, the arguments that I put for including the policies in the proposition, they are only the rationale. The proposition does not say those things that I have explained are fact. What it is saying is that they are asking the Minister to take into account those things as well as other things that he wishes on these policies. The first chunk is Housing Policies, paragraphs 6(a) in my report. This part of the review, clearly we all know, is absolutely urgent; top of the priority list. It is my understanding that the Minister and Chief Officer are getting on with this already and this can be completed earlier. The sort of tentative dates I have heard spoken to me about from the Minister for the department are March 2014, but it may be the Minister can tell us more and put me right on that. But why did the policies need review? When I listened to the debate on the 2011 Housing Policies, although I was not in the States at the time, I did have a kind of spectator's interest. I was astonished by the last minute amendments which the previous Minister tabled to the Housing Policies in 2011, and that shifted the whole basis of the Plan. In 2002 there were redundant greenhouse sites proposed for zoning and they survived public consultation and the inspector's report in the Plan, so that it got into the Assembly. Yet at the eleventh hour they were pulled out. Of course, these glasshouses have been allowed to despoil the Island for far too long. But I cannot believe that is a satisfactory process in the way we deal with landowners and so on in this Island. I think they need more confidence in the planning regime than that. So I have therefore included in the list as well as the housing policy, which the Chief Minister and the Minister tell us he is already doing, policy ERE7 for derelict and redundant glasshouses. But instead in the 2011 Plan we place reliance on policy H1 which is about States-owned sites and the Plan says 150 homes is the target for 5 years. What I am suggesting and where this information came from is at our Scrutiny review, again we pulled the Minister in on the Environment Scrutiny Panel this April and we went through all these policies and how it is going. What we basically concluded, the Minister accepted that there is the need for review and I am grateful he has acted upon it because there has been a supply failure. The submission I make is that I believe the target of 150 homes for policy H1 is insufficient and needs to be reviewed. Reliance was also put on H3, which is the policy for housing developments on private sites, which was untested. The debate was confused and Members sought lots of advice about challenges. Doubts were raised by lawyers, accountants, developers and others where they were existing land use values. A policy of housing obligations to provide affordable land works well where there are brownfield lands with low values and no alternative use. But it works very much less well where there are high land values. But the objections were overridden and of course the States suspended policy H3 so it has done nothing for 2 years. There was a working group formed 2 years ago but it has failed to report or, arguably, never met. I do not know. The Minister will tell us, I am sure he will, but when one checks the minutes there was a group formed. Those events show, of course, the doubts were well founded. I have also added a commitment, I suppose, which is a personal one, a manifesto commitment on 2-generation homes. This is an issue that arose during my election campaign. I believe - and I have long thought it - policies at present discourage multi-generation homes outside the town area.

[15:00]

I think there is a possibility this could make a major contribution to people finding houses or homes in what is a high cost Island in high cost property values. To have policies that discourage that is really, I think, nonsense. Where it is possible to create a 2 generation home for family members, where it can be accommodated without a problem, they should be able to do so. Guernsey has such a Planning policy, we do not. On the question of the workings of other policies, I have attended a number of Planning Applications Panel meetings and listened to the debates with great interests. I am very impressed with the work of the Planning Applications Panel. They do an excellent job grappling with this difficult task and their processes are good. I am very supportive of them. But the policy E1, which I have also included, which is on protection of employment lands, I think



there is evidence that this policy is very well-intentioned but it is producing perverse effects. It is preventing sensible development proposals and they are being frustrated unreasonably with things like market tests and so on. Because these are not the sort of crown jewels sites, these are marginal sites, very difficult to make work. I think the policies economically have worsened and I think a number of Members have said they would like to see that policy and its S.P.G. being reviewed. I have also put on there GD3 about high density and this is about the blanket policy of all built-up areas in the Island Plan, which the Plan seeks to zone all of those areas at the highest possible density. Well-intentioned but, of course, the effect has been is that homes with larger than normal minimum garden areas or open amenity space have to become available for high density developments. Then applications which should never have stood a chance previously have gained approval, with adverse effect on neighbours. It is a policy known, I think, as 'garden grabbing.' It is divisive, causes loss of light, overbearing problems with parking and so on, and sets neighbour against neighbour. I think that is a real shame because it is not a division that we need in the Island and we need developments that are appropriate and ones that respect the character of the neighbourhood. It is not as if I have been able to get any numbers. I have asked the Minister - I asked a year ago - what are the number of extra housing units we have had as a result of this. No answer. The answer is still a year ago with no answer. That is in writing, April 2012, the information is not kept. Well, I take the view if the policy cannot be justified that at least justifies having a look at it and re-examining it. Coastal National Park, NE6: now, this is our special, special spaces, our coastal areas, the prime tourism assets. I think if we do not ensure that the level of protection in those areas is the best that the Planning Law can provide we risk the opportunities for growing our tourism industry in the future. We must see that, those areas are to be conserved. Previously we had a policy in the 2002 plan for outstanding character, which is the equivalent of the natural beauty zones in the U.K. It is clear that there are problems there. There are alternative interpretations, there is a complex S.P.G., there is a Royal Court decision which raises issues, and there is disappointment among communities. You see some developments going ahead and their argument is the policy is more lax than it was before, which is the wrong way. So I think that, therefore, should be included on the list review. Now, allotments, I am really a convert to this and I am not a gardening person but I have had representations about this subject. I am convinced that this activity, at a time of people living their lives longer, the need for social infrastructure of the Island. I think allotments can perform a very useful function in society. We have a policy but it is too restrictive, I believe. We have a good scheme at Les Creux which is an example for others, but efforts to find other sites have all fallen upon stony ground. So I am suggesting we have relaxation on those policies on sites within or close to the urban area, because we do not want to create car parks out of the countryside, and they need to be able to have sheds and so on. If those who have any doubts about allotments go and have a look at the excellent scheme right in the middle of St. Anne in Alderney, it looks absolutely fabulous. Getting near the end now, Members will be pleased to hear. Percentage for Art: well, this has been a great scheme. We have some lovely public sculpture. But there are some questioning voices about how relevant this is. I think there has become a case for widening the scope of this developer obligation to include environment and community purposes, so we could get money from major developments to pay for those things. The Minister has told me that he supports it. Those are my thoughts. Those are the issues which I have asked to be included, but not exclusive. I am not trying to bind the States or bind the Minister on the outcomes. Whether or not the review changes things depends on the Minister's and department's own researches, because they would have to do some detailed work with property consultants, the views that people submit as part of public consultation, the Planning Inspector's report and his recommendations, and finally what Members decide in this Assembly. So there is no question of pre-judging and cutting the cloth from under people. It is entirely under the Members control. But the case for doing this review, I think, is overwhelming. On the question of timing, as I say, I have been advised that some aspects of this could be done before June 2014. Why I have

put June 2014 is I think that is the lifetime of this Assembly and I think that really is right that in a 3-year Assembly we can at least complete that work. I have had to put in on paragraph (b) the resources because I know unless there are resources the Minister is not going to be able to do the task. They advised me that they bid themselves £100,000 in the Medium-Term Financial Plan, which of course they did not succeed in, but of course I put an amendment and I agreed to withdraw it on the basis that the Minister for Treasury and Resources acknowledged the need for funds to support strategic planning, which he would find from central reserves. That is all written up in the annex to the M.T.F.P. (Medium-Term Financial Plan) so I hold the Minister to his commitments, that is what he has said. I checked out with the department how much the scope of what I have written here in this proposition would cost, they accept my estimate of £100,000 to £150,000. They see that as sensible and the exact costs will be turned on the amount of consultancy reports they need. With that I do not think I have missed it. I will make the proposition and try and listen to Members comments, hopefully they are supportive, and I very much hope that the Council of Ministers members will change their mind and give this support because I really think this is just a common sense thing to do. If we do not review policies what are we going to say? That nothing changes for 10 years? I make the proposition.

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

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

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

Did you see Deputy Baudains before me?

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

I did but I thought it might be helpful for the Assembly to hear from you as Minister traditionally after the proposal, but if you wish go after Deputy Baudains I am happy ...

**Deputy R.C. Duhamel:**

I am both a gentleman and a scholar and very polite so I think if he wishes to say something ...

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

Thank you, I will be very brief. I noticed the proposer said that the Planning Applications Panel do a really good job and I completely agree with him, but of course I might be biased. [**Laughter**] He did say that there was only one person who could do this review, the Minister. I do not agree, I believe the most appropriate body to do this review is the Planning Applications Panel, of which the proposer is chairman. I have been asking him for 18 months to look at some of these issues. When I started speaking I said I was a member of the Planning Applications Panel and for that reason I will be abstaining from voting at the end of this debate.

**10.1.2 Deputy R.C. Duhamel:**

If Deputy Young would like to pass me his hymn sheet perhaps we can both sing from the same copy. Fundamentally, if we read the proposition I should be taking exception to being asked to do my job, and I should take exception if indeed I am doing my job and being asked to continue doing it. On the face of it I find some difficulties with what is being proposed, particularly in respect to the Housing policies, H1, H2, H3 and H5, and multi-generation homes, and indeed to a number of the other categories that have been put forward for an interim review. This indeed is what is happening. This Assembly is due in July, as indeed are the Council of Ministers, to see the efforts of my officers and not only my own officers but officers from the Housing Department and other departments in terms of the new proposals for revising the Island Plan chapter on Housing. Some Members might say: "Well, we need to prod the Minister for Planning from time to time because if we do not we are not going to get what he tells us constantly that he is doing." But I think in that

particular case that would be unfair. You can only run as fast as you can walk and you have to learn to walk before you can run. Indeed, if there is a reliance placed on working with other departments and Ministers, and this is the way that the Planning Department works, it is in consensus, building and bringing people together and finding our common ground before we bring it to this Assembly for endorsement and agreement. If indeed it means that you go a little bit slower in order to gain the acceptance of your colleagues then indeed that is the way we have to play it and that is the way we have been playing it. The difficulties I think are also that Deputy Young is asking for a number of policies to be formally reviewed. He uses the word an “interim” review but let us make no mistake, there is a suggestion that it will be a large piece of work. You can ascertain that by reading the first paragraph which suggests that the review should include, but not be limited to, the following policies, and then indeed there are a number of policies itemised. But there must be others. So I am being asked not to do a small review, of which I am already doing, but also to do other reviews on other sections and sectors, plus to pull out of the bag any other headings for policies within the Island Plan, as yet kind of unmentioned by this debate. But certainly if we stick to the text, Deputy Young is suggesting that I do not just conduct a review to what is placed before us at the moment. If indeed that means kind of reviewing the whole of the Plan that may well cause problems and that was the nature of my comments, which were in draft form, that were presented to the Council of Ministers for support from my colleagues, and indeed caused problems with that body. Because it was suggested by my officers that if indeed we did take a wider view and asked for an unlimited, and certainly not a limited review, then what would be the impact in terms of the housing policies that had been deemed to be of first and foremost importance to this Assembly and to others, and what would be knock-on effect? I suggested, as indeed my officers did, that perhaps if we did bite off too much than we could chew then there may be an opportunity to slow down the work - the very important work - that I have been mandated to bring to this House for us to decide upon. So with those ideas in my mind I am in 2 minds as to whether or not some of the strategic policies that the Deputy is referring to - which indeed do get looked at on a regular basis, and must be looked at on a regular basis, and are important to be looked at on a regular basis - are indeed reviewed and I would wholeheartedly support that. But there are some other policies which are perhaps not quite at the top of that priority list which, if indeed are tied into the whole basket of proposals for the review, might kind of slow us down a bit. So I am as usual with Planning - it is not an uncommon kind of position to be in - in 2 minds. I obviously wish to support a request to myself to do the work that I think should be done because that is the work that I took on when I was elected by this House to be Minister. But at the same time I have to prioritise the requirements for looking at these things and to allocate proper resources to doing it. That is probably about as far as I can go.

[15:15]

I think the rest of the proposition is right, it says to - if indeed having decided, which I am already doing, to do an interim review - to bring forward any amendments that I consider requiring amendment then I will be bound by the Planning and Building Law in terms of bringing forward under the usual protocols for public consultation, and indeed have to follow the timings that process kind of affords. Any Island Plan amendment from start to finish is likely to be a 6 to 7-month piece of work, so if we work backwards that means that some of the items to be considered could maybe be started in the autumn months. If indeed that were to be the case and I am in a position to continue in bringing to this House the Housing policies which - as far as I am concerned - are priority number one, then indeed I think I am in a happy position perhaps to support the proposal of Deputy Young and indeed other Members of the House to express their right to ask for policies to be reviewed and the processes to be followed. If I could perhaps have some level of assurance, which I am not sure that Deputy Young is able to give me, that there is an element of flexibility in splitting the workload into those 2 parts, and an acceptance on his behalf that perhaps there might

be a slight delay in bringing forward the other areas - with this provision that the Housing policies are the most important - then I think we could finish the debate probably a lot faster than other Members might otherwise require. Perhaps if I could have that assurance from the Deputy beforehand and then I will finish my speech.

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

I am not really sure he is in a position to give that assurance.

**Deputy R.C. Duhamel:**

Perhaps he would like to make a Point of Order.

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

He may comment on it. It is a request to you that you would interpret as you see fit, Minister. The Deputy may give a view as to whether he would be happy to see you ...

**Deputy R.C. Duhamel:**

Well, perhaps from the Chair then. In the way that the proposition has been worded, would the Chair agree that there is this element of flexibility to allow the Minister for Planning and Environment to prioritise his work in order to do exactly that, while accepting that all of the policies will be reviewed, there may well be timing differences in order to ensure that the most important one is not delayed.

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

Well, I think, as the Deputy himself in his proposal speech said, the only person in law who can undertake this review, Minister, is you and this is a political request to you. It is nothing more than a political request that you would have, in law, the ability to interpret as you saw fit. Members would take a political judgment on how you had taken the decision forward, but I do not imagine some flexibility would not be acceptable, either from the Deputy or from other Members. Do you wish to comment briefly, Deputy Young? Very briefly.

**Deputy J.H. Young:**

Yes. I think maybe the Minister is asking me to clarify. I intended that there would be flexibility in the proposition, in fact I hoped I made that clear, particularly to allow the priority work to go ahead of the other matters. They are all priority but the proposition does intend that by the end of June 2014 all of those matters - and indeed any other matters that the Minister considered appropriate - would be included and the review completed. But there would be that flexibility to allow the Minister to conduct that work. As he says, if he wishes to split it into 2 parts I would be entirely content with that.

**Deputy R.C. Duhamel:**

In that case I think with those comments I am happy to accede to the Deputy and would support other Members to agree with that so we can curtail the discussions.

**10.1.3 Deputy J.A. Martin:**

Just briefly because I thought I had seen basically everything in this House but I certainly had a first today with the Chair of the Planning Applications Panel. I cannot see the conflict. It was interesting to learn that he and his panel had everything in hand and they review this weekly or monthly with the Minister. I am glad the Minister has turned around and said that he now concedes to this proposition because in the M.T.F.P. he put in some money himself so he could do this extensive review, which behind me he says he is doing. I have no criticism of the Minister for Planning and Environment. What the Deputy is asking for is some policies that do conflict and

stop people doing things, stop employment, that have not just been going since 2011, it is a 30-year plan, or 10, 10, 10, and these have not been reviewed enough. I did have much more to say - well, not too much more to say - but if the Minister is accepting it ... we do know that the H1, H2, and H3 policies are quite a few years old and then just a few months ago, I thought it was the Minister for Treasury and Resources, it says here the Chief Minister stood up and said they do not work, we are going to come back with something else. We have a 5-day Island Plan debate and we hear things like this off the cuff. It is not really the way we like to do things, personally as a States Member, and I certainly do not like to hear today that the Planning Applications Panel, who are appointed by the Minister for Planning, have got this "in hand".

**Deputy J.M. Maçon:**

On a point of order, if the Deputy will give way, all members of the Planning Applications Panel are supported and appointed by this Assembly, on recommendation of the Minister for Planning and Environment but not by the Minister for Planning and Environment.

**Deputy J.A. Martin:**

Thank you for that correction, Deputy, but on recommendation, surely it should be Scrutiny that should be having these meetings with the Minister for Planning and Environment, not the Planning Applications Panel. This debate has brought out some things that are always going on behind closed doors. We do not know what is going on. The Minister for Planning and Environment says that he will be bringing this back. He has also got to get me through the glasshouse. I mean, it is a no brainer, but is it in your Parish? Are you going to vote for it? So I absolutely trust the Minister for Planning and Environment's intentions, he has still got to get these things that were pulled at the last minute in the Island Plan and were in it before, back through this Assembly, that were quite happy not to support it last time. So I do think we need the review. If the Minister is seemingly undertaking an interim review already with no money and no extra resources, and we are asking for him to have the extra resources, surely it will get to the bottom of some of these policies that are not working very well, or are hindering employment and development and anything else, much quicker. So I am glad that the Minister for Planning and Environment does accept this and if he wants to put Housing first I say good luck, and that is where it is needed. But I am glad that he has decided to support it and I will leave it at that.

**10.1.4 Connétable J.M. Refault of St. Peter:**

I am slightly troubled because while on the one hand I tend to support Deputy Young in bringing this proposition, on the other hand I am quite concerned he has done so, basically because I think it is inappropriate. It is inappropriate because I believe the Minister for Planning and Environment should be constantly reviewing all the policies that he is responsible for and this should be an ongoing piece of work. We have heard from the Chairman of the Planning Applications Panel that they are reviewing these things but we are not seeing any results. I personally feel that the Minister for Planning and Environment needs to take the bringing of this proposition as a wake-up call that Members are not comfortable and they need to see some action and he should respond to that. But in saying that I am going to hold my position, I am not going to support the proposition, although I support the cage rattling that it represents among the unease of Members and seeing things being brought forward and developed better on behalf of all the planning policies and the local economy.

**10.1.5 Deputy M.R. Higgins:**

Just a few comments because I am not going to keep people. I am pleased that the Minister and Deputy Young have agreed on this. It is right that we should review some of these policies and they should not be too rigid. I just want to make 2 comments. One was employment land. Now, I am particularly concerned that in St. Clement, for example, there is a number of what were former agricultural buildings which were originally to be made into storage sheds, permission was given

for it, then they were allowed to be used for storage and for other types of businesses. The landowner there, for example, now wants to build houses on it. No, he has not got permission for it but what is he doing? He is giving notice of eviction to all the tenants on that site to try and clear the way so that he can get the property converted to housing. That is just not on, especially at a time when we are trying to encourage employment and not make life difficult for people. So those types of land, I do not think there is a case for allowing these landlords to get away with it. The other point I would like to make is on the Percentage for Art. During the Plémont debate I did not support Plémont because I just felt it was an open-ended cheque and I did not believe we could at this time fund it. That did not mean to say I was not sympathetic to keeping the headland for the Island. But as someone wrote, I think it was in the paper and I think I also got a letter to the effect, was why do we have a Percentage for Art that is just restricted to art? Why could some of the money from these building developments not be put into a fund to enable us to buy places like Plémont when the time comes? So I would like to see the policy extended so it could be used for saving our heritage in that sense. Obviously it has been accepted but I would have supported the proposition anyway because I did not think it was restrictive on the Minister and his ability to deal with Housing first. But we do need to review these Plans and I am pleased it is going forward.

#### **10.1.6 Deputy A.K.F. Green St. Helier:**

I would just like to pick up on a couple of points because I am concerned. There is nothing basically wrong with Deputy Young's proposition inasmuch as the things that he wants to review. But I want absolute assurance from the Minister for Planning and Environment because what concerns me is while we carry out these further reviews is that we are almost in a position where we are ready to, I believe, release a new draft housing chapter and the Minister is going to go out to consultation. When we were at the Council of Ministers looking at some of this I was told that, partly because of this and because of process, we could not debate the rezoning of the lands that we know we want to rezone until May next year. I find that totally unacceptable. I want some assurance that we are going to get on with it this year, that we are going to release that chapter. I need to know from the Minister that that chapter is going to be released, that the legal consultations period will take place and we will get it to the House much quicker. I have 200 homeless families at the present time. The Stats Unit tell me I need 400 new homes today. I believe it is nearer 800 homes, and if we are not careful we are in danger of fiddling while Rome burns. We need to build, not burn. I need an assurance from the Minister for Planning and Environment - I know it is not his proposition - that if I support this the housing chapter will come forward soon, will be consulted in the legal process that needs happening, and we will get it back to this House either late this year or early next year to debate, not May next year. Otherwise, I will not support this.

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

As a newer member of the Planning Applications Panel, I was not going to speak but I wish to clarify there was no way the Panel is taking upon itself a job as some kind of unofficial or official reviewer of the Island Plan. What happens when it comes across applications where there are clear difficulties where it says: "You are imposing unrealistic burdens upon people and there is possible confusion about a policy", this is fed back to the Minister by our Chairman and this is very valid feedback. It is an important part of the feedback but no one should run away with the idea that we are somehow trying to abrogate to ourselves the role of some kind of private review body. We are not.

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

I was only prompted to speak initially because it seems to me that there was a suggestion in one of the speeches that, by adopting this, we would be somehow sending a message out that we did not trust the Minister for Planning and Environment to do his job and I do not accept that at all. What I

think this is, is to really just have another reviewer, as my colleague on the left has stated, and to try and see if we need to reprioritise any of the areas. Far from being in conflict with the housing policy which I certainly also see the urgency - as many others do - that we should build and maintain our housing stock, I think those 2 things can be done in tandem but it does just give the Minister another chance because over the last 2 years, I am sure the priorities have changed. So I think it is important to remember that the Minister is also a servant of the Assembly and there is clearly political pressure which will come to bear if he comes back, and what he is suggesting is not in line with the rest of the Assembly. So I do not see a problem with this and the Minister has accepted it and I do not think that mischief making which is apparent in one of the speeches should be allowed to go unchallenged.

[15:30]

**10.1.9 The Connétable of St. John:**

As a former Chairman of the Environment Scrutiny Panel and a member of the current Scrutiny Panel, I sincerely hope that the panel will be advised on the way through of what is happening, as happened with the last review and not just as a *fait accompli* at the end and it is too late to make any comments. At the same time, while I am on my feet, I have to ask will it be right that our current Chairman who brought the proposition sit on that review panel? I am just putting the question because I have one or 2 concerns that there might be a conflict here so, therefore, I think we will have to give that some serious thought at the time to the proposer of this proposition.

**Deputy S. Power:**

Sir, am I allowed to make ...

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

I thought you had a brief speech before.

**Deputy S. Power:**

If the Chair of the Assembly and the Assembly will bear with me, I would like to clarify some points that have been made in the course of the debate. **[Aside]** Okay, that is fine.

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

I was going to allow the Deputy to speak because I think he spoke on conflict but you did end your speech, Deputy, saying you were withdrawing from the Assembly. It is rather curious to come back, having allowed you to speak on the conflict. I think perhaps we had better move on. The Deputy of St. Martin.

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

I am sure Members are all well aware of the phrase “No smoke without fire” and I think the fact that somebody as experienced in planning matters as Deputy Young who has brought this proposition to the Assembly today will give us an indication that some changes need to be made, or at the very least, need to be looked at. I remember well the first meeting of the Environment Scrutiny Panel back at the end of 2011 when Deputy Young told myself and the Constable of St. John in quite clear words that the H3 Housing Panel was not going to deliver a single property. How right he was. Every one of the subjects on the proposition is important. They are all priorities but, in particular, the first 4 I think desperately need to be looked at. It is right that housing is right at the top of that list. I am pleased to hear that the Minister is going to bring that one forward before the others. Derelict and redundant glasshouses are a waste of resources, whichever way you look at it. It is vitally important that the interaction between economic growth and diversification and the Planning Department is looked at and the protection of employment land is a particularly

interesting one because in the Island Plan, it is quite short and I am sure every Member of this Assembly would agree with the sentiment of it. But the Supplementary Planning Guidance, when it was published some time after, was hugely detailed and, to my view in particular, went much, much further than anyone could ever have envisaged. I am not qualified to talk with anything like the authority, the knowledge or the experience of Deputy Young in planning matters, so it is far easier for me to just give him my wholehearted support. I think it is time that we took a good look again at this Island Plan. I know it is not long since it came into being but we really need to do this sooner rather than later.

**10.1.11 Deputy K.L. Moore of St. Peter:**

I just hope the speaker could help me a little. I am slightly perplexed by this debate because in February this year, we were told that housing was the subject of the moment and something that the Council of Ministers were going to deal with with urgency and yet we find ourselves now into July and there is a newfound agreement between the proposer and the Minister for Housing regarding housing. But this idea of a further review is just not palatable to an individual member and Chairman of the Scrutiny Panel looking at housing who would like to see some action and “action” should be the watchword of the day and I find it difficult to support a review that would delay the action that we have been waiting for since February. **[Approbation]**

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

I was not going to speak this afternoon but I will speak briefly. I might be quite naïve. In 2009, I took annual leave when I was still working to read the Draft Island Plan and made submissions in the Parish when we were looking at village plans and if the Island Plan fell into that. We went through it. We have heard this afternoon in May 2010, the previous Minister published a response to 1,200 representations that he received. We had a public inquiry which was reported in November 2010. The revised draft Plan was lodged and 50 amendments were listened to by the Members of this Assembly, the previous Assembly of course. It was debated in the States. The debate lasted 9 days and approved 37 votes to one. Concerns are that the Island Plan costs hundreds of thousands of pounds, I am quite sure it did. We have had inspectors over to examine it. Within 2 years, this Assembly are now discussing, and basically saying, that the Island Plan was not good enough or is not good enough. Times may have changed but I do not think they have changed that much in the last 2 years or in the last 5 years, to be honest. I am not sure if Deputy Young could explain and make public that the Island Plan that we have now got for the next 8 years anyway is defective. It was good enough at the time. This Island has paid hundreds of thousands of pounds for a defective Plan so maybe he can reassure us and I just think that the 51 Members who sat in this Assembly for 9 days 2 years ago made a decision for a Plan and now we are saying that Plan was no good. Thank you.

**10.1.13 Deputy J.M. Maçon:**

As Members will know, I am on the Planning Applications Panel and certainly any Member who has not sat on the Planning Applications Panel, I will always advise and recommend Members do join because it certainly is an education to learn about how the planning system works in this Island. Certainly when you are having to be arbiter between one side and another and makes those types of decisions between the different planning policies, you certainly have a certain different appreciation to how the planning system does work or, in some cases, does not work. What I want to say about certain policies - and we have fed this back to the Minister but it does come back to the Island Plan and does come back to when we had the Island Plan debate - there were certain problems when we adopted it and that is, for example, having these final amendments by Senator Cohen, the Minister at the time, basically saying: “We will suspend X, Y and Z policy. The H1 and H3 policies to go out to consultation to think about it and then come back to the States with



whatever the policy is going to be.” So to be fair - and this is what the Minister has said - the department has already been doing that work so it does seem to be odd that the States have already agreed that is what is going to happen. The Minister and the department have worked on it. The Chairman of the Health, Housing and Social Security Panel has commented how she expected work to be happening in February but the Minister for Planning and Environment told us even before Christmas that he expected to have something done on the H3 policy which never came forward. So what I am trying to say in response to what the Constable of St. Martin said, in some ways, there is never perfection and, in those cases, it is the fault of the States Assembly in approving a document where that was not a policy in the first place and then expecting the poor Minister to come back with something. It was the case of the States Members ducking their responsibility at the time because they were so quick and wanted just to clear the Island Plan from the States Assembly. I want to talk about glasshouses because it is a huge problem which we have to deal with on the Planning Applications Panel. I need to be very careful in what I say and I think that, in some cases, it is a combination of what the policy says but also upon the restrictions that are placed on some applications and some sites on themselves. So, for example, we might get an applicant coming to us pleading X, Y and Z how they want a site to be developed but conveniently forget that maybe they have got that site developed with States loans in the first place and not having put the money aside to return the land to agriculture when there was that restriction placed on that application in the first place. Then we have to juggle that with the policy and to try and come up to what is in line with planning policy and this does cause us a big problem. We have asked that particular policy to be looked at and to be reviewed, and I believe the Minister is doing that anyway, but I think what we have to remember, and it is particularly important when it comes to the employment lands sites, it is down to money. What is the most profitable thing to do on Jersey? Well, one of the things is to have your land zoned as residential. That is the way that you can make the most money out of your land but the issue with that is that you have got all different types of applicants pleading that X, Y and Z land is not fit for employment uses and the reason why the department has all these processes to go through like the advertising of space and having appropriate methods to try and analyse that is because we know that we have people who will do whatever they can to try to get around those bars to say: “Right, this land is no longer appropriate for employment use. Therefore, we want to be able to use it for residential purposes.” But unfortunately, sometimes we will look at the methods that he used to advertise the land and we are just like: “Well, wait a minute. You have not done this, you have not tried this and this has not even been attempted.” So we can easily turn around and say: “We are going to suspend or not adjudicate on this application because you have not followed the process properly.” But it is quite right that we do that but the applicants who have that land of course are going to plead injustice and say: “Things are over-bureaucratic and unfair” because at the end of the day, the most profitable thing for them is of course to get it into residential use. So is there a problem with the policy or are you naturally going to have this dislike of the policy because there are more profitable things that you can get out of the land at the time? So I appreciate that there is a perception of a problem but I do not necessarily believe that there is a problem with the policy as it is because there is always going to be a more profitable way to use that particular use of land and, therefore, does it need review? One final point is the Deputy commented about how much he liked the Percentage for Art policy and how he said it has produced some lovely works of art. I grimaced at the time because it might have produced some lovely works of art. However, equally - and perhaps it is down to a matter of taste, as it does with Planning - it has also produced some hideous works of art which have gone up around the Island and I think that needs to be said as well. As I think this matter has probably been decided and given that the Minister has said he will be supporting this, I do not see a problem in then doing so but I do think that I just wanted to put those matters on record and for Members to be aware of some of the issues that we do have to adjudicate on when going through the planning application process. Thank you.

#### **10.1.14 Senator A. Breckon:**

Just a couple of points. I will support this. Two things: when there was a Percentage for Art, I think there was a perception of what it might be but some of the art that was going to be on the street is on the third or fourth floor in some places because it was not suitable for that. Just a few words of warning to those Members who are going head-over-heels in support of disused greenhouse and glasshouse sites. Those with longer memories will remember that the industry that was within them was heavily subsidised. I remember years ago on an Economic Affairs Scrutiny Panel we looked at it in some detail and whoever was responsible at the time put in place £3 million as an exit strategy for the glasshouse industry over 3 years and they took it in one. One year, it went. Now if we are going to look at people cashing in on those sites, then maybe we should ask them for the money back and as Deputy Maçon has just mentioned, some were given subsidised States loans to do some of this so they are not exactly the poor relations. So if Members are going very emotive about this and saying it is easy to do, then let us maybe ask a few questions of those who own them and have benefited over the years and: “Can we please have the money back?” Or deduct it from the value of the site. I would ask Members to be aware of that and not get just emotive about: “It is easy to do.” It is easy to do because there is a history if you just leave it, then eventually you will get something. Maybe not this year, maybe not next year but in 2 years’ time and it is easy to do and the agreement was that it was for agriculture or horticulture, and that is where it should stay and if we change that, then there has got to be real reasons for it and not just somebody says: “Well, look where I am with this.”

[15:45]

I would ask Members maybe to look at how they got there and the amount of public money that has been put into these sites before we just give another freebie away. Thank you.

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

Just very briefly, I have to say I am a little confused as to why Deputy Young has brought this proposition forward, not the sentiment behind it, but why he has brought this as a proposition to the States Assembly. He is the Chairman of the Environment Scrutiny Panel and can therefore review the Island Plan and the Supplementary Guidance and come up with recommendations or comments which the Minister could then review and implement or not or make comment on, thus alleviating the further delay on certain issues such as housing. Also, as this particular Island Plan has been put into practice, it is a long time to go for another 8 years now, as some Members have alluded to, until the next one so these sorts of recommendations from Scrutiny could be implemented straightaway. So I am very confused as to why Deputy Young has chosen to come to the Assembly and not conduct a Scrutiny Review whereby he is ideally placed to do so.

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

Just briefly, I think my Assistant Minister was bang on there. I was sitting listening to her and I think she is absolutely right. I am a bit confused about this, I have to say. In many respects, it is almost a department that would be calling for a review, not a private Member and in some respects, reviews are undertaken when one wants to consider matters over a period of time. Some of these issues are not issues that we have time to think about and have reviews and so on. We need to get on with it, as the Deputy of St. Peter was saying a moment ago. There are issues here surrounding housing which are really important. There are economic matters that need to be considered and really I would have also preferred the Scrutiny Chair, having reviewed with his panel, to make some concrete recommendations that we can seek to act upon. I am also understanding that the Minister for Planning and Environment is also acting on these in any event anyway so there is a great deal of confusion in my mind as to what we are voting on here. What I would like to see is more of a Council of Ministers approach on this, a whole-of-government approach on this because

this is crossing over a number of departments, a number of strategies and policies that matter to the whole economy and the whole community. Really, we should, rather than spending a lot of time reviewing it or sending it back for review, we should get on with agreeing a terms of reference, who is going to undertake it and a timescale followed by rapid action to resolve issues if indeed there are issues. I think many of us perhaps think there are but maybe there are not. We need to get to the bottom of it. I am perplexed about the proposition.

**Deputy M.R. Higgins:**

Sir, could I ask a point of clarification on the last speaker?

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

Yes.

**Deputy M.R. Higgins:**

It has become very clear to many of us - and, in fact, I know there are a number of Ministers in this room here - you say that the Council of Ministers should come up with a collective action and yet we know that there are about 3 Ministers in the main who are making most of the decisions and many of you are not involved in it so do you have a collective view?

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

What is the clarification you are seeking from the last speaker?

**Deputy M.R. Higgins:**

Well, what I am saying is that if he is saying there should be a collective view, is that not true of all policies because you do not?

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

I think that is a political second point so it is not really a point of clarification, Deputy. Does any other Member wish to speak on the proposition? If not, I will call on Deputy Young to reply. Deputy Baker.

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

Just very, very briefly. I did prepare quite a hefty speech when I saw this bit of work come through and, obviously, listening this afternoon, I have decided not to speak but I just want to ask one question and say that, listening to what everyone has said and could Deputy Young clarify, would it not be more efficient, instead of commissioning a report, to have a new Minister for Planning and Environment perhaps, one who interprets the current plan differently - because it is down to interpretation - and one who has a more global view maybe of the problems that are facing Jersey? Because it strikes me that, having looked at the Island Plan - and I looked at it in detail when it came out - it is very much down to interpretation. If we do not change the interpretation of it, then we will continue to suffer more job losses and continue to drive investment off the Island which the current Minister seems reasonably content with. Thank you.

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

I call on Deputy Young to reply.

**10.1.18 Deputy J.H. Young:**

I would like to thank all Members who have spoken. I think, if I might be forgiven, I would like to deal with one general issue first as best I can, that is this question of confusion that, somehow, my proposition is intended to get in the way of the work that is being done on housing and to slow things down and so on. *Au contraire*. My proposition was brought, as I think my role as a Back-

Bench Member is, to bring things forward to this Assembly that need the backing of the States to remove any ambiguity about this whatsoever. We are 18 months into an Assembly and 2 years into housing policies that are not working. We all know that. I listened to the States debate in 2011 and I was frankly appalled really with the confusion that happened but, never mind, we want to look forward but I want to clear-up any ambiguity. These policies do not work. They have produced a supply failure. I am delighted that the Minister is getting on with it but the problem we have is - and it is a procedural one - the law places the responsibility on the Minister to do that review. The only person that can bring amendments to this Assembly to the Island Plan policies is our Minister. Now Members have said about: "Well, the Environment Scrutiny Panel" and I delighted to hear the confidence that Members feel the Scrutiny Panel is able to do this but there are issues there potentially for us. There are issues of my conflict of interest. We are a 3-panel member. There are Members of this House who feel, because of my past background on planning matters many years ago, that that is a problem and, secondly, in any event, whatever the Scrutiny Panel came up with would have to go through the statutory procedure that is laid on the door. If I had been the Minister, I would not have passed a long laborious order that requires it to go through all these lots and lots of different stages. I think it would have been simpler to have a clearer process but that order is there. There is the mandatory public consultation. That is right. That has to be there because, as said, if it is to be a glasshouse site, which one has it to be in? So they have got to go through that proper process and we have heard that that process can be brought in advance on housing and it is my proposition, with everything I have heard, it confirms what I intended that this is not intended to frustrate the works already ongoing and that the work that is already ongoing will be consolidated as part of this. If it is ready to go to public consultation now, then great, but I would not expect it to be able to come to this Assembly before that public consultation work has been done but there is absolutely no frustration. I am asked: "Well, why bring it?" Well, surely it is right for Back-Bench Members to bring forward issues where there is a need. So if you like, prompt or put some pressure behind the Minister to give initiative to these things and I think it needs that policy commitment of this Assembly. Now I thank the Minister for his comments. I am not asking for a great review of all this. Here is all the pile of stuff. I am not asking for that. That would take a big task. I am asking for a mini review. A Minister can shake the process and ensure that it is efficient. He has given us a commitment that he can do that so I am not asking for a wider impact review. It is his judgment how far he goes with this. So I am grateful for Deputy Martin's comments. I hope the Planning Applications Panel members who are already committed themselves will stay and participate because I do not see a conflict of interest because their role is set by the Minister for Planning and Environment. They are appointed by the States but what they do and their role the Minister for Planning and Environment decides. So one thing I would distance myself from, this is not me putting some kind of censure on the Minister for Planning and Environment in disguise. Absolutely not. That is not my intention. It is a tough job, whoever takes it on. Full of conflict, a political graveyard and our Minister has given his commitments today and I would have confidence that he and his officers will do their best but he needs resources which is another reason for this proposition. The one thing I am disappointed in is we have had critical remarks from Senator Maclean, the Council of Ministers. Why is it that, 4 weeks after you lodge a proposition, there is no comment if there are questions: "Why are you bringing this as a private member?" Why? Why can we not have those questions? The implications that are coming out are some around "frustrating work" and "duplicated" and all that. Would it not be good if we had some dialogue before? They are the States. You hear it in the Assembly so I really think if there is a wake-up call, Council of Ministers, wake up with your responses to private Members. **[Approbation]** Now I know I risk losing your votes on that but it is a plea. **[Laughter]** We want to be one Assembly and we work together. So I thank other Members who have spoken in advance and I do think this question of: "How far do you go in the glasshouse issue?" is important. I accept absolutely what Deputy Maçon said and others that there are contrary issues about reuse conditions

where people have had agricultural grants but I think that is why my proposition is leave that to the Minister to work out how far that goes. If he has done it already on glasshouses, wonderful, but I cannot see how he can without public consultation and because, to my mind, when the draft Plan included a number of glasshouse sites that were withdrawn at the last minute, I cannot see that a review of the housing policy can take place without including the glasshouse policy and that is why it is there. On this question of economy, I do not know the answer to how far we need to go, in response to Deputy Baker's and others and the Deputy of St. Martin's comments. I want to make sure that those policies that particularly bind on economic opportunities are not unreasonably restricting new growth in the economy because I think we have got to diversify and that diversification is going to come from small and medium sized businesses, in my view. I think that is why we need planning policies that respond to that and not just the global players. I am sorry. Maybe my proposition was not clear enough and I confused Members that, somehow or other, I am seeking to duplicate and get in the way in what is there. That is not the intention. What the Minister for Planning and Environment said, he is already doing that work. That can plug nicely into the proposition. It can go straight into the statutory procedure if he is ready and we can put these dates in here and the timescale can all be accelerated because we must have housing. You know, the failure of the planning policies in the housing area has dramatically contributed to the increase in values to unaffordable levels, in my view, and the sooner we deal with that, the absolute better. I will leave it to Members now and as I say, make the proposition.

**Deputy R.G. Le Hérisier:**

Sir, can I ask for a point of clarification. The speaker seems to have rejected the notion that scrutiny should be doing it and he and I have had numerous discussions about this and I have admired his interest. He is a wonderful person, I might add, but can he tell us, is there going to be a robust independent report into planning, because the Minister is himself the person who implements the plan. It strikes me as a very odd way of doing it.

**Deputy J.H. Young:**

Yes, I apologise for not clearing that point up. If not for the fact that I was preparing for my late return to the Island from Glastonbury, I would have pulled out this horrendous Island Plan review statutory Order and it sets out the exact process. There is virtually nothing left to chance and in it, it requires an inspector's report. So that is where the independent review is done. So my question is we think we are a great team, we get on really well, we work hard, but 3 people trying to cope with this task with the resources that we have got, if you want to get this done quickly, the resource is here with the Minister with the public inquiry. If there are things that need to be said, as a planning panel we can contribute to that public consultation, as I would see it; we could take evidence. If Members are arguing that the Scrutiny Panels could kind of become Shadow Ministers, I am not convinced of that.

[16:00]

I think we have to be very slick. We are not currently set up for that, so that is my firm view. Hopefully the Independent Planning Inspector's report will assure the Minister we will have this objectivity.

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

Very well. Do you wish the appel, Deputy?

**Deputy J.H. Young:**

The appel please, sir.

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

The appel is called for. Could Members return to their designated seats? The vote is for or against the proposition of Deputy Young and the Greffier will open the voting.

<b>POUR: 23</b>	<b>CONTRE: 13</b>	<b>ABSTAIN: 7</b>
Senator A. Breckon	Senator P.F. Routier	Connétable of Trinity
Senator B.I. Le Marquand	Senator S.C. Ferguson	Connétable of St. Mary
Senator F. du H. Le Gresley	Senator A.J.H. Maclean	Deputy R.G. Le Hérissier (S)
Connétable of St. Helier	Senator L.J. Farnham	Deputy of Grouville
Connétable of St. Clement	Connétable of St. Peter	Deputy S.S.P.A. Power (B)
Connétable of St. Lawrence	Connétable of St. Brelade	Deputy G.C.L. Baudains (C)
Connétable of St. John	Connétable of St. Martin	Deputy R.G. Bryans (H)
Deputy R.C. Duhamel (S)	Connétable of St. Saviour	
Deputy J.A. Martin (H)	Deputy of Trinity	
Deputy G.P. Southern (H)	Deputy A.K.F. Green (H)	
Deputy J.A. Hilton (H)	Deputy J.M. Maçon (S)	
Deputy J.A.N. Le Fondré (L)	Deputy of St. John	
Deputy S. Pitman (H)	Deputy of St. Peter	
Deputy M. Tadier (B)		
Deputy T.M. Pitman (H)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.J. Rondel (H)		

## **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

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

Very well, that concludes Public Business. We come to the arrangement of future business. Chairman?

### **11. The Connétable of St. Helier (Chairman, Privileges and Procedures Committee):**

We have for our last session before the summer recess a fairly packed programme as listed on the Consolidated Order Paper under M. Two items needed to be added: Draft States of Jersey (Amendment No. 7) Law 201-, P.64, amendments in the name of Deputy Trevor Pitman and Deputy Green of St. Helier. Those will be added to the list with P.64. I would like to ask that P.64 is taken as the first item of business on the 16th. I know that it has been suggested that we should meet on Monday afternoon to do questions and statements, but given that quite a lot of Members are away today and will not be able to comment on that and also the fact that an optimistic view of the slightly slimmed-down Order Paper for the 16th would see that if Members keep Friday free in their diaries, we should get through it by Thursday and Friday will be there for emergency use only.

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

So you are not proposing to use Monday, Chairman. Do Members agree the order and ...

### **The Connétable of St. Peter:**

Sir, may I ask a question of the Chairman of P.P.C.? Why does he need to bring P.64 as the first item rather than leaving it in the running order?

**The Connétable of St. Helier:**

No, I just thought it is an important matter that we should take first but I do not have very strong feelings about it.

**The Connétable of St. Peter:**

If I may ask, I will not be present in the afternoon of the 16th as I have a procedure at the hospital and I will possibly miss the end of that debate. I would personally like to see it remain in the running order so I can be back in the Chamber.

**The Connétable of St. Helier:**

I think that is commonly known as hard luck, not being a bad sport or anything. Thank you.

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

If P.64 is being moved forward, perhaps I could ask that my own proposition, which I think is P.74, be moved to follow it or to be close behind it because what I was trying to do with that was to avoid a double debate. It seems to me that if P.64 succeeds in gaining the 26, P.74 falls away. But if it does not, it seems to me to avoid a double debate; it will be fresh in people's minds, that it should come next.

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

Very well. Constable, are you maintaining your request that P.64 should be taken as a first item?

**The Connétable of St. Helier:**

Yes, and I would accede to Senator Le Marquand's request that if that is approved then P.74 should be taken as a second item.

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

Are Members content to take P.64 as a first item?

**11.2 Deputy M. Tadier:**

Sorry to spring this on the Chairman but P.76 is also on the agenda and although it is a very small item, which is the appointment of the Chairman for the Historical Abuse Inquiry, I think it is something that is likely to attract a lot of attention from stakeholders. The reason I am bringing it up now is because I did not realise it was set for the next meeting, which I am reassured about. Would it maybe be worth giving consideration to putting that first, given that it is so brief, so that those members of the public who are wishing to attend at least know at which point it will be debated and then they can go back to whatever they need to do after that.

**The Connétable of St. Helier:**

Again, I am relaxed if the Assembly want to take P.76 first and I would request P.64 to come second, followed by the P.74.

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

We have spent too long on this. Are Members content to take P.74 first, followed by P.64 and then the other items in the order listed with the proviso that if P.64 is rejected they would take P.74 after it.

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

You just put P.74 before P.64 whereas the intention was P.76.

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

Yes, sorry. Excuse me, yes. P.74 would follow P.64 if P.64 were rejected.

**11.3 Deputy G.P. Southern:**

I have numbers coming out of my ears, Sir. **[Laughter]** Could I request the Minister for Housing on P.44 to have some comments ready for me in advance of the meeting? We keep getting this that comments come on the day. It will have been lodged for 6 weeks by then and I would really appreciate if he could give me comments ... a week before would do.

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

Very well. Are there any other comments on the proposed order of business? Yes, if you must.

**11.4 Deputy J.A. Martin:**

I would like to test the mood of the House. I have been here too many times when we get to the last week of the States and everyone is on holiday the following Tuesday. We will be under pressure to rush some very, very important debates so I would like to test the mood of the House that we do come in on the Monday, we have done it before the Island Plan, to get out the questions, statements and we come in first thing Tuesday morning and start business and then we will finish in time. So I would like to test the mood of the House and put it to the vote, Sir. I make that proposition.

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

Very well. Is that seconded? **[Seconded]** So the proposition of Deputy Martin is that the Assembly would sit at 2.15 p.m. on Monday for questions and statements and then adjourn and begin Public Business on Tuesday morning. All those in favour, kindly show.

**Deputy J.A. Martin:**

Can I have the appel please, Sir?

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

The appel is called for. The Greffier is ready for the appel.

**The Connétable of St. Lawrence:**

Sir, can we speak to that, please?

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

Yes, you can speak briefly.

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

I regret that I will be out of the Island and therefore will be marked défaut when I am making every effort to be here for the Tuesday and I think it is unfortunate. In fact I would hope to be marked défaut excusé as I am already booked to be away from the Island.

**11.4.2 Deputy J.A. Martin:**

Yes, we have done this before and obviously we would honour everyone who was out of the Island who cannot participate today but I just feel that I have explained it all and just think get that out of the way, fresh minds in the morning and we have a straight run to Friday. We will not do it otherwise and we will not give it the consideration it deserves.

**11.4.3 Senator S.C. Ferguson:**



It has taken us a great deal of time to put together a quarterly hearing with the Minister for Treasury and Resources and a briefing on the budget on the Monday morning. If it is just Monday afternoon, fine. If it is not, then ...

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

Yes, to clarify, the proposal is it should be Monday afternoon.

**11.4.4 Deputy J.A. Hilton of St. Helier:**

Excuse me, Sir. Like the Constable of St. Lawrence, I am away on a planned trip to the U.K. and I am not back until Monday evening. Like the Constable of St. Lawrence, I have made all efforts to be back on Monday evening, so I request that I be *défaut excusé* as well, please.

**11.4.5 The Connétable of St. John:**

Having been here for quite a while in one capacity or another, end of term, we have this time and time again and really, everyone is going to be so tired come the Wednesday and Thursday evening onwards. We are not going to do justice to the debates. We will be rushing things through. We should be coming back the following Tuesday and do the work as it should be done, properly. I would make that as a proposition, Sir.

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

We have to debate this one first, I think, Constable.

**11.4.6 The Deputy of St. Martin:**

I am aware that I do not have a very good record when it comes to travelling back from the U.K. in time but I am also away on that Monday previous and I would also expect to be marked *défaut excusé* but I would say as a new Member, this Monday afternoon sitting is very new to me and I am quite surprised that it is being suggested at this eleventh hour. I do not see why it could not have been suggested earlier, certainly if you, Sir, had intimated to the Assembly via email that we were in for a long sitting and we should have expected what was coming.

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

In fairness to the Chairman of P.P.C.'s comment earlier, he was not making this proposition because he was aware that some Members would be away.

**11.4.7 Senator P.F. Routier:**

I will not be out of the Island but I have a family commitment, which I have to deal with on Monday afternoon. I have no option but to deal with it and I am sorry that I will not be here. I would ask to be *défaut excusé*.

**Senator L.J. Farnham:**

I would like to say that I am available on Monday afternoon, Sir. [Laughter]

**Deputy R.G. Le Hérisier:**

I will be at a dancing competition, Sir.

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

I think the Assembly needs to move to the vote. Members will have heard several comments from Members who understandably had not planned to be here on the Monday. Members must take account of that when they vote, I think. It is a matter for the Assembly. There clearly is a long list of business. The Chairman has suggested it may go to Friday. It is a matter of Members' judgment

whether they think Monday afternoon is also necessary. The proposition is maintained by Deputy Martin. Do you wish to say anything in conclusion, Deputy, or move to a vote?

**11.4.8 Deputy J.A. Martin:**

Yes, and I really am sorry that it is an eleventh hour proposition and I am not the Chair of P.P.C. but please remember, when we are having this ... if we do not sit on the Monday, while we are having the long debate that might go through to the Friday, people, I respect the Constable of St. John, have already booked their summer holidays for the Monday. So we will not be coming back. We will be rushing and we will not do it justice. I maintain the proposition, Sir.

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

Very well. The appel is called for, if you wish to sit on Monday afternoon at 2.15 p.m., you vote pour. If you wish to sit normally on Tuesday, you vote contre. The Greffier will open the voting.

<b>POUR: 36</b>	<b>CONTRE: 8</b>	<b>ABSTAIN: 0</b>
Senator A. Breckon	Senator P.F. Routier	
Senator S.C. Ferguson	Senator B.I. Le Marquand	
Senator A.J.H. Maclean	Connétable of St. Peter	
Senator F. du H. Le Gresley	Connétable of St. Lawrence	
Senator L.J. Farnham	Connétable of St. Mary	
Connétable of St. Helier	Connétable of St. John	
Connétable of Trinity	Deputy J.M. Maçon (S)	
Connétable of St. Clement	Deputy of St. Martin	
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisier (S)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy S. Pitman (H)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy T.M. Pitman (H)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		

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

So the Assembly will sit at 2.15 p.m. on Monday, 15th July. That concludes the business of the Assembly so the Assembly does stand adjourned until that date and time.

**ADJOURNMENT**

[16:11]