

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 4th FEBRUARY 2014**

<b>COMMUNICATIONS BY THE PRESIDING OFFICER .....</b>	<b>8</b>
1.    The Bailiff:.....	8
<b>APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS .....</b>	<b>8</b>
2. <b>Nomination of Members of the Education and Home Affairs Scrutiny Panel.....</b>	<b>8</b>
2.1    Connétable S.W. Pallett of St. Brelade:.....	8
<b>QUESTIONS.....</b>	<b>8</b>
3. <b>Written Questions .....</b>	<b>8</b>
3.1    DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE ENERGY FROM WASTE PLANT: .....	8
3.2    DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING ROAD RESURFACING OVER THE LAST 3 YEARS:.....	9
3.3    DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE SCRAP METAL FACILITY AT BELLOZANNE:.....	10
3.4    DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE MINISTER FOR HOUSING REGARDING THE SAFEGUARDING OF TENANTS' DEPOSITS: .....	12
3.5    DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING COMPLAINTS TO JERSEY TELECOMS REGARDINGITS NEW BILLING SYSTEM: .....	13
3.6    DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE CONTROLS ON IMPORTED TOBACCO PRODUCTS:.....	14
3.7    DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING STEPS TAKEN TO CONTROL IMPORTED TOBACCO PRODUCTS:.....	15
3.8    DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR HOUSING REGARDING THE REDEVELOPMENT OF THE ANN COURT SITE:.....	15
3.9    DEPUTY J.A.N. LE FONDRÉ OF ST. LAWRENCE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING FULL DETAILS OF ALL STATES FINANCE TRANSCATIONS TO DATE:.....	16
3.10    DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE MIS-SELLING OF PAYMENT PROTECTION INSURANCE:.....	16

3.11	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING STATES EMPLOYEES ON ZERO-HOURS CONTRACTS:.....	18
3.12	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING CLASSROOM ASSISTANTS AT HIGHLANDS COLLEGE:.....	18
3.13	DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE USE OF BANK SHIFTS AT THE HOSPITAL:.....	19
3.14	DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE EMPLOYMENT OF LOCAL ARCHITECTS BY THE STATES OF JERSEY DEVELOPMENT COMPANY:.....	21
3.15	DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING ORGAN DONATION IN JERSEY:.....	22
3.16	DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ESPLANADE DEVELOPMENT PROJECT: 22	
3.17	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING ‘OPERATION VESSEL’:.....	23
3.18	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE INVOLVEMENT OF FORMER CARE RESIDENTS IN ‘OPERATION VESSEL’:.....	24
3.19	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING COMPLAINTS AGAINST ENFORCEMENT OFFICERS:.....	24
3.20	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING MEETINGS WITH VULNERABLE MEMBERS OF SOCIETY:.....	27
3.21	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING DEFAMATORY MATERIAL PLACED ON RECORDS:.....	27
3.22	DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE FIBRE OPTIC BROADBAND SERVICE:..	29
<b>4.</b>	<b>Oral Questions.....</b>	<b>29</b>
4.1	Deputy G.C.L. Baudains of St. Clement of the Minister for Health and Social Services regarding the reliance on the Medicines and Healthcare Products Regulatory Agency for information on drugs:.....	29
	The Deputy of Trinity (The Minister for Health and Social Services):.....	29
4.1.1	Deputy G.C.L. Baudains:.....	29
4.1.2	Deputy G.C.L. Baudains:.....	30
4.2	Deputy G.P. Southern of St. Helier of the Minister for Social Security regarding his objective of achieving £3 million savings in 2014:.....	30
	Senator F. du H. Le Gresley (The Minister for Social Security):.....	30
4.2.1	Deputy G.P. Southern:.....	30
4.2.2	Deputy G.P. Southern:.....	31
4.2.3	Deputy G.P. Southern:.....	31
4.3	Deputy M. Tadier of St. Brelade of the Solicitor General regarding the determination of ‘uninhabitable’ under Article 9(a) of the Residential Tenancy (Jersey) Law 2011:.....	31
	Mr. H. Sharp Q.C., H.M. Solicitor General:.....	31

4.3.1 Deputy M. Tadier: .....	32
4.3.2 Deputy M.R. Higgins of St. Helier:.....	32
4.3.3 Deputy M.R. Higgins:.....	32
4.4 Deputy J.H. Young of St. Brelade of the Minister for Planning and Environment regarding the progression of the Island Plan policy commitment in relation to the future development of the Port of St. Helier: .....	32
Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment): .....	33
4.4.1 Deputy J.H. Young: .....	33
4.4.2 Connétable A.S. Crowcroft of St. Helier:.....	33
4.4.3 Senator S.C. Ferguson: .....	34
4.4.4 The Connétable of St. Helier:.....	34
4.4.5 Connétable P.J. Rondel of St. John: .....	34
4.4.6 Deputy G.C.L. Baudains:.....	34
4.4.7 Deputy J.H. Young: .....	34
4.5 Deputy M.R. Higgins of the Chairman of the Privileges and Procedures Committee regarding complaints made to the Committee by the States of Jersey Police over the past 12 months against States Members: .....	35
Deputy J.M. Maçon of St. Saviour (Chairman, Privileges and Procedures Committee): .....	35
4.5.1 Deputy M.R. Higgins:.....	35
4.6 Deputy J.A.N. Le Fondré of St. Lawrence of the Minister for Treasury and Resources regarding the repayment of the £13 million loan to the States of Jersey Development Company: .....	35
Senator P.F.C. Ozouf (The Minister for Treasury and Resources): .....	36
4.6.1 Deputy J.A.N. Le Fondré:.....	36
4.6.2 Deputy J.A.N. Le Fondré:.....	36
4.6.3 The Connétable of St. John: .....	37
4.6.4 The Connétable of St. John: .....	37
4.6.5 The Connétable of St. Helier:.....	37
4.6.6 Deputy G.P. Southern:.....	38
4.6.7 Deputy J.H. Young: .....	38
4.6.8 Deputy S.G. Luce of St. Martin: .....	39
4.6.9 Deputy J.A.N. Le Fondré:.....	39
4.7 The Connétable of St. John of the Minister for Treasury and Resources regarding power outages over the last 5 years: .....	40
Senator P.F.C. Ozouf (The Minister for Treasury and Resources): .....	40
4.7.1 The Connétable of St. John:.....	40
4.7.2 The Connétable of St. John: .....	41
4.7.3 The Connétable of St. John:.....	41
4.8 Deputy R.G. Le Hérisier of St. Saviour of the Minister for Economic Development regarding the impact of Fixed Odds Betting Terminals: .....	42
Senator A.J.H. Maclean (The Minister for Economic Development):.....	42
4.8.1 Deputy R.G. Le Hérisier: .....	42
4.8.2 Deputy M. Tadier: .....	42
4.8.3 Deputy G.P. Southern:.....	42
4.8.4 Deputy M. Tadier: .....	43
4.8.5 Deputy R.G. Le Hérisier: .....	43
4.9 Deputy J.A.N. Le Fondré of the Minister for Treasury and Resources regarding the total value of loans entered into or proposed to be entered into by the States of Jersey Development Company: .....	43
Senator P.F.C. Ozouf (The Minister for Treasury and Resources): .....	43

4.9.1 Deputy J.A.N. Le Fondré:.....	44
4.9.2 Deputy J.A.N. Le Fondré:.....	44
4.9.3 Deputy J.H. Young:.....	44
4.9.4 Deputy J.H. Young:.....	45
4.9.5 Senator S.C. Ferguson:.....	45
4.9.6 Deputy J.A.N. Le Fondré:.....	46
4.9.7 Deputy J.A.N. Le Fondré:.....	46
4.10 Deputy R.G. Le Hérissier of the Chief Minister regarding the recruitment and training of local residents:.....	47
Senator I.J. Gorst (The Chief Minister):.....	47
4.10.1 Deputy R.G. Le Hérissier:.....	47
4.10.2 Deputy G.P. Southern:.....	47
4.9.3 Deputy G.P. Southern:.....	48
4.10.4 Deputy G.C.L. Baudains:.....	48
4.10.5 Deputy M.R. Higgins:.....	49
4.10.6 Deputy M.R. Higgins:.....	49
4.10.7 Deputy R.G. Le Hérissier:.....	50
4.11 Deputy J.H. Young of the Minister for Transport and Technical Services regarding the recent increases in bus fares:.....	50
Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services):.....	50
4.11.1 Deputy J.H. Young:.....	50
4.11.2 Deputy G.P. Southern:.....	51
4.11.3 Deputy M. Tadier:.....	51
4.11.4 Deputy M. Tadier:.....	51
4.11.5 Deputy J.H. Young:.....	51
4.11.6 Deputy J.H. Young:.....	51
4.12 Deputy G.P. Southern of the Chief Minister regarding net immigration and growth in the population:.....	52
Senator I.J. Gorst (The Chief Minister):.....	52
4.12.1 Deputy G.P. Southern:.....	52
4.12.2 Deputy J.M. Maçon:.....	52
4.12.3 Deputy M.R. Higgins:.....	53
4.12.4 Deputy M.R. Higgins:.....	53
4.12.5 Deputy T.A. Vallois of St. Saviour:.....	53
4.12.6 Deputy M. Tadier:.....	54
4.12.7 Deputy G.P. Southern:.....	54
4.13 Deputy G.C.L. Baudains of the Minister for Treasury and Resources regarding the insurance of Jersey Electricity Company's undersea cables:.....	55
Senator P.F.C. Ozouf (The Minister for Treasury and Resources):.....	55
4.13.1 Deputy G.C.L. Baudains:.....	55
4.13.2 Deputy G.C.L. Baudains:.....	55
4.14 Deputy M.R. Higgins of the Minister for Health and Social Services regarding the importance of the duty of care to staff within the Children's Service:.....	56
Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):.....	56
4.14.1 Deputy M.R. Higgins:.....	56
4.14.2 Deputy R.G. Le Hérissier:.....	56
4.14.3 Deputy R.G. Le Hérissier:.....	57
4.14.4 Deputy M.R. Higgins:.....	57
4.15 The Connétable of St. John to the Minister for Treasury and Resources regarding the new billing system used by Jersey Telecom:.....	57

Senator P.F.C. Ozouf (The Minister for Treasury and Resources): .....	57
4.15.1 The Connétable of St. John: .....	58
4.15.2 The Connétable of St. John: .....	58
4.15.3 The Connétable of St. John: .....	59
4.15.4 The Connétable of St. John: .....	59
4.15.5 Senator S.C. Ferguson:.....	60
<b>5. Questions to Ministers without notice - The Minister for Treasury and Resources....</b>	<b>60</b>
5.1 Deputy S. Power of St. Brelade: .....	60
Senator P.F.C. Ozouf (The Minister for Treasury and Resources): .....	61
5.2 Connétable J. Gallichan of St. Mary: .....	61
5.3 Senator S.C. Ferguson: .....	61
5.4 Deputy R.G. Le Hérisssier: .....	62
5.4.1 Deputy R.G. Le Hérisssier: .....	62
5.5 Deputy G.P. Southern: .....	62
5.6 The Deputy of St. Martin:.....	63
5.7 Deputy R.G. Bryans of St. Helier:.....	63
5.8 Deputy J.H. Young: .....	63
5.8.1 Deputy J.H. Young: .....	64
5.9 Deputy M.R. Higgins:.....	64
5.9.1 Deputy M.R. Higgins:.....	65
5.10 Deputy C.F. Labey of Grouville:.....	65
<b>6. Questions to Ministers without notice - The Minister for Education, Sport and Culture.....</b>	<b>65</b>
6.1 The Connétable of St. Mary:.....	65
Deputy P.J.D. Ryan of St. John (The Minister for Education, Sport and Culture):.....	65
6.2 The Deputy of St. Martin: .....	66
6.2.1 The Deputy of St. Martin: .....	66
6.3 Deputy M. Tadier: .....	66
6.3.1 Deputy M. Tadier: .....	67
6.4 Senator S.C. Ferguson: .....	67
6.4.1 Senator S.C. Ferguson: .....	67
6.5 Deputy G.P. Southern:.....	67
6.6 Deputy J.M. Maçon: .....	68
6.6.1 Deputy J.M. Maçon: .....	68
6.7 Deputy S. Power:.....	68
6.7.1 Deputy S. Power:.....	69
6.8 Connétable D.W. Mezbourian of St. Lawrence: .....	69
6.8.1 The Connétable of St. Lawrence: .....	69
<b>7. The Minister for Economic Development - statement regarding the Channel Islands Ferry Service .....</b>	<b>69</b>
7.1 Senator A.J.H. Maclean (The Minister for Economic Development).....	69
7.1.1 Deputy S. Power:.....	70
7.1.2 Deputy J.G. Reed of St. Ouen: .....	71
7.1.3 The Deputy of St. Ouen: .....	71
7.1.4 Connétable M.J. Paddock of St. Ouen:.....	71
7.1.5 The Deputy of St. Martin: .....	72
7.1.6 Deputy J.H. Young: .....	72

7.1.7 Connétable L. Norman of St. Clement:	72
7.1.8 The Connétable of St. Brelade:	72
7.1.9 The Connétable of St. Brelade:	73
7.1.10 Deputy J.M. Maçon:	73
7.1.11 Deputy S. Power:	73
7.1.12 The Deputy of St. Martin:	73
7.1.13 The Connétable of St. John:	73
<b>PUBLIC BUSINESS</b>	<b>74</b>
<b>8. Ratification of the Agreement on the Exchange of Information relating to Tax Matters between the Government of Jersey and the Government of the Republic of Slovenia (P.168/2013)</b>	<b>74</b>
8.1 Senator P.M. Bailhache (The Minister for External Relations):	74
<b>9. Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 9) (Jersey) Regulation 201- (P.169/2013)</b>	<b>75</b>
9.1 Senator P.M. Bailhache (The Minister for External Relations):	75
<b>10. Draft European Union Legislation (Implementation) (Jersey) Law 201- (P.164/2013)</b>	<b>76</b>
10.1 Senator P.M. Bailhache (The Minister for External Relations):	76
10.1.1 Deputy R.G. Le Hérisier:	77
10.1.2 The Deputy of Grouville:	77
10.1.3 Senator S.C. Ferguson:	77
10.1.4 The Connétable of St. John:	78
10.1.5 Deputy J.H. Young:	78
<b>LUNCHEON ADJOURNMENT PROPOSED</b>	<b>78</b>
<b>LUNCHEON ADJOURNMENT</b>	<b>78</b>
Deputy J.H. Young:	79
<b>10.2 Draft European Union Legislation (Implementation) (Jersey) Law 201- proposition of Deputy J.H. Young to refer the matter to Scrutiny in accordance with Standing Order 79</b>	<b>79</b>
10.2.1 Senator P.M. Bailhache:	79
<b>11. Public Elections: Introduction of S.T.V. and A.V. (P.171/2013)</b>	<b>80</b>
11.1 Deputy M. Tadier:	80
11.1.1 Senator B.I. Le Marquand:	84
11.1.2 Senator P.M. Bailhache:	86
11.1.3 Deputy J.M. Maçon:	86
11.1.4 Connétable J.L.S. Gallichan of Trinity:	88
11.1.5 Deputy J.H. Young:	88
11.1.6 The Deputy of St. Ouen:	89
11.1.7 Deputy G.C.L. Baudains:	90
11.1.8 Deputy S. Power:	90
11.1.9 Deputy G.P. Southern:	90
11.1.10 Deputy R.G. Le Hérisier:	91
11.1.11 Deputy J.A.N. Le Fondré:	92
11.1.12 Deputy M.R. Higgins:	92

11.1.13	Senator F. du H. Le Gresley: .....	92
11.1.14	Senator S.C. Ferguson: .....	94
11.1.15	Senator P.F.C. Ozouf: .....	94
11.1.16	Deputy R.C. Duhamel: .....	96
11.1.17	Deputy M. Tadier: .....	96
<b>12.</b>	<b>Law Officers' Department and members of the Law Society of Jersey: revised disciplinary process (P.152/2013).....</b>	<b>101</b>
12.1	Deputy R.G. Le Hérissier: .....	101
12.1.1	Senator I.J. Gorst: .....	102
12.1.2	Deputy M.R. Higgins: .....	103
12.1.3	Deputy J.H. Young: .....	104
12.1.4	Deputy R.G. Le Hérissier: .....	104
<b>13.</b>	<b>Maritime Security (Jersey) Order 201-: extension of provisions to Jersey (P.165/2013) .....</b>	<b>105</b>
13.1	Senator A.J.H. Maclean (The Minister for Economic Development - rapporteur):.....	106
13.1.1	The Deputy of St. Ouen:.....	106
13.1.2	Senator A.J.H. Maclean:.....	107
<b>14.</b>	<b>Draft Amendment (No. 22) of the Standing Orders of the States of Jersey (P.167/2013) .....</b>	<b>107</b>
14.1	Deputy J.M. Maçon (Chairman, Privileges and Procedures Committee): .....	107
14.1.1	Connétable M.P.S. Le Troquer of St. Martin: .....	108
14.1.2	Deputy J.H. Young: .....	109
14.1.3	Senator P.M. Bailhache: .....	109
14.1.4	Senator F. du H. Le Gresley: .....	110
14.1.5	Senator I.J. Gorst: .....	111
14.1.6	Deputy M.R. Higgins: .....	112
14.1.7	Deputy M. Tadier: .....	112
14.1.8	Deputy J.M. Maçon:.....	113
	<b>ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS .....</b>	<b>116</b>
15.	Deputy J.M. Maçon (Chairman, Privileges and Procedures Committee): .....	117
15.1	Deputy R.G. Le Hérissier: .....	117
	<b>ADJOURNMENT.....</b>	<b>117</b>

[9:30]

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

## **COMMUNICATIONS BY THE PRESIDING OFFICER**

### **1. The Bailiff:**

Very well, I am delighted to welcome His Excellency to our meeting this morning. **[Approbation]** I have to add on a personal note I am particularly delighted to welcome him. I am still operating on New Zealand time and His Excellency has agreed that should I appear to lapse in my concentration he will poke me extremely hard.

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

### **2. Nomination of Members of the Education and Home Affairs Scrutiny Panel**

#### **The Bailiff:**

There is the question of nomination of members of the Education and Home Affairs Scrutiny Panel. Chairman, do you wish to make a nomination?

#### **2.1 Connétable S.W. Pallett of St. Brelade:**

At the current time I am only in a position to nominate one member and that is the Constable of St. Martin but I would be happy to receive any further nominations if there are any.

#### **The Bailiff:**

The Connétable of St. Martin; is that nomination seconded? **[Seconded]** Are there any other nominations? Very well, I am delighted to declare the Constable of St. Martin duly elected. **[Approbation]**

## **QUESTIONS**

### **3. Written Questions**

#### **3.1 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE ENERGY FROM WASTE PLANT:**

##### **Question**

With regard to the Energy from Waste Plant, would the Minister -

- (i) advise its maximum capacity in tonnage
- (ii) advise the current throughput in tonnage
- (iii) advise whether it has two separate 'streams'
- (iv) provide a list of the outstanding faults and when they occurred (not including minor issues such as the failure of a switch)

##### **Answer**

- (i) The nominal throughput capacity for the plant is 105,000 tonnes per annum with a waste of a calorific value (CV) of 9.2 MJ/kg.



- (ii) The plant processed 71,785 tonnes of waste during 2013 and is operating at the level required to deal with the present Island waste production.
- (iii) The plant has two separate incinerator streams. These streams are linked to common components of the plant such as the waste bunker, maturation silo, lime storage silo and turbine.
- (iv) In the answer to question 7694 of November 2013 it was stated that there were 51 defects which still required attention. With the exception of a short shutdown, due to circumstances outside of TTS's control, the plant has operated continuously since then. CSBC (Jersey) Ltd is still working with TTS to resolve defects however there are some defects that cannot be closed out until the next planned shutdown in February 2014. No new defects have been raised since August 2013

Should the Deputy require further detail on these defects TTS Officers would be quite happy to arrange a meeting with the Deputy so that the defects can be reviewed.

### **3.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING ROAD RESURFACING OVER THE LAST 3 YEARS:**

#### **Question**

With regard to road resurfacing, would the Minister -

- (i) state whether he is satisfied with the quality of resurfacing undertaken within the last three years,
- (ii) advise whether his department has a standard for resurfacing work and, if so, who designed it, whether it is compatible with other jurisdictions and how it is enforced;
- (iii) whether the specification in (ii) has changed in the last ten years;
- (iv) whether he agrees that resurfacing up to a decade or so ago was of considerably better quality than at present; and,
- (v) whether utility companies and other contractors trenching roads will be required in future to reinstate after their work to a finish at least as good as before work started and, if so, when will this be introduced?

#### **Answer**

- (i) In general the quality of the road resurfacing undertaken in the last three years is satisfactory. The resurfacing meets all the current specifications, contract conditions and quality controls. There are further improvements that my Department would like to see and we are actively undertaking trials with the resurfacing contractors to improve surface ride quality and friction

characteristics and we are also investigating different types of surface treatments to extend the life of the main roads.

- (ii) TTS uses the Manual of Contract Documents for Highway Works Volume 1- Specification for Highway Works, issued by the Department for Transport (amended 2009), in accordance with the UK and used by many other jurisdictions around the world. TTS has used this specification for the last six years. This specification is soon to become a European Standard.

TTS provides qualified highway engineers to design contracts and to act as site supervisors for all resurfacing works. Any work that has been undertaken by Contractors that is not in accordance with the Specification is identified as defective until the Contractor puts right the defect at his own cost within the terms and conditions of the contract.

- (iii) Approximately six years ago TTS changed the specification for resurfacing to include a stronger, deeper surface course that gave better properties in strength, durability and friction.
- (iv) The resurfacing up to a decade ago was not considerably better quality. All resurfacing works are laid to modern day Specifications taking account of any new developments in the asphalt market.
- (v) All trenching works are covered by the Department for Transport Code of Practice (3<sup>rd</sup> edition) Specification for the Reinstatement of Openings in Highways, commonly called HAUC This document clearly sets out types of accepted materials to be used, standards of workmanship and performance requirements for openings in highways. TTS have been using this standard for many years with the agreement of the utility companies. Until the proposed Streetworks Law is introduced the specification remains a guide and cannot be legally enforced. TTS undertake inspections on the quality of reinstatements, these are recorded and any substandard reinstatements are reported back to utility companies for them to repair. This system will be subject to stricter control when the new law is introduced with the utility companies providing a 3 year guarantee.

### **3.3 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE SCRAP METAL FACILITY AT BELLOZANNE:**

#### **Question**

With regard to the scrap metal facility at Bellozanne, would the Minister –

- (a) confirm that one of the reasons for putting the work out to tender was to achieve a more environmentally conscious process;
- (b) advise whether vehicles are now squashed complete (together with all interior fittings and furnishings) whereas before upholstery and other items were removed before fragmentation and, if so, would the Minister explain how crushing complete vehicles is more environmentally friendly than fragmentation and how materials are better recycled as a result;
- (c) advise whether the previous operator was requested by the Transport and Technical Services Department to move from crushing vehicles (albeit after removal of upholstery and the like) to a fragmentation process; and,

- (d) confirm that as a result of moving to a system whereby complete vehicles are crushed that second-hand spare parts for vehicles are no longer available and, if so, would he explain how such a situation ties in with recycling policies?

**Answer**

- (a) I can confirm that one of the reasons for putting the Scrap Metal Contract out to tender was to modernise the operation to meet latest environmental standards, along with the following reasons:
- to comply with the States Financial Directions in relation to tendering of contracts;
  - to maximise the economic value of the scrap generated on the Island, benefit both the scrap producers and the States of Jersey.
  - to provide a safe environment for both staff and suppliers of scrap.
- (b) Vehicles are squashed and subsequently shredded complete with upholstery and interior trimmings- this is the standard process across the whole of Europe for recycling cars. Vehicles are first depolluted to remove hazardous items (for example fuel and oils which are sent for recovery and recycling), they are then squashed complete with upholstery and interior trimmings to maximise the efficiency of the onward transportation to a shredder in Portsmouth. It would be very unusual for cars to have interiors removed, and even if they were removed there are little or no markets for the recycling of foam and fabric removed from cars.

Historically cars were stripped of interiors to allow the car shells to be pressed and supplied to steelworks without any further processing and separation. However, this practice died out from the mid 1960's onwards following the development of large scale car shredders such as the one at Portsmouth. These allowed cars to be processed much more efficiently and produced a cleaner, easier to handle and higher quality steel product for the steelworks (steel accounts for around 70% of the vehicle by weight). It also made possible the more efficient recovery of non-ferrous metals such as copper and aluminium (much of this was lost prior to the development of car shredders). Recycled steel saves 1 tonne of CO<sub>2</sub> for every tonne processed. Non-ferrous metals save up to 10 tonnes of CO<sub>2</sub> for every tonne processed. The residual non-metallic elements of a vehicle (25%) have traditionally been land filled or incinerated. In recent years technological advancements have made it possible to recycle some of these residual elements. Through their partners, material processed by HJL has access to the most advanced and resource efficient vehicle recycling systems.

In particular plastic is recovered and recycled into high quality, high value single polymer plastics such as polypropylene and polyethylene capable of going back into the same applications from whence they came in a purpose plant which is one of the worlds most advanced plastic recycling facilities, located in Worksop UK. Each tonne of plastic recycled in this way saves between 1.5 and 3 tonnes of CO<sub>2</sub>. In addition a dedicated thermal processing plant using state of the art pyrolysis technology (the world's first) has been built to turn the residual rubber foam and fabric into electricity. It has been necessary to build a dedicated plant to carry out this process because conventional Energy from Waste plants cannot effectively control emissions and pollutants associated with the combustion of auto shredder residues. All told, when the energy plant commences operation in the first half of

2014 well over 95% of the weight of the car will have been reused, recycled or turned into energy which will be a world leading standard.

- (c) In the mid 1990's the price of scrap metal was very volatile and made the existing operation unviable financially. The Public Services Department, working with the scrap yard operator, commissioned a report to ascertain what the best solution would be to maintain a financially viable scrap yard in Jersey. Within this report it was suggested that the utilisation of a fragmentiser would produce the best financial return for the operator (i.e. to continue with the existing process ).

Following the publication of the waste strategy in 2005 TTS have been in regular correspondence with the previous operator to provide suitable depollution infrastructure and cease the production of scrap yard residue. This residue was a key contamination source for the Bellozanne incinerator and subsequently the new incinerator at La Collette. Burning scrap yard residue prevents any opportunity for TTS to recycle ash.

Minimising on island scrap yard residue was a key requirement for the scrap yard tender. The tender process was undertaken in accordance with States Procurement procedures, providing fairness to all parties. There were no separate contract negotiations with the previous company as to how they processed scrap metal in terms of equipment, other than like any other waste operator there was an expectation that they adapt the process and procedures to comply with all relevant legislation, including for example Ground Water, Waste, Health and Safety, and good environmental practices.

- (d) Second hand spares are still available locally from HJL. They are removed to order when a request is received rather than 'on spec' as was previously the case. Across the auto salvage industry this is an increasing trend due to the high cost of removing and storing parts which may or may not sell. It is also a prudent approach as often bulk demand for spare parts comes from areas of the world where it can be difficult to verify the identity of the customer and carry out the necessary due diligence to verify the source of funds and comply with other money laundering regulation requirements.

### **3.4 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT TO THE MINISTER FOR HOUSING REGARDING THE SAFEGUARDING OF TENANTS' DEPOSITS:**

#### **Question**

Would the Minister clarify, with regard to the Housing (Registration) (Jersey) Law 1962 and the retention of deposits, how many proprietors have been found guilty of not refunding deposits in the last five years?

How, where and by whom is it intended to safeguard deposits in the future under the Regulations made under the Residential Tenancy (Jersey) Law 2011?

Would the Minister also advise of the costs involved in operating any new scheme and whether deposit capital or interest will be used to offset those costs?

#### **Answer**

The Lodging Houses (Registration) (Jersey) Law 1962, deals with whether a lodging house, as defined under the Law, may be registered, primarily with reference to the standards of the accommodation. There is no express offence relating to the non-refunding of a deposit.

However, the recently introduced Residential Tenancy (Jersey) Law, 2011, requires tenancy agreements to make provision for deposits, and actions can then be undertaken under the Law with reference to the Petty Debts Court, including by persons in registered lodging houses, in the event of a dispute.

The programme of work of the Strategic Housing Unit for the first 6 months of 2014 includes measures to support tenants and landlords under the Residential Tenancy (Jersey) Law, 2011, including:

- (i) bringing forward by Order the requirement to complete a “condition report” on commencement of a tenancy (to assist in navigating deposit disputes); and
- (ii) bringing forward by Regulation a compulsory deposit protection scheme for all tenancies.

The deposit protection scheme will require deposits for new tenancies to be paid to a scheme administrator, with avenues, including mediation and adjudication, available on completion of the tenancy if the parties do not agree on the amount to be returned. This is consistent with States decisions. As to who the scheme administrator will be, that will be subject to a procurement process to conclude should the Regulations be approved.

As to the costs of the deposit protection scheme, these will be published with the Regulations, but the intention is that the scheme is at nil cost to the States of Jersey, with costs to be recovered from interest on balances held and fees to meet costs, if necessary.

### **3.5 DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING COMPLAINTS TO JERSEY TELECOMS REGARDING ITS NEW BILLING SYSTEM:**

#### **Question**

Will the Minister, as the shareholder representative, advise how many complaints, if any, JT has received from customers regarding the installation of the fibre optic systems?

How many complaints, if any, has JT received from customers regarding the new billing system?

Will the Minister request JT to install a transparent billing system as previously?

Will the Minister advise whether JT undertook a customer consultation prior to the implementation of its new billing system, and if so, what was the sample size and demographic of this survey and what were the results?

#### **Answer**

During 2013 a total of 6,594 customers were connect to the fibre optic system. Of these 214 complaints were recorded, representing 3%.

JT's have advised that their Contact Centre receives approximately 1,200 billing query calls per week and that billing query calls have not increased since the introduction of the new system.

The new JT billing system has wider capabilities than are currently being used during the initial 'bedding in period', which they advise when implemented will improve access and transparency to billing information. Additional JT call agents and staff will remain available meanwhile to assist customers during this process.

Information gathered from calls to JT's Contact Centre played the primary role in assisting JT billing teams to redesign the new bills, which included industry best practice initiatives. In addition, customer focus groups were undertaken including specific presentations to special interest groups such as Age Concern and the Consumer Council. All feedback received was taken into account, including conflicting advice and views which JT had to take a judgement on to finalise the new system. JT has committed to completing a review of feedback when the system has been fully tested, after Q1 2014. The new system can then be adjusted to reflect this feedback.

### **3.6 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE CONTROLS ON IMPORTED TOBACCO PRODUCTS:**

#### **Question**

Could the Minister indicate what steps, if any, are being taken to control the amount of tobacco product being imported informally into the Island so that sale of tobacco outside night clubs, bars and restaurants can be stopped and can he advise whether the annual estimated loss of revenue of up to £8,000,000 to Treasury as a result of the smuggling of tobacco and informal importation of duty free is a realistic figure?

#### **Answer**

The following steps are being taken to control the amount of tobacco being imported into the Island without payment of duty.

1. Officers in the Customs & Immigration Service continue to monitor this type of passenger traffic and depending on the circumstances either seize, charge duty, or prosecute individuals contravening the duty free allowance.
2. Extra resources are being allocated to identifying passengers importing goods in excess of the duty free allowance and particularly cigarettes. The Customs & Immigration Service have received funding to employ 2 temporary officers for 3 months from June 2014. (These are the busiest months for C&I Officers on the frontiers).
3. A review of the tobacco duty free allowance is being considered in liaison with Guernsey. Further consultation will take place.

Whilst there is evidence to suggest that many travellers are making full use of their duty-free tobacco allowance, and in some cases exceeding it, it is not possible to say whether the annual estimated loss of revenue mentioned by the Deputy in his question is realistic. In addition there is no evidence or intelligence to suggest commercial tobacco smuggling is taking place.

### **3.7 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING STEPS TAKEN TO CONTROL IMPORTED TOBACCO PRODUCTS:**

#### **Question**

Could the Minister indicate what steps, if any, are being taken to control the amount of tobacco product being imported informally into the Island so that sale of tobacco outside night clubs, bars and restaurants can be stopped?

How many trucks and commercial vehicles, if any, have been stopped and searched for this specific purpose in the past year?

#### **Answer**

In order to control the amount of tobacco being imported into the Island without payment of duty, Officers in the Customs and Immigration Service continue to monitor this type of passenger traffic and, depending on the circumstances, either seize, charge duty, or prosecute individuals contravening the duty free allowances. There have been 2 prosecutions in recent months.

Extra resources will be allocated to identifying passengers importing goods in excess of the duty free allowance and particularly cigarettes. The Customs and Immigration Service have received funding to employ 2 temporary officers for 3 months from June 2014. These are the busiest months for Customs and Immigration Officers on the frontiers.

In relation to searches, it should be noted that when stopping and searching a passenger, vehicle or container, officers are searching for any type of goods that are restricted / prohibited on import. As a result, searches are not confined specifically to tobacco goods and the Customs and Immigration Service do not keep specific search records for vehicles / trucks.

However, I am able to confirm that in total 1909 searches were undertaken at the ports last year. As a result of these searches, 586 had a positive outcome from a tobacco seizure perspective. The seizure details are as follows:

182,500 cigarettes (Duty evasion - £39,100)

51 kgs of tobacco (Duty evasion - £13,200)

### **3.8 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR HOUSING REGARDING THE REDEVELOPMENT OF THE ANN COURT SITE:**

#### **Question**

Would the Minister advise the Assembly why a decision has been made for the Housing Department not to re-develop the former Ann Court site, when previous Ministers for Housing were given an assurance that the site would be returned for development of housing in return for co-operation with the works associated with the Philip Street shaft, clearance and demolition of the site and the provision of temporary replacement parking for the Millennium park project?

#### **Answer**

The site is being made available for the development of social housing once its temporary use as public car parking comes to an end in January 2015. I had to consider which organisation was best placed to deliver what will be a very significant scheme of social housing and which it is presently proposed will include 200 public car parking spaces. As Members are aware the Housing Department will become Andium Homes on 1st July 2014 and already has a significant programme which includes the construction of 899 new homes. I was cognisant of the fact that the Jersey Homes Trust had an appetite to develop new homes and had as at 31st December 2012 accumulated a cash balance of £12m which will have increased throughout 2013. This could be augmented with private finance to entirely fund the scheme without any recourse to the public. This will ensure that the new homes, 200 spaces of public car parking and parking for residents are delivered as quickly as possible. This will be a significant benefit to businesses and residents in the North of Town over and above the benefits that they will see from having proper flood alleviation measures.

**3.9 DEPUTY J.A.N. LE FONDRE OF ST. LAWRENCE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING FULL DETAILS OF ALL STATES FINANCE TRANSCATIONS TO DATE:**

**Question**

Given that the response of the Minister to question 8061 asked by Senator S.C. Ferguson at the meeting of 21st January 2014 was stated to be as at 31st December 2012, would he provide a detailed schedule of all loans, finance leases, guarantees, indemnities, letters of comfort, securities and off balance sheet financial arrangements (including the duration of the transaction, interest rate and any conditions attached to the transaction and the counterparty) entered into or proposed by the States or any organization wholly owned by the States (irrespective of purpose) during the period from 31st December 2012 to date?

**Answer**

Work on the Financial Report and Accounts 2013 is not yet complete. Once the technical work is finalised the Minister will publish this information on an unaudited basis.

The Minister has published the Budget Management Report for the six-month period ending 30th June 2013 (R. 155/2013). This Report includes any new lending activity, as required by the Public Finances (Jersey) Law 2005.

**3.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE MIS-SELLING OF PAYMENT PROTECTION INSURANCE:**

**Question**

Further to his responses in questions of 21st January 2014 in relation to Payment Protection Insurance (PPI) mis-selling in the Island, will the Minister agree to produce and publicise lists of companies –

- (i) operating as branches of UK financial services lending institutions who can be pursued by complainants through the UK ombudsman, and



(ii) operating as local subsidiaries of UK financial services lending institutions who can only be pursued locally

If not, will he state, in light of the limitation contained in Article 11 of the draft Financial Services Ombudsman (Jersey) Law 201- (FSO) that complaints to that office will be treated as premature if respondents have not been given 3 months to respond to the complaint first?

Is the Minister aware that some loan companies have recently agreed to investigate complaints locally when previously they would not and, if so, will he agree to publicise this change to assist residents in pursuing claims?

Will he agree to extend the 'general time limit' of 6 years on claims contained in Article 11 of the draft Law and, if not, why not?

What is the timetable for bringing the FSO Law into force?

### **Answer**

Ombudsman jurisdiction is determined by examining all the facts of a complaint, complaints will be transferred to / from the UK Financial Services Ombudsman, where appropriate.

Under Article 12 (1) and Article 11 (1) a complaint will be rejected as premature if the respondent has not had, in the opinion of the Ombudsman, a reasonable opportunity to deal with it. Article 11 (2) states the Ombudsman must not treat a reasonable opportunity as extending beyond 3 months after the date, in the opinion of the Ombudsman, that the respondent first had sufficient information to start investigations or, if sooner, as extending beyond the date on which the respondent notifies the complainant that no further action will be taken on the complaint. In plainer English the reasonable opportunity must not be more than 3 months, unless the respondent has earlier notified the complainant that they will take no further action on it. Also if a complaint is rejected as premature, it can be later referred to the Ombudsman once it is no longer premature.

I am aware that, in some specific circumstances, complaints can be re-evaluated by the financial services provider. However, I am not aware there is an across the board 'change' in need of publicising. I would encourage anyone who feels they have a valid complaint against a financial services provider to make contact with them.

Complaints to the Ombudsman must concern acts occurring on or after 1st January 2010; complaints must not be premature (meaning respondent must have had a reasonable time to deal with them) **and** complaints must be referred to the Ombudsman before the expiry of the relevant time limit. If a respondent meets certain conditions in their handling of a complaint the relevant time limit is abbreviated to 6 months after the respondent notifies the complainant they have completed their handling of the complaint, in all other cases the general time limit is the later of 6 years after the act to which the complaint relates or 2 years after the complainant should have been aware they had cause to complain. Even if the general time limit was extended, the act would still need to have occurred after 1st January 2010. That date was chosen as the 'starting point' of the scheme as it was the start of the year closest to the date States members voted to establish an Ombudsman and so enables consideration of complaints about events from the start of the year after the decision.

I fully expect the Financial Services Ombudsman to commence its work in 2014.

**3.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING STATES EMPLOYEES ON ZERO-HOURS CONTRACTS:**

**Question**

Will the Chief Minister inform members how the numbers of those public employees employed on zero-hours contracts given in his response to written question 8053 relate to the figures of FTE employees given in departmental annual reports?

In the same response, when the Minister states “appointments to States of Jersey roles are made using the appropriate contract”, is he confirming that there is no inappropriate use of zero hours contracts in any States department or is there use of other contractual arrangements such as consultancy or agency work?

Will he account for the large increase in the number of zero-hours contracts between March 2012 and December 2013?

Will he provide a breakdown of the 25% increase in numbers of those on zero-hours contracts by department and by job description along with an analysis of whether these posts were to provide cover for temporary, short-term or urgent absence?

**Answer**

**1** - There are no FTE figures attached to Zero hours working. As a consequence the figures attached to zero hours working do not relate to FTE of employees in substantive jobs.

**2** - A department will determine how best to meet its staffing needs during any period from a range of options, including; flexi leave, use of overtime, permanent full time/part time contracts, fixed term contracts, zero hours agreements, external consultants/agency staff, as appropriate.

**3** – The total zero hours figure (1157) provided in written question 6833 relates only to those zero hours workers that were actually paid (i.e. active) during the month ending 31/03/2012. It does not include zero hours workers who were inactive for the month ending 31/03/2012.

The total zero hours figure (1452) provided in written question 8053 relates to those workers solely on zero hours agreements and includes those who were active or inactive as at 31/12/2013.

As a consequence the figures are not comparing like for like.

**4** – Given the answer in 3, above, there has not been a 25% increase in the number of people on zero hours contracts. In fact there was a reduction in active zero hours contracts during that period.

The current database is not able to determine whether the zero hours arrangement attached to each worker/job was to provide cover for temporary, short term or urgent absence.

**3.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING CLASSROOM ASSISTANTS AT HIGHLANDS COLLEGE:**

**Question**

Can the Minister advise whether classroom assistants at Highlands College are on zero hours contracts despite being informed of their timetable of duties a term in advance and, if so, does he consider the use of zero-hours contracts is appropriate and explain why?

**Answer**

Highlands College does have a number of Learning Support Assistants (LSA) who are employed on zero hours' contracts, as well LSAs who are on permanent contracts.

In cases where the needs of students have been clearly identified in advance, the LSAs involved can be on permanent contracts. Typically they provide support in the classroom as well as one-to-one sessions with a student in order to focus on their particular requirements. LSAs working in this way would have a full workload and little extra capacity.

The zero hours contracts provide the flexibility that is essential in order to meet unexpected and fluctuating demand, particularly from some of the most vulnerable students. Support is provided by LSAs in a responsive way during the term, when and if a need comes to light as a result of a student's personal or academic circumstances. It is not possible to plan this in advance.

Zero hours contracts are considered appropriate because they enable Highlands to put support in place at short notice and in a way that is led by the student's need. It means the amount of time can be tailored to meet the best interests of the young person. LSA workloads may be unpredictable as a result and hours contracted will increase or decrease in response to the needs of the students they support.

The arrangements for zero hours contracts in this area are regularly reviewed.

**3.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE USE OF BANK SHIFTS AT THE HOSPITAL:**

**Question**

Will the Minister explain to members how bank shifts, described by the Chief Minister as "standard and normal methodology" operate to provide additional hours of work for nurses and other health workers in the hospital?

Will she state what rates are paid for such shifts, whether there are cost savings made through this practice; whether there are limits placed on the number of hours, consecutively or otherwise, that an individual can do and what number of hours in total and as a proportion of the total requirement for full service provision are being met by such bank shifts?

**Answer**

**Operation of Bank Shifts – Nurses, Midwives and Healthcare Assistants in the Hospital**

- Bank shifts are booked to cover sudden or planned absence of staff or to cover a sudden increase in demand – such as the need to provide one to one care.

- Staff registered on the nurse bank do so from choice, as either HSSD bank staff only or from our existing registered or non registered workforce
- Bank staff respond to immediate and/or predicted staffing shortfalls where a ward area requires minimum safe staffing levels to operate or where a service would be depleted in the absence of staff.
- Any member of staff registered on the nurse bank is responsible for making the nurse bank office aware of their availability for shifts at any time.
- Bank staff may be contacted hours or days before they are required to cover a shift.
- A minimum of 12 hours notice is given to any member of staff booked, where the shift is subsequently cancelled, unless they choose to accept cancellation of shift without notice.

### **Bank Staff Rates of Pay – Nurses and Midwives and Healthcare Assistants**

- Bank staff are employed on zero hours contracts at Grade 1 Health Care Assistant or Grade 4 Staff Nurse rates of pay, this is the same as permanent staff unless a specific managerial or specialist nurse cover is required at Grades 5 or 6.

Grade 4 Staff Nurse Bank                      £18.68 - £20.64 per hour

Grade 1 Health Care Assistant Bank    £12.10 - £13.14 per hour

- Entitlement for additional payments for working out of hours, nights weekends or bank holidays apply the same as the permanent contracted nursing and midwifery workforce.
- HSSD Bank staff are entitled to 0.8% holiday pay which is applied at time of payment 4-6 weeks in arrears.
- In relation to cost, the use of bank staff supports cost containment. As previously explained much of the bank staff usage relates to cover for substantive posts for short periods of time or to support a sudden increase in service demand.

### **Maximum hours of bank staff**

- The safe number of hours that any member of staff either bank or contacted hours is approximately 50 hours per week, which correlates with the European Working Time Directive (EWTD). The hours are monitored, with random audits being undertaken as required.

- Staff may be required to undertake some additional hours in exceptional circumstances, where low staffing levels, significant sickness or a major incident would otherwise have a major impact on staff cover. At such time, the requirement for additional hours has to be sanctioned by management.

**Total bank hours used as a proportion of budgeted establishment:**

2013 : Bank Hours booked to cover 24/7, 365 days of the year across all areas of the hospital, including wards, theatres, clinics etc:

- an average of Registered Nurse bank hours (to provide cover 24/7 across 365 days of the year) equivalent to 3.40 full time equivalents were recorded as being booked
- an average of Health Care Assistants bank hours (to provide cover 24/7 across 365 days of the year) equivalent to 6.70 full time equivalents were recorded as being booked
- The total equates to 0.88% of the overall combined registered and non registered budgeted workforce

**3.14 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE EMPLOYMENT OF LOCAL ARCHITECTS BY THE STATES OF JERSEY DEVELOPMENT COMPANY:**

**Question**

Could the Minister, as the shareholder representative, outline whether there is a policy regarding the employment of local architects by the States of Jersey Development Company and, if so, whether a process of pre-qualification is in place and, if not, when will it be in place?

**Answer**

There is no policy for the States of Jersey Development Company (“SoJDC”/”the Company”) to employ local architects.

The Company performs pre-qualification processes as needed on a project by project basis.

The Company operates at arm’s length to the States of Jersey and whilst there are appropriate governance arrangements in place with the Treasury Minister, as the political representative for the Company in accordance with P73/2010, the proposition establishing SoJDC, this does not extend to dictating policy on the Company’s procurement and the Minister is not proposing to introduce any such policy.

The Company operates in a commercial environment and its prime purpose “is to act as the delivery vehicle for property development for the States of Jersey” (P73/2010). It therefore requires the necessary flexibility to work with which architects it chooses are in its best interests.

By way of example, the architect for the regeneration of the former Jersey College for Girls site is a local practice employing local staff.

It has been widely reported and explained by SoJDC why the first office buildings on the Jersey International Finance Centre (“JIFC”) are being designed by off-island architects. This is primarily due to the fact that there are only two local practices with experience of delivering office buildings and both were involved with alternative schemes which are competing with the JIFC. SoJDC took the decision to appoint off-island for the first three buildings in order to differentiate its offering from other rival developments.

**3.15 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING ORGAN DONATION IN JERSEY:**

**Question**

Could the Minister confirm whether the study into the Organ Donation system in Jersey (P.89/2013 adopted 24th September 2013) has commenced and, if so, when it is intended to report back to the States?

**Answer**

Yes. I can confirm that initial work is already underway to review the research undertaken in 2013, with a view to determining what additional work may be needed to develop proposals for increasing donor registration and donation in Jersey.

Deputy Le Hérissier’s question comes at an opportune time, as I am in the process of establishing a small review group – which will include expert clinical input – to take this work forward over the coming months.

Given Deputy Le Hérissier’s ongoing interest in this issue, I hope he will accept my invitation to become involved in that work, to consider options and develop recommendations for the future.

In line with this work, it is my intention to bring an interim report back to the States, as agreed, by the end of the year.

**3.16 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ESPLANADE DEVELOPMENT PROJECT:**

**Question**

Will the Treasury Minister inform the Assembly in detail of the procedures followed by the States of Jersey Development Company to subject the Esplanade Development project to financial appraisal to assess its cost, benefits and risk over the lifetime of the project to completion, to meet the Masterplan requirements and advise whether this appraisal has been subject to independent professional review and evaluation either by the Treasury or external practices prior to submitting the Planning applications for this development and, if so, when and by whom and will the evaluation report will be published?

**Answer**

States of Jersey Development Company Limited (“SoJDC”/“the Company”) undertakes regular financial appraisals of its various development projects.

In respect of the Esplanade Quarter, SoJDC has appointed leading cost and procurement consultants EC Harris (“ECH”) and Colin Smith Partnership (“CSP”). ECH/CSP provide all cost information to SoJDC in relation to the first phase of the Esplanade Quarter, which has been re-branded the “Jersey International Finance Centre” (“JIFC”).

SoJDC has also appointed a highly reputable firm of commercial surveyors, BNP Paribas Real Estate (“BNP”) to act as the sole letting agent for the JIFC and to provide SoJDC with estimated end values of the completed, fully-let office buildings.

The professional information provided to SoJDC from ECH/CSP and BNP has been input into development appraisals in order to model the expected net financial return of the JIFC.

These development appraisals have been provided to the Minister for Treasury and Resources and SoJDC’s external funder for the first two office buildings and part of the underground public car park.

SoJDC’s development appraisals are highly commercially sensitive. SoJDC is operating in a competitive commercial environment with other third party developers and it would be inappropriate, and commercially damaging, to publicly reveal these development appraisals which would disclose the financial terms of SoJDC’s negotiations with prospective tenants. Third party developers do not reveal such information in the public domain and nor should SoJDC.

The States Assembly has appointed a Board of Directors to oversee, review, challenge and drive the activities of the business. The Non-Executive Directors have significant experience of operating highly successful businesses. It is not the role of the Shareholder to second guess the professional advice that the Board has received and duly considered nor to establish shadow arrangements.

### **3.17 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING ‘OPERATION VESSEL’:**

#### **Question**

Further to the Minister’s e-mail on 23rd January 2013, advising that that one of the victims but none of the alleged perpetrators involved the investigation into the grooming of young girls were in care at the time of the relevant time, will the Minister advise how many of the alleged victims and perpetrators interviewed/involved in Operation Vessel had been in care at some previous time in their lives?

As one of the child victims was in care at the time of the alleged offences, did the police have any discussions with the Children’s Service?

#### **Answer**

The police do not hold information as to which children are in care or have been in care unless it is obvious from their address on contact with the police.

This was a multi-agency investigation and all children, whether in care or not, were referred to the Children’s Service for assessment.

**3.18 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE INVOLVEMENT OF FORMER CARE RESIDENTS IN ‘OPERATION VESSEL’:**

**Question**

- a) Will the Minister confirm that one of the children involved in Operation Vessel, the sex grooming case was in care at the time?
- b) Why did the Department not lodge a criminal complaint with the police as they were in loco parentis and had lawful authority to do so?
- c) What is the Department’s policy in these circumstances?

**Answer**

- a) I am sure Members would agree it would be wholly inappropriate to discuss publicly the specific details of any investigation which may lead to the identification of one or more individuals.

However, I can confirm that there was a multi-agency investigation, which involved among others, States of Jersey Police and the Children’s Service. The focus of the inquiry was on both investigating what, if any, crimes had been committed and to offer help and support to any young people who may be identified as being involved.

It is important to clarify that there was no correlation between this inquiry in Jersey and the circumstances of cases being investigated within the UK.

- b) The Children’s Service was part of the initial inquiry, working alongside the States of Jersey Police as a critical partner in the multi-agency investigation. As such, the department was acting in the best interests of the children in its care
- c) The policy of the department is to protect the safety of all children, of all ages, whatever the circumstances and it goes without saying that we would take all appropriate, permissible action in any case where issues – criminal or otherwise – may indicate that a child in its care is in a vulnerable situation.

I would add that there has also been significant investment across all relevant agencies to raise awareness of childhood sexual exploitation and to increase support for any children, families and those professionals working with young people who may face such issues.

**3.19 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING COMPLAINTS AGAINST ENFORCEMENT OFFICERS:**

**Question**

Will the Minister advise members:



- (a) How many complaints have been made to his department relating to the activities and behaviour of his Enforcement Officers during the last five years, broken down by years?
- (b) How many times the Minister has had to apologise to complainants over the last five years, broken down by year?
- (c) How many times said officers have had to apologise to complainants over the last five years, broken down by year?

Will the Minister outline the process leading to the instigation of enforcement proceedings setting out the extent of any delegated powers?

Will the Minister set out the powers of Enforcement Officers?

**Answer**

The department receives both informal and formal comments and complaints in relation to its activities and many of these are progressed within normal department operations and help inform service improvements. All formal complaints are recorded and investigated.

- (a) The department has received the following formal complaints in relation to enforcement officer behaviour:

Year	Number of Complaints
2009	0
2010	1
2011	0
2012	1
2013	2  Plus 1 via the States of Jersey Complaints Board

- (b) The Minister has apologised in relation to enforcement activities over the last five years as follows:

Year	Number of Complaints
2009	Not known – previous Minister
2010	Not known – previous Minister
2011	Not known – previous Minister

2012	0
2013	1

(c) This information is being collated and I will provide this summary to the Assembly as soon as possible.

The Enforcement Team at the Planning and Building Division of the Department of the Environment investigates allegations of breaches of the planning law and the building bye-laws.

Common complaints received by the team include:

- claims that development has been carried out without permission, or in a way that is contrary to approved plans
- allegations that the use of a property has changed without authorisation
- suggestions that motor caravans are being used for habitation without permission
- claims that illegal dumping of refuse has taken place

The enforcement team investigate the circumstances of the complaint and make recommendations so that the matter is appropriately dealt with. They will collate information, visit the site and contact individuals who may be involved.

If it is found that work has taken place without the necessary permission, they have the power to serve a notice requiring the land or buildings to be restored to the condition that existed before any illegal work took place. Failing to comply with the notice is an offence. However, wherever possible, matters will be resolved by agreement, or simply by inviting and processing a retrospective application.

The authority to serve a notice requiring works is delegated to officers of the Department.

There is a published guidance note on the States website:

<http://www.gov.je/PlanningBuilding/LawsRegs/SPG/PracticeNotes/Pages/Enforcementprocedures.aspx>

Article 122 of the planning law gives powers of entry to land or buildings officers to gather or record information in respect of that land or building.

The Minister for Planning and Environment's Scheme of Delegation allows Enforcement Officers to authorise the importation of caravans into the island.

The Delegation of Statutory Powers document dated January 2014 (ref: MD-PE-2014-004) is available to States members.

It would appear that Deputy Higgins has a number of queries regarding the enforcement activities of the Department. I will be inviting the Deputy to meet with me and some of my department senior officers to discuss enforcement activities further. I hope that we can clarify matters and answer any questions Deputy Higgins has more easily in a face to face meeting.

**3.20 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING MEETINGS WITH VULNERABLE MEMBERS OF SOCIETY:**

**Question**

- (a) Do the Children's Service or the Children and Adult and Mental Health Service refuse to have meetings with vulnerable members of society and if so, on what basis is such a refusal made?
- (b) Does the Minister allow the employees within the Children's Service or the Children and Adult and Mental Health Service to operate with impunity for their actions?

**Answer**

Firstly, on a point of accuracy, CAMHS is the Children and Adolescent Mental Health Service which focuses on working with, and supporting, children and young people under the age of 18. The role of the Health and Social Services CAMHS team is to provide specialist CAMHS treatment and support as part of the overall comprehensive CAMHS strategic framework which involves many agencies including schools, the youth service, GPs etc.

- a) No. The CAMHS team would, and do, wherever it is appropriate, meet with vulnerable members of society. Refusal to do so would only ever be where the circumstances of the individual case deem it inappropriate.

Providing mental health services for children and young people is a complex area, often involving children and families in very difficult and sensitive situations. The Children's Service will always seek to work in co-operation with them, as well as with all other agencies involved in the safety and wellbeing of children and young people as part of the Comprehensive CAMHS strategic framework.

Inevitably, problems can occur at times and, on such occasions, the Children's Service strives to remain flexible and creative in trying to ensure that good levels of communication are maintained.

In answer to Part b) No.

All staff employed by Health and Social Services are subject to professional standards laid down by their professional body and/or the terms and conditions of employment for the States of Jersey, and appropriate procedures are in place to deal with any staffing issue, should any concern be raised.

**3.21 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING DEFAMATORY MATERIAL PLACED ON RECORDS:**

**Question**

- (a) What checks and balances, if any, does the Department have to prevent defamatory material being placed in its records to the detriment of members of the public?

- (b) Is it acceptable for officers to record defamatory material in Planning records and then to cover up their actions?
- (c) What course of action, if any, is available to aggrieved applicants or members of the public against persons who by recording false statements are themselves committing defamation?
- (d) Would such actions be defended by the Department?

**Answer**

- (a) In carrying out its duties, the department receives information from various sources and records these in good faith. The department is generally unable to determine if this information is defamatory.

It would be impractical for the Department to review all information recorded by officers in its many electronic and paper based records systems and relies on officers to record information which is relevant and appropriate to department activities.

The department has agreed a Customer Charter which sets out how department staff will behave when carrying out their work. This includes behaving in a professional manner and respecting the rights of others.

Full details of the Customer Charter can be found on the States of Jersey website:

<http://www.gov.je/Government/Departments/PlanningEnvironment/Pages/ServiceComplaint.aspx>

- (b) Officers will record information received which is relevant and appropriate to department activities without knowing if this information is defamatory. In receiving information, the department has an obligation under the Data Protection (Jersey) Law 2005 to protect individuals, including the source of any information received.
- (c) Complaints or comments about Department of the Environment activities can be made to the department by phone, submitted via the gov.je website or in writing. Formal complaints made in writing will be investigated by a relevant Manager or Director and a response provided within 20 working days. If the complainant is not satisfied with the result of any investigation they can request that the complaint is reviewed by the Chief Executive Officer. If the complainant is still not satisfied they can contact the States of Jersey Complaints Board. In some instances the complainant may be able to refer the complaint to another independent body (eg: Data Protection Commissioner).

Full details of the Department Customer Feedback Policy are available on the States of Jersey website:

<http://www.gov.je/Government/Departments/PlanningEnvironment/Pages/ServiceComplaint.aspx>

- (d) Any matter that relates to an employee of the State's Employment Board, following a formal complaint and investigation, would be dealt with by the departmental Chief Officer or his nominee in accordance with State of Jersey disciplinary procedure.

### **3.22 DEPUTY J.M. MAÇON OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE FIBRE OPTIC BRAODBAND SERVICE:**

#### **Question**

Is the Minister, as the shareholder representative, able to confirm that all JT customers, once connected to the new fibre optic system, are experiencing a better quality and faster broadband service and has this been supported by the responses received to the current customer survey?

#### **Answer**

The Minister is advised by JT that of the almost 7,000 JT customers that have been connected to the new fibre optic system, 63% have reported better quality broadband speeds.

The Minister is further advised that a further 32% have reported the same broadband speeds as before they were connected, meaning that 95% of those switched over have reported the same or better broadband experience.

For the remaining 5%, JT have advised that they have established that the speed delivered to the handover point is at least that which was previously delivered over the copper network and that the distribution of the signal within the property remains the responsibility of the subscriber, whether it relies on in-house wiring and/or Wi-Fi equipment.

## **4. Oral Questions**

### **4.1 Deputy G.C.L. Baudains of St. Clement of the Minister for Health and Social Services regarding the reliance on the Medicines and Healthcare Products Regulatory Agency for information on drugs:**

Further to the answer she gave to my written question on 21st February 2014 regarding her reliance on the Medicine and Healthcare Products Regulatory Agency for information on drugs will the Minister advise whether she is certain the information she is giving Jersey residents is as accurate as possible?

#### **The Deputy of Trinity (The Minister for Health and Social Services):**

As I have consistently and repeatedly said in my responses to the Deputy's recent questions on the issue the answer is yes. Numerous questions from the Deputy on the validity and safety of vaccines and medicines in recent times - at least 4 of them - have specifically referred to the issue of medical research and the M.H.R.A. (Medicine and Healthcare Products Regulatory Authority). There was an oral question on 5th November; a written question on 19th November; a written question on 2nd December; and a written question on 21st January. So, in summary, yes, I am certain that the information my department is giving Jersey residents is as accurate as possible.

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

As the Minister will be aware the U.K. (United Kingdom) Public Accounts Committee has recently concluded that drug companies are not truthful about drug trials and that the regulatory authorities are just taking the drug company's word for it. They have been accused of that. Can the Minister explain how, if she was relying on information from regulatory authorities that do not have and have not made accurate judgments about drugs, she can possibly inform residents of Jersey as to the efficiency of safety of drugs?

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

Health and Social Services is not a primary research body and, as such, when making decisions about vaccines, *et cetera*, it looks closely at professional primary research bodies including the U.K. Joint Committee Vaccination and Immunisation, the U.K. Department of Health, the European Medicines Agency and to the highly reputable independent U.K. regulator, the Medicines and Healthcare Products Regulatory Agency. As any agency do they look at all the information coming in, whether that is from a select committee or other trials, *et cetera*.

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

The M.H.R.A., the regulatory body regarding the Tamiflu, only looked at a handful of trials, all of which were funded by the manufacturer. We now know, as a result, that the drug is virtually useless and if I recall correctly we spent, I think, over £1 million stockpiling it. Will the Minister now, in the light of those failures by regulatory authorities, such as the M.H.R.A., agree first of all that the public has a right to know whether medicines are effective and safe and to take further steps to ensure that the information given by the medical authorities is as accurate as possible and not merely repeating the propaganda of the drug companies?

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

I refute some of what Deputy Baudains has just said. It is an independent medical research authority and further to his inquiry about it, back in November, the M.H.R.A. themselves wrote to the *J.E.P. (Jersey Evening Post)* to put some facts across that were obviously wrong, which the Deputy had. I have full faith in the M.H.R.A. They are there to provide research from all the clinical trials and assessments by professional expert people.

[9:45]

#### **4.2 Deputy G.P. Southern of St. Helier of the Minister for Social Security regarding his objective of achieving £3 million savings in 2014:**

Will the Minister explain to Members how the figures given in his statement of 21st January 2014 support his objective of achieving an additional £3 million cut in government-funded benefits in 2014?

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

The savings are clearly set out in the Ministerial statement I made on 21st January. Within the Income Support Budget funding was provided in the Medium-Term Financial Plan for increases in benefit rates. For 2013 and 2014 I have decided not to increase all income support components and by doing so savings are made. Furthermore, I have also utilised previous additional savings made by the department and invested these to improve the earnings disregard from 20 per cent to 23 per cent. The combination of these actions means that both the £3 million annual savings will be made by the end of 2014 and that the financial incentive to find and stay in work has been significantly improved.

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

I think I spot the redefinition. So these £3 million of savings were not additional savings for 2014 but merely a target over the period which may have started 2011, 2012, 2013 and 2014. Is that the case?

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

They were to be delivered by the end of 2014 and as I have already explained they will be.

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

But they are not additional savings in 2014 which I thought they were? Is the Minister saying that?

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

The savings of £3 million, which were set out in the Medium-Term Financial Plan, had to be delivered by the end of 2014. Some of the savings, as the Deputy is aware, were achieved last year, totalling £2.2 million, as a result of freezing components apart from the housing component.

**Deputy G.P. Southern:**

Can the Minister confirm then ...

**The Bailiff:**

One moment. Let us see if anyone else wants to ask a question. Very well then, final question, Deputy.

**4.2.2 Deputy G.P. Southern:**

Can the Minister confirm that what I thought to be additional savings in 2014 of £3 million; that was never the aim? Because what he is saying is he delivered £3 million of savings in total over the term of the Medium-Term Financial Plan or by 2014 and not in 2014 and that was always a target because the numbers that he has given are not £3 million in 2014.

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

I think we are splitting hairs here. The point of the Medium-Term Financial Plan was that by the end of 2014 the Social Security Department had to deliver £3 million of savings. Savings are being achieved by freezing components and therefore by the end of 2014 we will have achieved £3 million of savings.

**Deputy G.P. Southern:**

For the avoidance, if I may for clarification sake ...

**The Bailiff:**

Final final.

**4.2.3 Deputy G.P. Southern:**

For avoidance of all doubt it was never the target to have £3 million worth of additional savings in 2014, it was always the target to have an accumulative total by 2014 of £3 million. Is that the case? Yes or no.

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

It is not a yes or no answer. There are various ways that we could have achieved savings. We could have achieved savings by reducing the current components. I was against doing that because, if the Deputy recalls when I made a statement to the Assembly, I did say that at all costs we would not make reductions in people's benefit. All we have done is frozen the benefits in 2013 and a further freezing in 2014 which by the end of this year we will have achieved £3 million of savings which is what the Medium-Term Financial Plan required the department to do.

**4.3 Deputy M. Tadier of St. Brelade of the Solicitor General regarding the determination of 'uninhabitable' under Article 9(a) of the Residential Tenancy (Jersey) Law 2011:**

Will Her Majesty's Solicitor General in this case explain what constitutes uninhabitable under Article 9(a) of the Residential Tenancy (Jersey) Law 2001 and who determines this?

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

Article 9 of the Residential Tenancy (Jersey) Law 2011 provides a tenant with a statutory right to cease payment of their rent and/or to obtain a court order varying or even terminating the tenancy agreement in the event that the premises have become uninhabitable. I am asked 2 questions in respect of this particular provision. The first question is; what does uninhabitable mean? For my part I would give the word its ordinary meaning. It means that the property is unsuitable for living in. To take an extreme example a property that is severely damaged by fire will be uninhabitable. The second question is; who decides whether a property is in fact uninhabitable? The answer is that if the landlord and the tenant cannot agree then the Petty Debts Court has the jurisdiction to resolve any such dispute.

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

In the event that a landlord and a tenant cannot agree on the definition of uninhabitable and there is a decline in goodwill would the Solicitor General outline the process starting at which point the tenant may reasonably withhold their rent and whether or not, in the absence of an escrow service, what should happen to that money in the interim?

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

If a tenant reaches the view that their property is uninhabitable then Article 9(a) of the law provides them with a right to stop paying rent and they do not need to go to court to do that.

#### **4.3.2 Deputy M.R. Higgins of St. Helier:**

Would the Solicitor General try and give us some guidance in the case of where homes are unfit because of mould or damp or water and people have got medical conditions, such as chest conditions and so on, would those sorts of conditions be classed as uninhabitable for those people so far as the law is concerned?

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

I am being asked to comment on a case which, I believe, has recently been in the media ...

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

With respect it is not. It is a general point.

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

... and I decline to comment on a particular case. What I will say in general terms is it is a matter of fact and degree and each case will turn on its own facts and I cannot really improve on that.

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

Could the Solicitor General tell us who would determine the facts in that particular case?

#### **The Bailiff:**

I think he has already said that, the Petty Debts Court. Do you wish a final question?

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

I do not have any further questions. That is very clear. Thanks.

#### **4.4 Deputy J.H. Young of St. Brelade of the Minister for Planning and Environment regarding the progression of the Island Plan policy commitment in relation to the future development of the Port of St. Helier:**

Will the Minister inform the Assembly whether he has progressed the Island Plan policy commitment requiring a feasibility study for the future development for the Port of St. Helier and



produce a land use master plan for this regeneration zone? If not, why not? In its absence how will he avoid piecemeal development with its potential for adverse impact on the future development of St. Helier Waterfront?

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

The Island Plan refers to a feasibility study, East Development and Elizabeth Project, which was carried out at the time by the Chief Executive Officer of the States. There is, in fact, no commitment within the 2011 Island Plan to produce a feasibility study of the port. However, the study produced by the Chief Executive Officer of the States will inform the work I will do in the regeneration plans, Island Plan Proposals 12. Work on the regeneration zones is presently underway and the study has been widened to include the areas of South Hill, Fort Regent and the Weighbridge areas, all of which present unique land use challenges and how the areas could and should be integrated. In the interim, however, the 2011 Island Plan has adequate policies, TT15 - "Operational development of the Port of St. Helier", to ensure that operational developments for the port can be permitted and to resist non-operational development. I recognise the Deputy's concern that piecemeal development could compromise the future development of the St. Helier Waterfront and port but believe that prior to the adoption of a regeneration plan for the port the Island Plan policies are adequate to enable me to resist inappropriate non-operational development.

**4.4.1 Deputy J.H. Young:**

I think the Minister has confirmed that this commitment is important to ensure that the future port facilities are in accordance with our long-term needs. He has told us that he is able to deal with developments in the existing port for now but will he tell us when he thinks this masterplan can be put together to ensure that we provide for the long-term of our port which is clearly a commitment in the Island Plan?

**Deputy R.C. Duhamel:**

Obviously I will be advised, and the department will be advised, by the Economic Development Department and others who have a specific responsibility for the port area. However, I must emphasise on page 315 of the Island Plan, under 8.159, that it reads: "Significantly, revenues from the current port operation cannot support a major capital improvement. A new port is, therefore, only achievable if it can be funded by the realised value of development in the Elizabeth Harbour area as part of the next phase of the redevelopment of the St. Helier Waterfront. Such significant change is not envisaged during the plan period but will be kept under review." For those persons who have seen the feasibility documents will note that the estimates of the redevelopment work were of the order of £1,200 million. Obviously with the other financial commitments that the Island is facing at the moment for strategic projects - that is hospital, liquid waste and housing - this does represent huge sums of money which, perhaps, eclipse the total of all monies that are going to be spent on those other projects. So, in short, the regeneration plan has been identified as being required at some point in time but not necessarily within the plan period which is the next 8 years.

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

I am going to change my question because I was hoping that the Minister would tell us when this masterplan or regeneration plan will be brought forward and if his last comment is, it is going to take him 8 years; that is not good enough. Could he tell us when Members of the States and members of the Parish will see draft proposals for this area so that they can have some feedback into them?

**Deputy R.C. Duhamel:**

As I said the work is being undertaken at the moment in short order and the timetable is to present something to the States for the autumn quarter of this year.

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

Could the Minister repeat the estimated cost of this? Was I hearing correctly £1.2 billion?

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

Absolutely, and for those that do not like billions, because there is a difference between American billions and English billions, it is £1,200 million.

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

Back to my original question. The Minister, I hope, will be familiar with the Island Plan amendment that agreed to carry out a feasibility study into allowing access to La Collette reclamation site in spite of the previous concerns about Buncefield. Could he advise what progress has been made either by his department or his colleagues at T.T.S. (Transport and Technical Services) in doing this feasibility study?

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

I will give the Constable and the other Members of this Assembly a written answer to that effect.

#### **4.4.5 Connétable P.J. Rondel of St. John:**

Within the Island Plan and within the Waterfront area encompassing the Esplanade Quarter in P.111 of 2008 this House agreed at 40 to one that the Esplanade Quarter element of it would come back to this House at some future time for the Assembly to assess whether or not to move forward. Is that still in the Minister's mind when he is working on these plans?

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

I think whether that does come back to the House or not is not necessarily within my remit and we did have an assurance from the Minister for Treasury and Resources in that regard that he would in fact do what was being asked for.

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

I can recall, going back probably over 30 years, many masterplans being made for this area at enormous expense and they have all either been abandoned or overtaken by events. Can the Minister assure us that we are not going to be spending a vast fortune on consultants only to have another report that sits on a shelf somewhere for 10 years and followed by another report and so forth?

[10:00]

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

I would agree with the Deputy, that is absolutely right and if one looks at my budget as to the monies that I have a remit to see that are being spent people will see that I do not have substantial funds for masterplanning so obviously I will have to do whatever the money can afford and eke out the funds appropriately.

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

Despite the huge costs without a masterplan, as the Minister has confirmed, he or successive Ministers for Planning and Environment will have no choice to make piecemeal planning decisions in this area in the future. Could he give this Assembly an assurance that now we have the shadow board for the Ports of Jersey that he, as Minister, is working with that body to ensure these major issues are taken into consideration when these operational decisions are made?

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

Members will know that the body has not received lands that are in the ownership of the States which would include the expansion areas into which a port may or may not be realised. Whether or not it is the long-term intention of the States of Jersey to pass over those lands to enable this new port authority to deliver a new port, bearing in mind that they have no monies to do so, is something that no doubt will be discussed at a future date within this Assembly.

**4.5 Deputy M.R. Higgins of the Chairman of the Privileges and Procedures Committee regarding complaints made to the Committee by the States of Jersey Police over the past 12 months against States Members:**

Can the Chairman advise whether any complaints have been made to the Privileges and Procedures Committee by the States of Jersey Police over the past 12 months against States Members and if so how many complaints, what were the underlying issues and which States Members were they made against?

**Deputy J.M. Maçon of St. Saviour (Chairman, Privileges and Procedures Committee):**

There have been no complaints to P.P.C. (Privileges and Procedures Committee) by the States of Jersey Police in the last 12 months. P.P.C. would not normally comment in public about complaints received by the committee but in the interests of transparency and to avoid unnecessary speculation I am willing, on this occasion, to state that a joint complaint was received in 2012 from the States of Jersey Police and the Jersey Data Protection Office about a question asked in the Assembly that related to an ongoing police investigation. The police were concerned that a question of this nature could prejudice the ongoing inquiry and invited P.P.C. to consider whether Standing Orders should be amended to prevent questions of this nature. There is no complaint against an elected Member that could be considered under the Code of Conduct as the question was asked in the Assembly and Standing Order 156(2)(c) states: "The Privileges and Procedures Committee shall not accept any complaint from a person who is not a Member of the States regarding words spoken or actions of an elected Member during a meeting." As the matter could not be considered a complaint the elected Member, who had asked the question referred to, did not need to be notified about the inquiry as no investigation by P.P.C. was necessary.

**4.5.1 Deputy M.R. Higgins:**

Could the Chairman tell us if it is usual for States departments to complain to P.P.C. about questions that are being asked in this House by Members who are trying to hold those departments into account? Do they not realise the difference between parliamentary democracies and that States Members have the right to raise any issue they like without hindrance?

**Deputy J.M. Maçon:**

As Members will be aware I have only been the Chair of P.P.C. for a short time. We have not received any complaints from the States departments about States Members. So to answer the first question, no, it is not usual to receive these types of things before the committee. The second question I cannot answer in that the Standing Orders are drafted as they are and they are designed that way in order to protect parliamentary privilege of the Members of this Assembly.

**4.6 Deputy J.A.N. Le Fondré of St. Lawrence of the Minister for Treasury and Resources regarding the repayment of the £13 million loan to the States of Jersey Development Company:**

Given the Minister's previous statement that the £13 million loan to the States of Jersey Development Company would be fully repaid and that the Esplanade development would deliver a

return of £50 million would he confirm that his calculations do not require attributing a financial value to the proposed car park, if and when it is returned to States ownership, and that the calculation of the profit does not include stamp duty?

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

I confirm that the estimated return of £50 million, which of course is an estimate to be, hopefully, delivered over a number of years - and one thing is certain that an estimate will be wrong - but the estimate to the States of Jersey from the entire Esplanade Quarter Development includes the value of the new underground car park with an estimated value of £10 million at current parking rates. I can confirm that the calculation of the £50 million does not include stamp duty receipts.

**4.6.1 Deputy J.A.N. Le Fondré:**

Without going on to the other supplementary, could the Minister just confirm that he just said that the £50 million does include or does not include the £10 million for the car park.

**The Bailiff:**

Does not, I think he said.

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

No, it does include the value, of course, of the underground car park, perfectly normal.

**Deputy J.A.N. Le Fondré:**

So, to be clear that the £50 million is, therefore, £40 million of cash and £10 million for the car park?

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

That is right.

**4.6.2 Deputy J.A.N. Le Fondré:**

Sorry, I did not quite catch the “not” and that was the point. What I would just like to ask as well as a first supplementary; previously in a statement to the Assembly the Minister has stated: “That development works on the Esplanade Quarter will not commence until agreement has been entered into for the letting of at least 200,000 square feet of office accommodation.” Could the Minister confirm whether this position has changed in respect to the present planning applications and if there is to be any reduction in pre-let areas and, if so, why and when he was going to announce this to the Assembly bearing in mind what is, therefore, the increased risk to the project?

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

No, the position has not changed.

**Deputy J.A.N. Le Fondré:**

To be clear given that the present scheme is 180,000 square feet he will be looking to get pre-lets on 100 per cent of the 2 buildings that are being proposed.

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

The market is certainly dynamic and we do not wish Esplanade Square to represent any risk to the public. I think what has changed from a market dimension in the last few months is the fact that such is the optimism of financial services and others sectors of the economy - such as the digital area - that there is increasing evidence of an absence of supply so while I am absolutely clear with S.o.J.D.C. (States of Jersey Development Company), who I had a board meeting with my Assistant Minister and the Treasurer of the States yesterday, is that their buildings are to be progressed on a

fully-let basis in order to reduce the risk. I also wanted to discuss with the Minister for Economic Development the reality that in fact we are now at a position where office accommodation is not available for inward investment in Jersey. If Esplanade Square can assist that in any way I certainly am happy to take advice from Ministerial colleagues to consider discussions with S.o.J.D.C. about how the exciting Esplanade Square Development could move even faster to deliver inward investment into Jersey.

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

Firstly, could I congratulate the Minister for Treasury and Resources on his elevation but it would have been nice for the Chief Minister to have notified this House in this Chamber of the elevation instead of doing it the way it was done. Can I put the following question? Within the Esplanade Quarter and the car parks who will be receiving the revenue, Jersey Property Holdings for the car parks or will it be going to T.T.S.?

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

There is no change effectively. What S.o.J.D.C. must do is they must replace the car park that is currently provided on Esplanade Square. Now, if the site is being used for an office development they have to provide the car parking spaces and exactly the same financial arrangement exist with the new car park as the old one. What they have got to do is they have got to deliver that car park as part of their overall plan. I am not exactly sure, but I will check immediately - I have got questions without notice - I will check exactly how the accounting of that works. I think the revenue, some way, ends up into the car park trading account but I will just double-check that. I am pretty sure that is right.

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

That being the case will the Minister ensure that the charge-out will not reflect those which are currently charged out down in the car park which is currently manned by Property Holdings but reflect the charges of those by T.T.S.?

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

The car park that the Waterfront Enterprise Board, formerly known as S.o.J.D.C., operates at the Waterfront is, I think, on a different charging basis than that of T.T.S. Currently T.T.S.' arrangements are, I imagine, and this is the discussion that has got to happen with T.T.S. but, of course, we would consult with T.T.S. and decide how. The point is; is that whatever the arrangement is today will be the arrangements under the new car park. It is just the physical structure of the car park that is going to be different. I hope that helps the Connétable.

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

As an aside, in reply to an earlier question the Minister said: "No surprises there." I have just been very unpleasantly surprised. The return from this masterplan, which was originally put to the States, I believe, with a figure of £70 million on it has gone down to £50 million this morning and now it has gone down to £40 million so that is a very unfortunate surprise and I would ask the Minister to, as soon as possible, put something down in writing if you like. I know it is an estimate but at this rate we are going to get very little return at all.

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

I do not think everyone can win on this. One minute I am defending the fact that the scheme is a loss of £50 million, the next minute we are having political comments. The fact is that this is a build-out that will happen over 20 years. Deputy Le Fondré's questions are: are the first 2 buildings going to pay for the car park obligation, and the answer is, yes, they do. Am I increasingly optimistic from the figures that I have seen about the potential for Esplanade Square

delivering better returns? If the economy returns to growth, if we continue to see inward investment into Jersey, that number is going to go up. I know that the Connétable will share that desire to see that number to go up because he effectively wants some of that money for St. Helier regeneration, which I absolutely support his underlying question.

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

Did the Minister have a conversation or conversations with R.B.C. (Royal Bank of Canada) on the subject of moving to this particular site?

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

I meet R.B.C globally, locally, on lots of different occasions but their site selection is a matter for them and I think must be absolutely dealt with by the independent board and, as I understand it, the decision makers for those institutions are often not even local, they are in fact in their head offices in other countries and often deal through agents. So, no, it is not and there should be no discussions upon that sort of level. My relationships with institutions are based upon their presence in Jersey and what they are doing from a financial services point of view not their office accommodation. S.o.J.D.C. must operate at arms' length.

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

So the Minister is saying, just for clarity, that there was never any meeting with R.B.C. on this particular subject?

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

I meet R.B.C., as other Ministers, regularly and they tell me of their exciting plans for investment in to Jersey and I am delighted about that but it is up to them where their site should be. S.o.J.D.C. operates at arms' level so I am aware of it but specifically, no.

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

The Minister is a passionate advocate of the Esplanade development and clearly he has highlighted again the importance of the return on this development which has been put in writing. In fact he put it in writing to the Minister for Planning and Environment in order to gain consent. In his written answer, 16, he sets out the process on which those figures are based but there is no commitment to an independent review. In view of his new "supremo" position of both managing and promoting financial services, regulation and public finances, and all of the new quangos, as it were, could he not reconsider to at least ensure there is independent review of these figures to ensure we can rely on them for the future?

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

First of all there is no "supremo" position. I am working with the Chief Minister, with the Minister for External Affairs and with the Minister for Economic Development on, effectively, our financial services strategy. I think many Members would reflect the fact that we and I have been doing that for some time. Answering the question about the fact I am passionate about Esplanade Square, what I am passionate about is getting good value and a return to States public finances. I am a passionate advocate of anything that delivers, appropriately, legally and properly, effectively better public finances and resources to pay for capital projects and a better return for land for the public.

[10:15]

So that is why I am supportive of Esplanade Square and also competition in the office market making sure that there is a plurality of supply for those office seekers of new accommodation. S.o.J.D.C. operates... and my email to States Members, which I am sure the Deputy has seen, in fact he has responded to me. It clearly says we should not be appointing boards and then suddenly

saying that we need further layers of independent work. The scheme that Esplanade Square is doing at the moment is very different from the previous scheme of which there was a lot of concern because it involved a single developer. S.o.J.D.C. has broken this scheme down now, a phased development. We have got a proper board. They get proper advice and frankly all the questions that I ask of them I am extremely satisfied of their decision-making process, the people they have working for them and their advisers and I hope the Deputy is too.

#### **4.6.8 Deputy S.G. Luce of St. Martin:**

While agriculture and tourism might be our traditional industries, would the Minister agree with me that financial services is the most important sector of our economy? Given that fact, providing facilities that are up to date, modern and state-of-the-art is vitally important for this industry, especially in the increasingly competitive marketplace of global financial services.

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

Absolutely and that in any way does not detract... and I heard, as other Members would have done, the radio interview this morning. This is a zero-sum game. It is not a binary decision of financial services or tourism. It is all of it but the Deputy is quite right to say that the engine of our economy for the last 20 or 30 years has been financial services and we have been working hard to protect financial services in the future. We are increasingly optimistic of financial services but in order for financial services to effectively compete, it needs raw material. It needs labour, highly skilled local people, some immigrant labour and it also needs office accommodation and top class Grade A office accommodation of which private sector developers are providing some but Esplanade Square delivers exciting new space which also is valuable to taxpayers.

#### **4.6.9 Deputy J.A.N. Le Fondré:**

The Minister hopefully will recall that as a result of the King Sturge Trowers Report, the then developer of the Esplanade Quarter was required to put a guarantee in place in the form of a bond of £95 million before the project could commence and that was because that was the professional assessment of the magnitude of the risk of the project. Now, if broadly speaking, the same masterplan is being delivered, even if it is in phases, and the property market has not to date significantly changed, are we on behalf of the public of the Island, whether directly or through S.o.J.D.C., carrying risk in that sort of order, i.e. £95 million give or take, which was the size of the bond that was previously required to be in place?

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

I do not want to be too critical of Deputy Le Fondré but Deputy Le Fondré seems to be operating with these persistent questions. I think it is fair to say he is not a fan of Esplanade Square and never has been probably but he is stuck in a time warp of 2007. The world has moved on dramatically. The plans for Esplanade Square are being delivered in an entirely different way than previously. I would have agreed with him if a single entity was to be delivering the whole of the scheme and owning that scheme and had to bury a road which costs the numbers that he was talking about then yes, but what we are now doing with S.o.J.D.C. is seeing a phased development which will work through a series of phases which we are looking at to see whether the end result of the return available will be able to deliver all of the planning obligations, including the lowering of the road and the earlier comment about the surplus over and above that delivers an assumption of the cost of delivering the road. So the world has moved on. When he was the Assistant Minister for Treasury and Resources, we were dealing in a very different world and a very different scheme and so asking me questions about this previous report, while interesting, are not very relevant to the scheme that S.o.J.D.C. are working on now.

#### **4.7 The Connétable of St. John of the Minister for Treasury and Resources regarding power outages over the last 5 years:**

Will the Minister advise how many power outages have occurred over the last 5 years and can he explain whether, given the millions of pounds spent on upgrading the turbines at La Collette to give resilience, an uninterrupted power supply is possible and if not, why not?

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

I am grateful for the Connétable's question on a matter of great public interest. This was the third all-Island fault in the last 5 years. In September 2011, a problem on the French network was the cause and in September 2012, the failure of a large component on the J.E.C.'s (Jersey Electricity Company) network combined with the previous permanent failure of the EDF1 cable to France resulted in a power outage across the Island. J.E.C.'s reliability over the last decade, they inform me that with the exception of 2012 was on average 3 to 4 times better than that of the U.K. In 2013 following the investment of the additional on-Island generation, Jersey Electricity reported a supply reliability of around 6 times that of the U.K. Of course, I am sure the Connétable will understand that J.E.C. cannot guarantee 100 per cent of supply at all times in all circumstances. No public utility would be able to do this because of the prohibitive costs of effectively running 2 electricity generation systems. J.E.C. work to a U.K. standard adapted to reflect that Jersey is an Island community. J.E.C. always advise that customers should assess their own risks and put in place their own mitigation in the form of, where there are particularly sensitive data centres activity, U.P.S. (Uninterruptable Power Supply) and other standby generation.

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

Will the Minister concede that the Island finance industry is totally reliant on a trouble-free electric supply and can the Minister give figures of the cost to the Island in lost business for every hour the industry is shut down and tell Members what action he is taking to look at an alternative source if that is required to give the finance industry and our emergency services folk, hospital, *et cetera* - which I am aware the hospital and airport do have backups - but can he give us an assurance on where he is going to get this extra supply from in the not too distant future?

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

The first thing is I am not going to do it. We appoint a board and the J.E.C. to do it. I do understand ...

##### **The Connétable of St. John:**

Do not hide behind boards.

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

I do understand what the Connétable is saying and the Chief Executive of the J.E.C. was on the media straightaway and I think they handled what was a very difficult situation well, and the Managing Director has been very clear that their number one priority when there is a power outage is to direct ... and the diesel generating capacities which they have put an extra £1 million in, which is the Rolls-Royce engine fast backup moving straight in, protected most of the data centres and others. Certainly I arrived in Jersey on the morning back of the power outage and the airport had their backup generators. Everything was working. I have not been alerted of any data centre power outages that certainly have backup generators that last for an hour, and the J.E.C. get that power back as a first priority into the data centres dealing with the sensitive issues of financial services. The Connétable is absolutely right when he says that power supply and guarantees are important. At the end of the day, the improvement with the third cable is going to solve most of these issues. The J.E.C. have worked hard. I think they have done the best that they possibly could in a difficult



circumstance and that situation is going to be improved by that investment of the third interconnector which is going to solve the problem. That is what they have certainly told me.

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

Supplementary. The Minister mentioned the Chief Executive's comments on the radio but within his comments, because I was listening in at 7.10 a.m. that morning, and he mentioned also that the telephone system was back on within half an hour but that, in fact, was incorrect. Will the Minister please take that up with Telecoms because in our own Parish, we had no electricity for up to 3 hours but we had no telephone for 3 hours other than people who would have mobiles that were connected some other ways they got through, but in general there were no communications and that was of concern and is of concern when we have got a number of elderly people in isolated areas in the Island. Will he please get that corrected?

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

The Connétable has asked me questions previously about J.T. (Jersey Telecom) issues which when I have investigated them, they have turned out to be not quite as reported and I mean no disrespect to the Connétable for his information.

#### **The Connétable of St. John:**

That was recorded on BBC at 7.10 a.m. on 28th January so the Minister only has to look at the recording.

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

As it happens, I was with J.T. and the Board last night until about 9.00 p.m. in my office dealing with other issues on questions without notice today holding them to account as the Connétable would want me to do and, in that conversation, they said that they delivered telecommunications services back to their customers to a large extent that were effectively uninterrupted but if the Connétable has a specific example, of course I will take it up with J.T. But I understood that they responded extremely well to the power outage and their backup facilities work very well but if there is an isolated case, I will answer it.

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

Yes, I have a specific one. The Parish Hall at St. John with all our computer systems were down obviously with no electricity and so were all the lines into the Parish Hall so that was witnessed by all the people who came and went into the Parish Hall that day, so that is a specific one that the Minister can take up. Will he take it up?

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

Again, I do not think necessarily I will ever please the Connétable because he started the question, did he not, with the question about sensitive financial services institutions and them being the highest priority. Now, as much as I like the Parish Hall at St. John, I do not know whether or not there is a sensitive international trading platform with quantitative trading. I know the Connétable has got well versed with financial trading but I am not quite sure what he is doing at the Parish Hall. Of course this is well understood by both J.T. and the J.E.C. Huge efforts are made to get power back and to get telecommunications back on board and I will say investment in infrastructure matters. In a day after tides have taken down seawalls the investment in infrastructure in sea defences has meant that Jersey is in a much better position today. We will be saying the same things about our power supply when the J.E.C. investment and the third interconnector and the backup generation capacity and fibre have been delivered to telecommunications. Infrastructure investment matters and is happening.

### **The Connétable of St. John:**

I am pleased to see the Minister is backing me on infrastructure improvement.

#### **4.8 Deputy R.G. Le Hérissier of St. Saviour of the Minister for Economic Development regarding the impact of Fixed Odds Betting Terminals:**

Is the Minister satisfied that the proliferation of F.O.B.T.s (fixed odds betting terminals) and associated issues which have arisen in the United Kingdom will be avoided in Jersey and if so, on what basis?

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

The short answer is yes, the Minister is currently satisfied but not complacent based upon advice from the Jersey Gambling Commission who call upon wide-ranging evidence. By way of background, fixed odds betting terminals can only be sited in licensed betting offices in Jersey and there is a cap of 4 per shop. Not all operators have 4 machines. There is therefore certainly no proliferation or an ability for there to be so. The issues in the U.K. are driven by a number of factors but largely upon speculation that there is a direct causal relationship between machine play and problem gambling. The evidence, however, does not bear this out and the most recent empirical research into the British gambling prevalence studies in 1999, 2007 and 2010 have not provided any evidence for concern that there is a direct correlation between fixed odds betting terminal play and addiction.

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

Would the Minister then concede that the proliferation of betting shops may be the issue as much as the alleged proliferation of the terminals themselves?

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

With regard to the U.K., that could well indeed be the case. Of course, in Jersey, we have 29 licensed betting offices. That has been a consistent number and indeed is not growing and will not grow I am assured according to the Gambling Commission.

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

How often are checks carried out, if at all, to make sure that the minimum pay-outs required from these machines are paid out and not a lower sum?

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

The Gambling Commission clearly takes its role seriously in this regard. It has the ability to check and monitor these machines on line as well as making visits to the various licensed betting office premises and therefore is able to make regular checks and does so.

[10:30]

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

Is it the case that no evidence has been found of a link between the fixed odds betting and problem gambling because that was not a topic that was examined by the papers the Minister was quoting?

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

No, that was a topic that was examined but there is some very interesting research ongoing at the moment. The Responsible Gambling Trust, for example, has for the first time got a buy-in from 13 major bookmaking firms in the U.K., gambling operators. They are carrying out some research specifically into this area. The Gambling Commission, I know, is monitoring that. That report is

due out later this year and I am sure will inform the debate in a constructive way with the right empirical evidence.

**4.8.4 Deputy M. Tadier:**

Would the Minister agree that responsible gambling is only when the gambler calculates that the odds being put down are better and so he should always gamble when that is the case and that any time that we know that machines necessarily have an expectancy that is far less than what you would have if you kept the money in your pocket, then those machines should come with an automatic warning because that is where irresponsible gambling can take place.

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

Under the Code of Practice, licensed betting offices have an obligation to monitor - which they do - play and behaviour of those that are not only on fixed or betting terminals but also undertaking any form of gambling within their premises and that is something they take seriously. Clearly it is not in the licensee's interests to cause harm with individuals using their premises so it is monitored very closely and that is as one would expect.

**4.8.5 Deputy R.G. Le Hérissier:**

Notwithstanding the good work of the Jersey Gambling Commission and the fact that the Minister wishes to avoid complacency, could the Minister tell us what proportion of the revenues of the Jersey betting industry comes from these terminals and could he confirm that, as in Britain, it is an ever-increasing proportion and they have a vested interest in ensuring the spread of these terminals?

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

Well, I think I made it clear that the spread of these terminals is impossible in Jersey. We have got a limited number of licensed betting offices at 29 and, indeed, it is clear that the terms and the Code make it clear that there is a maximum of 4 of these terminals per premises. That is a total of 92 in total; 116 is potential, that is the maximum, so there is going to be no change in that regard. As far as the other element with the revenues, I cannot give an exact percentage of revenues but the Deputy is clearly correct that there is a significant revenue benefit to operators and that is seen in the U.K. with the results from these particular terminals.

**4.9 Deputy J.A.N. Le Fondré of the Minister for Treasury and Resources regarding the total value of loans entered into or proposed to be entered into by the States of Jersey Development Company:**

Bearing in mind that the Assembly has transferred significant assets into the States of Jersey Development Company at no cost and that the company's accounts are combined with those of the States of Jersey as a whole, will the Minister identify the total value of loans entered into or proposed to be entered into by S.o.J.D.C.?

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

The value of loans to be entered into by S.o.J.D.C. is, of course, because of their commercial undertakings, and the commercial deals that they are putting in place is of course sensitive information and ultimately dependent on the quantum of construction activity commissioned by S.o.J.D.C. and the pre-lets that they are able to achieve to get developments underway. The Deputy is, however, correct that the S.o.J.D.C. accounts are fully consolidated with the States of Jersey accounts and therefore the value of any loans entered by S.o.J.D.C. is disclosed as in the year-end accounting dates. S.o.J.D.C., as the Deputy will also know, produces its own audited financial statements that are lodged with the States on an annual basis as a report. The company's accounts

set out in detail its financial position and activities that the company has undertaken during the year.

**4.9.1 Deputy J.A.N. Le Fondré:**

Just asking the question in response to a comment made by the Minister previously. The issue I am concerned with on the present scheme is about risk and risk to the public purse and, at the last sitting, I asked a question of the Minister for Treasury and Resources which was has the States been required to provide any security or guarantees or any other support in respect of any loans of S.o.J.D.C. or in relation to the Esplanade Quarter Master Plan. Now, the Minister restricted his answer just to the office development whereas my question was wider. So therefore could he answer the question, i.e. in relation to the Esplanade Quarter Master Plan - by which I include the car parking, the office development, everything else down there - has the States been required or is it proposed to give any form of security, guarantee, any other support, letter of comfort, whatever, in respect of any loans of S.o.J.D.C. So it is about the securities and guarantees and that type of thing.

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

I have been crystal clear with the Deputy and I think he knows the answer to this but I will say it again. We are providing a loan for the public car park, which the public car park is being delivered earlier than previously envisaged. That is a good thing;. That is a good thing for commuters in St. Helier. It is a good thing for the Parish of St. Helier. We are not providing any loans, any letters of comfort or anything else in relation to the office development part of it. There S.o.J.D.C. has to operate as a freestanding entity at arm's length, period.

**Deputy J.A.N. Le Fondré:**

That was qualified. That was in respect of the office development. I asked about the whole Masterplan.

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

The Deputy is suggesting there is almost a trick answer in this. The answer is no. The Esplanade Square development consists of in phase one just car park and office development. There is nothing else which is being delivered. There is no residential accommodation. There are no other aspects so no, there is no subsidy or support from the Treasury and the reason why the Deputy is asking this is: is S.o.J.D.C. operating on a level playing field or are they somehow acting not on a level playing field with the support of the States of Jersey funding behind them? The answer is no, not in respect of the commercial office space development.

**4.9.2 Deputy J.A.N. Le Fondré:**

Sorry, to be really clear, I want to make sure this is clear, in respect of the office development which includes, in the Minister's words, the car park and the public car parking, the private car parking and the office spaces... There is no guarantee or as I say security, other support, letters of comfort anything. That is a no.

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

The answer is no.

**Deputy J.A.N. Le Fondré:**

Thank you.

**4.9.3 Deputy J.H. Young:**

I hesitate to intrude in the exchange between the Minister for Treasury and Resources and Deputy Le Fondré but generally speaking could the Minister confirm or otherwise that any financial transaction, whether it be a commitment, loan agreement, any planning obligation agreement, anything of that nature which is carried out by the States of Jersey Development Company is, in fact, in reality, a financial commitment of the States and therefore any risk that is borne, in fact, belongs to the States as a whole. Could he confirm that as a principle?

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

I understand that the Deputy is an accountant. I did accounting training and I think one of the first lessons we learned is what a limited liability company is and what that means as opposed to States entity and individual or partnership, all the rest of it. S.o.J.D.C. is a limited company owned by the States of Jersey so effectively we are saying ... and we operate S.o.J.D.C. in relation to its commercial activities like office development on an arm's length basis.

**4.9.4 Deputy J.H. Young:**

The implications of what the Minister for Treasury and Resources says suggest that the arm's length company that we have formed, which is 100 per cent owned by the States, can effectively take its own risks and effectively be allowed to run into liquidation. I think that is the point I was trying to get clarification on. Are those liabilities in effect because it is a 100 per cent owned company by the States part of our liability?

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

The Deputy cannot make the link with the answer that I said that I am expecting it to operate at arm's length and then jump to the conclusion that somehow as the shareholder, we are going to be content to see the entity engaging in risky activities that would end up being liquidated. Of course not. We want it to be prudent and I refer the Deputy to the earlier question. The office development, Office 1, is going to be 100 per cent pre-let. Office 2 has got to be very, to a great extent, pre-let. It is either nearly 100 per cent or whatever the previous answers are maintained. So no, we do not want them to be taking risks. We are risk averse but we want them to operate at arm's length, in fact, but also the main issue is getting return for public land and a better return for that land for the benefit of the public and our public finances.

**4.9.5 Senator S.C. Ferguson:**

What percentage let must the second building be in order to commence construction, and is the Minister not aware that the S.o.J.D.C. accounts are going to be consolidated with the States accounts?

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

Can the Deputy repeat the second question, please? I am sorry, I did not understand it, the second part of the question.

**Senator S.C. Ferguson:**

Yes, is the Minister not aware that the S.o.J.D.C. accounts are, in fact, to be consolidated with the States accounts?

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

I just said that. That is exactly what they are. I said that in my earlier answer so they are to be consolidated. I am sorry, I have missed the first part of the question now, I apologise.

**Senator S.C. Ferguson:**

It makes a change from: "That is a very good question." [Laughter] What percentage of the second building must be let before construction commences?

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

I am just going to get that answer by S.o.J.D.C. in a second when I get questions without notice just to be absolutely clear. It is a very, very high percentage and it has got to be sufficient in order to provide the return back to the States but I will get that percentage for the Senator.

**4.9.6 Deputy J.A.N. Le Fondré:**

Given that the Minister for Treasury and Resources has stated that the S.o.J.D.C. is a company at arm's length, and basically we are letting it run its course effectively, and it is arm's length, and is on an equal level playing field of any other developer in the private sector, why has he transferred hundreds of thousands of square feet of extremely valuable waterfront property to S.o.J.D.C. at zero cost and why is he involved in its promotional material? How does that fit in with the claims of a level playing field that he was making just today?

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

Right, promotion. This came out of the email exchange which I had to answer with the media a few days ago.

**Deputy J.A.N. Le Fondré:**

Can I clarify, Sir?

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

I was asked by a journalist why the Chief Minister and I were quoted in a brochure by the J.I.F. - it is the Jersey International Finance Centre as it has been branded - why the Chief Minister and I had an introductory statement about the importance of Jersey for that which was certainly promotional material that we used when I was in the Middle East and quite right too. The Chief Minister and I and the Minister for Economic Development all promote Jersey and whether or not it is any entity in Jersey, we will provide supported remarks so that deals with that and I answered that. The Deputy also talks about transfer of land. There may be transfer of land at zero cost but the company has to reflect an appropriate valuation and value of that land and we have moved on massively from a world in which previously, for example, the Radisson Hotel what I think was a zero return to taxpayers. Esplanade Square is returning real value for public land for their entities and the value of it, whether it is owned by the States of Jersey or moved to this entity, providing the accounting is done on an arm's length basis and the whole commercial transaction is the value that you move and whether or not you get your money now or upfront which is the heart of the value which I think is the Deputy's question, it has been moved without a payment upfront, is an issue which does not affect the entity's ability to operate at an arm's length basis.

**4.9.7 Deputy J.A.N. Le Fondré:**

Can I just follow up? Given that, I believe, the Senator's photograph appeared above the phrase or something the equivalent of: "A unique investment opportunity" I believe was the expression - I might be slightly wrong but "investment" was certainly in there - will he and the Chief Minister and the Minister for Economic development be offering the same type of promotion slots, if you like, to the private developers that have schemes in hand?

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

It might surprise the Deputy but I think I have done that for years when I was the Minister for Economic Development, when I have been discharging other functions. I will go out and celebrate

and promote Jersey anywhere whether or not it is in Westminster as I was doing on Wednesday, in London, or doing things on Friday with High Commissioners from other entities.

[10:45]

I will do it for anybody providing it raises the prospect of Jersey and does good things for Jersey and I think the Chief Minister would say the same and the Minister for External Affairs and the Minister for Economic Development. We all will. Give it to us and we will promote it because it is good for economic growth in Jersey and good for jobs.

**Deputy J.A.N. Le Fondré:**

I am delighted to hear it.

**4.10 Deputy R.G. Le Hérissier of the Chief Minister regarding the recruitment and training of local residents:**

Given the anticipated increase in construction activity, what steps if any is the Population Office taking to ensure that increasing demand for skilled labour in that industry will be met by increased recruitment and training of local residents rather than by immigration?

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

It is essential that increased activity in the construction industry supports the employment of 'Entitled' and 'Entitled to work' people. The Population Office will prioritise local people and contractors through the use of the Control of Housing and Work (Jersey) Law. If specialist contractors are needed, time-limited licences will be issued wherever possible. We will continue to provide training and advice for jobseekers. The Back to Work team helped 258 jobseekers into the construction industry in 2013 and the Trackers scheme currently has 57 construction apprenticeships.

**4.10.1 Deputy R.G. Le Hérissier:**

Thank you. Could the Chief Minister inform the House what the actual policing of this will be and is he at the moment aware of the profile of the major companies involved? For example, is the profile one of apprenticeships and people moving up through the organisation or is the profile one largely of labour having been imported?

**Senator I.J. Gorst:**

This is part of the process that Members were made aware of of how we are going to try and deliver on policies over the next 2 years looking at exactly these profiles and bringing them more into alignment but if we take the industry overall or in the 2013 manpower return for June, it was employing 4,940 staff. Of that, 4,720 were Entitled or Entitled to work so it is making sure that when there is a growth back in that industry that that growth is populated by Entitled and Entitled to work. I received information from his own department in answer to this question that they are proposing 25 to 30 new construction apprenticeships during 2014. I do not think that that is ambitious enough. I think we are going to need to do more.

**4.10.2 Deputy G.P. Southern:**

Does this mean an end to what is called short-term contracts in this particular area in construction where short-term meant up to 2 years wherein subcontractors or contractors could import labour almost willy-nilly?

**Senator I.J. Gorst:**

There are 2 sorts of licences here. Local companies are issued with licences every 3 years alongside other companies and obviously non-resident businesses apply for a licence for each contract and that is where the idea of subcontractors comes in. As I have said, it is making sure not only the local companies with their 3-year licences who are, I think it is fair to say, working closely with Social Security, with the Population Office and doing their part with regard to training. It is making sure that subcontractors' licences are appropriately controlled on a time-limited basis and that they support the overall purpose of the Population Office.

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

A supplementary if I may. Is the Chief Minister confident that when construction takes off, we have, let us say, the next 1,000 workers in the construction industry ready and waiting to go or will a proportion of those be imported inevitably because we have not got enough staff?

#### **Senator I.J. Gorst:**

As I said, the construction industry is currently engaged with Social Security. The number I gave out right at the top of this answer shows that they have been doing so over the last number of years but they know that they are committed to increasing specialist schemes, I suppose, to deal with construction. Let us be clear that the construction industry will not see a simple spike in activity. It will spike in activity over the next 2 or 3 years and I was talking to the new Housing Chairman about this only yesterday so we have got some latitude in time to do that. Social Security are bringing forward new schemes as we speak. I believe that we are going to see the same and greater results from those schemes and we have got to remember that some of the increase in construction is going to be driven by public sector spend. We already have in the procurement process, which the Skills Executive and Skills Board fought for, the need to provide local training opportunities for those tendering for States projects. So all those pieces of work are going to be aligned. They are going to be increased. As I have said, I think Trackers needs to get more people in and they need to be more ambitious in the number of apprenticeships that it is working with the Construction Council in delivering.

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

My concern is how is the Chief Minister going to deal with the "white van man" scenario that is going to arise here because presumably he is aware that it is not unusual for the construction industry to employ subcontractors for just a week or so of plaster or whatever and we also remember some time ago when Social Security decided to do a raid on the Waterfront but when they arrived, it was like a public holiday, everybody had gone and came back later that day. How is he going to monitor the situation and ensure that we do not have a large influx of immigrant workers who are not known to Social Security, do not pay I.T.I.S. (Income Tax Instalment Scheme) and so forth?

#### **Senator I.J. Gorst:**

That is one of the reasons that we have brought in the new law. Those individuals will now have to be appropriately recorded at the Social Security Department. They will have to have their new card and we will be checking up on employers and those who are making use of subcontractors to make sure that they are complying. We have got more people ... I see the Deputy next to the Deputy who asked the question appears to be nodding his head not in a favourable manner but he knows that more resources have been put in and he should be pleased about that because that is one of the issues that he has been banging on about for a number of years. Ministers have listened, the department has listened, and we are committed to making sure that a difference is made in this particular regard. It is important. I would just say that when I was Minister for Social Security, we did send people from time to time down to the harbour to check on "white van" people coming so that we could see a trend of what was happening.



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

The Chief Minister will not be surprised at the amount of scepticism in this House over the population policies and their ability to control in the past. As far as construction is concerned, we are told that, yes, the industry is expecting increased orders not least from the States. How much training has the Chief Minister and his Ministers engaged in in training proper plumbers, carpenters and all the others for the construction industry that we require over the last 2 or 3 years so that when the demand does come, it can be met from within the Island because the truth of the matter is if the demand comes faster than the training that you are talking about doing in the future, then you will immediately abandon this policy and allow anybody in to get the jobs done. Is that not the case?

#### **Senator I.J. Gorst:**

Absolutely not. The Deputy knows that. If he was listening to my answer at the top of the question, he would know that we are absolutely committed to it. As I said, there are a number of apprenticeships that will be coming on-stream during 2014. No, the Deputy - I will not say on purpose - seems to be not remembering the numbers that I gave but we need to be more ambitious and that is absolutely right but I have no doubt and I am confident that that is exactly what Social Security, what the Education Department and what the Skills Executive are absolutely committed to. They were the ones that wanted to get training into the procurement for the States system in the first place. We have done it, we are starting to deliver. Sometimes it would be nice if the Deputy recognised the hard work that many members of staff are doing to deliver on what is his priority and what are Ministers' priorities as well.

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

Supplementary. The Minister still really has not answered the question. What training has the Chief Minister and other Ministers done during the recession because it is a collective thing of the Council of Ministers? We have a situation where Social Security does a lifting course or a first aid course. Where is the real training going on not just a few apprenticeships but training for people for the industry? What is the Chief Minister going to do to try and deal with what will be a supply bottleneck of skilled workers when the recovery does come?

#### **Senator I.J. Gorst:**

That is the first time I have heard the Deputy in this Assembly in all the time that he has been elected to be positive about Jersey's future. **[Approbation]** I am absolutely ... in fact, I am perhaps overwhelmed that the Deputy now thinks that we are going to see an economic boom and I am pleased to be able to acknowledge his comments about the positive future that Jersey has. I would like to say to the Deputy perhaps he would like to go and visit the Minister for Social Security and see the great work that they are doing, the training that they are giving people. I said at the opening of the question 258 people entered construction in 2013. That does not happen by accident. That happens by a lot of hard work from the department and from those individuals who are out of work taking advantage of those training courses, of that investment, and getting into work. Perhaps he would like to go and visit the Education Department and see the work that they are doing with the Construction Council in getting people into apprenticeships, real apprenticeships, along the lines that the Deputy wants, builders, people into the construction industry.

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

How many plumbers and carpenters?

#### **Senator I.J. Gorst:**

Perhaps he would like to go up to Highlands and see the great work that is happening day in, day out on training people to get ...

**The Bailiff:**

You are going to give a concise answer to this?

**Senator I.J. Gorst:**

I am, Sir. Perhaps he would like to go and see the work that is already being undertaken that we are expanding and increasing to deal with the issues that we know are around the corner.

**4.10.7 Deputy R.G. Le Hérisier:**

There is a very big developer on a St. Saviour site who has a big sign saying: “£1 million spent on trainees and graduates” which is good but can the Chief Minister confirm that there will be required of each major contractor on the major States contracts that are now lining-up a training plan required and that it will be policed so that we do not follow the easy resort of immigration?

**Senator I.J. Gorst:**

It is somewhat ironic that the Deputy is asking me to intervene in his own department when he is in the position to do exactly that. I support his intervention. I hope that he will hold his department and the Skills Executive’s feet to the fire to ensuring that that is exactly the case. The Skills Executive, as I said earlier, already have successfully lobbied for ensuring training opportunities in States procurement processes and I hope that they will continue to do that and that there will be proper plans in place when those procurement contracts are being delivered upon and I have no reason to doubt that that is happening right now today.

**4.11 Deputy J.H. Young of the Minister for Transport and Technical Services regarding the recent increases in bus fares:**

Will the Minister inform the Assembly whether he was consulted by CT Plus before the recent increases in bus fares and is he satisfied that the company’s decision not to review their fare bands A and B and to continue to set a universal fare, previously £1.20 now £1.30 on all short journeys between any 2 bus stops, is both reasonable and likely to produce the increase in bus usage required?

**Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services):**

I was indeed consulted by Liberty Bus about the revised bus fares effective from 1st February 2014. As a result, the initial proposal that was presented by Liberty Bus has been further developed. Now that the AvanchiCard electronic booking ticketing system is available to all customers, prices of the most popular prepaid unlimited travel tickets have either been left unchanged or even reduced and although on-bus cash fares have gone up, this is for the first time since January 2012. I can confirm that the fare bands currently applied to Liberty Bus services remain identical to those inherited from the previous operator. However, I agree that once the rollout of AvanchiCard is complete, it would be worthwhile reviewing the existing arrangements. It may be desirable to refine these fare bands in future so that the price of a bus journey more closely reflects the distance travelled.

[11:00]

**4.11.1 Deputy J.H. Young:**

I thank the Minister. Could he give us an estimated timescale on this next stage review which I think he has suggested?

**Deputy K.C. Lewis:**

Liberty Bus are trying to roll out the AvanchiCard as soon as possible. It is a modal shift which is encouraging a shift to the AvanchiCard prepaid tickets by discounting their prices compared to the bus single fares which will minimise cash handling and reduce boarding times. This is exactly what happened in London over the last decade where the Oyster card is now practically universal.

**4.11.2 Deputy G.P. Southern:**

If I may, could he clarify whether this change in London has produced a marked increase in bus usage?

**Deputy K.C. Lewis:**

I believe it has and also bus efficiency because the boarding and alighting times are, in fact, much quicker.

**4.11.3 Deputy M. Tadier:**

Will the Minister confirm that the pay-as-you-go AvanchiCard offers a discount to cash paid fares? Is this currently the case, the pay-as-you-go AvanchiCard as opposed to the *abonnement* that you get for the month?

**Deputy K.C. Lewis:**

Indeed. The AvanchiCard unlimited travel tickets being reduced in prices are the weekly AvanchiCard, which was £20 is now £19.50 and the monthly £52 card is now £49.

**4.11.4 Deputy M. Tadier:**

I was asking specifically about the pay-as-you-go which you do not buy for a period but you use it as and when you want to. Is there any advantage for users apart from not having to use cash? Is there a price advantage to using an AvanchiCard pay-as-you-go rather than paying cash and if not, why not?

**Deputy K.C. Lewis:**

I have not got that exact band with me but I would be more than happy to clarify that with the Deputy.

**4.11.5 Deputy J.H. Young:**

Would the Minister not accept that given the public cost of meeting infrastructure, investment in our roads, the fact that our road network is at critical capacity, that there is a real case here for some out-of-the-box thinking and, in fact, thinking about fare reduction to achieve a major switch on to our buses rather than this kind of piecemeal sort of incremental approach to an old out-of-date fare. We should have some new out-of-the-box thinking with price reductions being considered.

**Deputy K.C. Lewis:**

We are well and truly out of the box. As I have just illustrated, prices for the cards have gone down and they promote greater efficiency on the buses. As I mentioned previously, bus fares have not gone up for 2 years but pegging the prices for the AvanchiCard will increase bus ridership.

**4.11.6 Deputy J.H. Young:**

I think the Minister is relying obviously on the AvanchiCard but is it not true that there is no real difference between what you end up paying on an AvanchiCard that is not time-limited. It is only 10 pence now. That is the only difference, 10 pence per journey as a result of this change. Could he not confirm that, that there is no real substantial difference between a prepaid AvanchiCard and a cash card and is that not what he should be looking at changing and then providing a better discount as in London?

**Deputy K.C. Lewis:**

I would like to roll-out the AvanchiCard over the entire system, be it car parks and buses together. There is money to be saved here and that is what we are progressing.

**4.12 Deputy G.P. Southern of the Chief Minister regarding net immigration and growth in the population:**

When will the Chief Minister present the States with a long-term population policy to replace the interim measures and will he explain to the Assembly how the figure of 325 net immigration was chosen and whether he is concerned that this figure could lead to growth in the population to 110,000 plus by 2035 breaching the limit set in the Strategic Plan 2009-2014?

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

The interim population policy relates to 2014 and 2015 and will be succeeded in 2016 by a long-term plan inclusive of a long-term population policy. This will be considered by the Assembly in 2015. In the meantime, net immigration of plus 325 is a policy of stability. It upholds the planning assumptions underlying our existing long-term policies and maintains the size of our workforce as our population ages. As to the level of population in 20 years' time, that will be for the long-term plan to determine. I would stress, however, that our long-term debate should not focus simply on the size of our population but on the range of policies we develop to secure a sustainable balance between the needs of our community, our environment and our economy.

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

If I may. I thank the Chief Minister for his answer and that it will be a full proper policy by 2015 presented to this House. That is an appropriate timescale but does he recognise that there are only marginal differences in dependency ratio as we look at the range of scenarios for net immigration presented in the population figures produced by the Statistics Department and does he not accept that starting with 325 is not about stability, it is about growth?

**Senator I.J. Gorst:**

I do not accept that. It is quite clear, as I said, that that is what the current policy is and in the period that we need to develop the long-term plan, it seems to me absolutely reasonable that we maintain our workforce level and that seems quite straightforward and appropriate.

**4.12.2 Deputy J.M. Maçon:**

Given that the Chief Minister has said that a long-term population policy should be coming forward in 2016, given that we were supposed to be debating a proper population policy last year but only getting an interim one recently and we cannot bind whatever the next Assembly is going to do, how can the Chief Minister expect this Assembly to believe that - no aspersions on him - by the way of process, how can we possibly accept that?

**Senator I.J. Gorst:**

Because we are totally transforming the way that we plan for the future and I do not think any Member in this Assembly believes - and I say that with authority because every time this Assembly has stood up and debated a Strategic Plan there have been moans and groans from across the Assembly that it is not long-term enough - that it is not really looking at the strategic issues, it is simply looking at policy decisions over the next 3 years. We need to almost lift up our heads, develop a long-term policy, look at the balance that we need to deliver between the environment, the economy and the community, look at the Jersey we want to see in 20 or 30 years' time and then from that, do the piece of work that needs to take place over the next 2 years. It would be nice if

we could have done it sooner but it is important that we get that proper strategic long-term direction in place first.

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

I must say I have to laugh every time I hear Ministers talk about long-term planning and policies. I have been in this Assembly now almost 6 years and in 2007, you had “Imagine Jersey” and the Chief Minister and other Ministers have been in office for over 6 years and had 6 years to get a strategy and a plan and to co-ordinate population growth in this Island and have failed. How can the Chief Minister give us any confidence that this is not just a ploy before the election to put off the debate about population and really, the Chief Minister is just stalling for time because he failed in the past?

**Senator I.J. Gorst:**

There I was thinking that the Deputy had turned over a new leaf this morning but unfortunately it appears that that may not be the case. If I could remind the Deputy that I have only been in this position working in the way that I have for the last 2 years and we have done a lot of work. No piece of work looking at long-term planning like this has been undertaken previously. Members go back and talk about “Imagine Jersey” but that really was to deal with the Strategic Plan. Yes, it was trying to look at the long term but it was about delivering a policy for the short-term Strategic Plan. It has got to be absolutely right. Everywhere else in the world, major cities and communities are looking about the type of community they want in 20 and 30 years’ time. We have got to do the same. It would be wrong of us not to. We cannot keep going on in the same way that we have been. We have got to think about the type of Jersey that we want and then Ministers will be able to be held appropriately to account by this Assembly to see whether the delivery strategy for the 3 or 4-year period is delivered.

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

Supplementary. Can I ask the Chief Minister then why are we making major decisions about the hospital and other things without population figures and a population policy? The Council of Ministers are already making decisions about the future of this Island based on figures that we do not know and I honestly believe that Ministers - I cannot use the word “dishonest” - but I do believe that it is putting off the inevitable. They do not want the people to know what they are planning for the population of this Island. Is that not the case?

**Senator I.J. Gorst:**

Absolutely not. The Health Department have been clear about the projections when it comes to a new hospital and the inward migration level is but one small component of what is happening in our community. Would the Deputy... that we did not have a new hospital, that we carried on saying we do not want to invest in healthcare services, we do not want to invest in the housing stock and we do not want to develop strategies for the future? I think the answer is absolutely he would not. We are making progress on all these big important issues and planning for the future is part of that. We committed to doing that in the Strategic Plan. This Assembly approved that. The policies that we have brought forward around redesigning our healthcare, around the new hospital, around housing, have all been agreed by this Assembly.

**4.12.5 Deputy T.A. Vallois of St. Saviour:**

The Chief Minister stated that the interim population policy was based on stability. Could he therefore advise why it is only being addressed in the last year of his term and not his first when engagement and appropriate public debate could have been had?

**Senator I.J. Gorst:**

Quite clearly because we are now in a position that we have got the Control of Work and Housing (Jersey) Law which is what my department and Ministers were working on to deliver to get mechanisms to be able to for the first time deliver on a number like we are proposing albeit it is a target, albeit we have recognised it is going to be difficult but we have now got some legislation in place that is going to help us to deliver on that. The delivering of the law was the first part of being able to deliver a strategy in due course.

**4.12.6 Deputy M. Tadier:**

Will the Chief Minister admit that this talk about limiting to 325 increase per year is simply a fantasy and political posturing in an election year and that when push comes to shove, apart from a few very ineffectual and draconian housing and work requirements, that there is nothing that this Assembly can do to stop migrants coming into Jersey because we are part of the common travel area and we are not an independent State which has work permits and visa requirements that it can issue?

**Senator I.J. Gorst:**

I do not agree with that at all. As I have said, the policy brought forward is one of stability. It is the right thing to do while we develop the long-term Strategic Plan and I think it is an appropriate policy. It seems that those who want to close the door are criticising us because the number is too great. Those who want to open the door wide without any control are criticising us because the number is too small. That tells me one thing. It tells me that we have probably got it about right albeit that it has been difficult to deliver on it. We want to see economic growth. Even the Deputy has admitted that we will probably see it in the next couple of years but at the same time, we want to make sure that jobs in our economy are for those who are entitled and entitled to work.

**Deputy M. Tadier:**

Can I ask a supplementary? Sir, as a point of order ...

**The Bailiff:**

I am sorry, I am going to have to bring it to an end.

**Deputy M. Tadier:**

I think the Chief Minister is misleading the Assembly and he does not agree at all. Does he not agree that we are part of a common travel area and that we are not independent? Can the Chief Minister at least agree to those 2 points?

**Senator I.J. Gorst:**

I think the thrust of his question was that this was political posturing and that was what I did not agree to. Of course I agree that we are part of the common travel area because I answered a question about it at the last States sitting.

**4.12.7 Deputy G.P. Southern:**

I fear the Chief Minister rewrites history when he says "Imagine Jersey 2035" was not a long-term plan but does he not accept that continuing with a policy of plus 325 in net immigration is just extending the failure of his and previous Council of Ministers to control population at all because the reality is for the past decade, we have had an average of 600 net immigrants when the target has always been 325.

[11:15]

**Senator I.J. Gorst:**

That is why when I answered Deputy Vallois' question that this has been a process delivering the law in which it is going to help us to act more upon delivering this number was the important first step for this Council of Ministers. That is what we have done. Some of the Members who are criticising me for bringing forward a population model and bringing forward this particular number are Members who in other guises go to my department and say that employees should be given more non-local licences. Perhaps it is about time they joined this debate in an appropriate manner and recognise it is about delivering balance. It is about delivering economic growth and it is about delivering jobs for those who are already in our community

**The Bailiff:**

I will bring you to a close, Chief Minister. We are running short of time on questions.

**4.13 Deputy G.C.L. Baudains of the Minister for Treasury and Resources regarding the insurance of Jersey Electricity Company's undersea cables:**

Will the Minister, as shareholder representative, advise whether the Jersey Electricity Company's undersea cables are insured?

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

The 2 existing subsea cables between Jersey and Guernsey and Jersey and France are both insured on commercial terms. The current policy, I am advised, covers damage by third parties, such as a cruise liner dragging an anchor through a cable and causing breakage. J.E.C. (Jersey Electricity Company) holds spare cable, I am advised in Holland, and have a maintenance contract with a third party with access to a repair barge so that any such repairs could be expedited.

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

We know that as a result of the failure of one of the cables electricity had to be supplemented from La Collette, which is more expensive and caused a rise in the cost of electricity, but why was insurance not able to mitigate that problem?

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

I think the Deputy is referring to the earlier power outages, when the first cable failed. I think the difficulty with that is, is that that cable has come to the end of its useful life. That is why the J.E.C. for a number of years have been planning the new third cable; the first cable effectively came to the end of its useful life, even though I have to say the J.E.C. did a great deal of work to try and see - because planning permission is required in France - whether that cable could have been replaced but it is just an old cable that unfortunately came to the end of its life.

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

I mentioned a moment ago that the necessary generation at La Collette to take up the slack had caused a rise in the cost of electricity. Could the Minister assure Members that once the new cable is operational the price for electricity will come back down again?

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

I was at the Labour Party leader's speech when he announced price freezes, to the consternation of anybody that agrees in a competitive market. I am not about to announce here. We have had debates previously about electricity prices. The J.E.C. are very sensitive to their role as a partly publicly-owned entity. They need to produce a return to their shareholders, which is not only the States of Jersey, and I understand - I have not got immediately to mind - their commitment on prices going forward. Guernsey have a much greater problem. Guernsey did not plan the safe ...

**The Bailiff:**

I think, Minister, you can probably confine yourself to Jersey.

**4.14 Deputy M.R. Higgins of the Minister for Health and Social Services regarding the importance of the duty of care to staff within the Children's Service:**

What steps, if any, is the Minister taking to facilitate a meeting between the social worker and the vulnerable woman who had a previous offer of a meeting withdrawn or does she consider that there is a higher duty of care to staff within the Children's Service than the vulnerable people they are supposed to support?

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

While I am fully aware of the case that Deputy Higgins refers to, it would be wholly inappropriate to discuss in public the details of any case that could potentially identify an individual. However, on a point of accuracy in the case in question, the meeting was not withdrawn by my department. We have made it clear we are prepared to meet with the individual at an agreed time and location to have appropriate discussions and indeed, as I understand the Assistant Minister gave that offer again 2 weeks ago. What I will say, I repeat my response to the Deputy's written question, is that the Children's Service would and do whatever it is appropriate to meet with vulnerable members of society. Refusal to do so would only be where the circumstances of the individual case deem it inappropriate. I take very seriously my duty of care not just to our patients and clients but to the many staff within the department who work tirelessly to provide that care. That duty does not mean giving priority to one over the other.

**4.14.1 Deputy M.R. Higgins:**

The Minister, I think, has chosen deliberately to not answer what the question was about and she is fully aware of the circumstances. The meeting that I am referring to that was withdrawn was a meeting that was offered by a particular social worker to a vulnerable woman who needed to meet with her. The social worker promised to phone her at 10.30 the following day, did not phone her at 10.30 the following day, did never phone her at all, the woman phoned the department and has been fobbed-off ever since. What I am complaining about is her department are doing everything in their power to prevent that meeting taking place to help that woman who needs to understand why the meeting was withdrawn so she can move on to other people. For the Minister to say her department do everything in their power to facilitate this, they have offered lots of meetings with other officers but not with the social worker, so this person can get the answer they want. They are trying to know the answer. Why can you not arrange that meeting and enable this woman to move on?

**The Deputy of Trinity:**

I am not going to go into specific cases because I have a duty of care, as I said before. That offer was of a meeting with a director and/or Children's Services, and my Assistant Minister, Deputy Martin, did email with a view of a way that we can move forward. That offer still stands today.

**4.14.2 Deputy R.G. Le Hérisier:**

Where there are situations where for various reasons it is not thought, as appears to be the case here, desirable to bring 2 people face to face, does the department have a procedure where a third party could, in the presence of the 2 other parties, help facilitate the process?

**The Deputy of Trinity:**



Yes, there are different ways and we will try and get round the different ways as we see appropriate. That was what my Assistant Minister was trying to do at that level, but there are within the Children's Services a range of organisations such as the Board of Visitors, the Independent Reviewing Officer, the N.S.P.C.C. (National Society for the Prevention of Cruelty to Children) advocacy service and the guardian through courts.

**4.14.3 Deputy R.G. Le Hérissier:**

Just a follow up. Could the Minister outline the circumstances in which she thinks a third party would be useful?

**The Deputy of Trinity:**

Wherever way that we cannot find a way forward. But, as I said, the Assistant Minister has offered that and our offer still stands today.

**4.14.4 Deputy M.R. Higgins:**

I am afraid this is another example of the many failings of the Children's Service and the Minister's department. We have already seen, for example, the Scrutiny Committee hearing evidence, including about 3 serious case reviews that no one knew anything about, and people have died before these reviews are taking place. What about all the other people who are being failed by the department? What I would ask is - going back to Deputy Le Hérissier's thing - if the Minister can facilitate a meeting with a third party and the social worker and this woman we can all move ahead and help this family that desperately needs help. Will the Minister arrange that meeting with the social worker and a third party so we can move forward?

**The Deputy of Trinity:**

First of all I would like to refute what Deputy Higgins says. The Children's Services work extremely hard with other agencies, both voluntary and the community to provide the best possible care for all children in Jersey. It is a very complex case and they do their utmost and they work extremely well with other bodies, and I really refute that. As regarding serious case reviews: that is the independent chair of the Joint Safeguarding Board. I would like to take this opportunity to, and I hope the *J.E.P.* will correct it, that the headline on Friday was totally, totally wrong. As regarding the third party, I am open to, and I will say that again, the Assistant Minister has offered a way forward and I suggest that Deputy Higgins and my Assistant Minister work together to find that way forward.

**The Bailiff:**

We come to the next question which Deputy Tadier will ask of the Minister for Home Affairs. No, he will not, he is not here.

**4.15 The Connétable of St. John to the Minister for Treasury and Resources regarding the new billing system used by Jersey Telecom:**

Further to the introduction of the new billing system by Jersey Telecom, can the Minister, as shareholder representative, detail the number of complaints received since this new system began, including how many related to the small font size, the format of the bills; the cessation of cheque payments; charges for non-existent items such as broadband or additional phones, or the length of time it took to process a complaint?

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

The change in the J.T. billing system was, in reality, quite a fundamental and wholesale change to the systems that J.T. uses to provide management information, deal with customer services, run

their business and billing. It is, in fact, J.T.'s whole trading system and operating platform. The previous system was out of support and it was in fact probably the most significant risk that the business faced. Extensive changes of this nature are extremely challenging to all businesses and J.T. has widely acknowledged that there have been difficulties and there were going to be challenges before the issue happened. The C.E.O. (Chief Executive Officer) wrote twice to every customer and every customer was aware of the changes that were going on. On average, J.T. receives, I am advised, 1,200 billing queries into its contact centre per week, and while this number increased quite substantially in November and December immediately after the migration to the new system, from 4th December the number of calls has now returned to normal. The Connétable asks about complaints. J.T. differentiates between queries and actual complaints. As far as complaints are concerned, there have been 89 received since the introduction of the new billing system, 9 of which remain open. There are none for the small font size, 8 for the layout and format, 8 for the withdrawal of cheque payments, 6 in relation to charges and 15 in relation to waiting times at the call centre. J.T. acknowledge that this has been extremely challenging and they are working hard to resolve the outstanding issues as quickly as possible. J.T. have committed to me to review all feedback following the bedding-in of the new system and they are open to alternative and further improvements in the billing system that has now been rolled-out, and it is a substantial improvement for what was previously the billing system.

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

Given the Minister's reply, can he please explain the time lag in dealing with complaints because I have got papers here that prove, as far back as 1st January this year, a telephone complaint about a broadband charge where there is no broadband on this particular telephone. There was a returned call on 8th January stating that the charge would be removed from the billing and as of last week the billing is still being charged. Can he explain if complaints are dealt with and within the period of time, as he quoted a few moments ago, how come these things are still going on in longer periods, i.e. over a month to deal with one complaint?

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

The Assistant Minister and the Treasurer and I had 3 hours with the Chief Executive of J.T. and the Finance Director and the Operations Manager yesterday to prepare exactly, as the Connétable would expect, for difficult questions about what has been a difficult transition. We reviewed detailed information from the call centre, the amount of calls going through, and there were unacceptable delays in November and December. The data that we reviewed last night showed that improvements are now rapidly being made and complaints which are elevated to the Chief Executive himself to personally deal with are now falling rapidly in terms of their number. If there is a particular constituent I will personally pass that on to the Chief Executive who will respond to the issue. This has been a difficult rollout, it is a challenge for the company, but the company is in a much better position with a much better billing system, which customers are going to benefit, but there have been problems, and that is acknowledged by J.T.

[11:30]

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

The problems, if I could put another supplementary, the Minister said there were problems in November and December. My own account, dated 27th January, we are still being told that there are delays on invoice billing for the last couple of months. It is still ongoing so when are we going to see the bills coming out on time, given that this is a States 100 per cent owned company, that we get our money in on time, we are running weeks behind?

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

The new billing system, and the whole new ... and it is not just a printer that deals out with billing. This is fundamentally a completely new system to have J.T. to be operating ... the old system, as the Chief Executive explained, was in a world which did not have broadband, it was a States department, mobile phones were something that was talked about on *Tomorrow's World*. The new system is a new system capable of getting J.T. to run its business properly and to maximise its accounts receivable and to deal better with customer service. There are still problems and they are resolving them. They have put additional resources into their call centre. There are normally about 40 people in the call centre. The numbers of calls that went into the call centre I think virtually doubled. They are resolving issues. If people get on to the call centre J.T. will resolve those issues, and if they need to be elevated the Chief Executive was in the call centre himself last week, as I would expect a hands-on chief executive to be.

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

Once again you will cut me off at the knees.

**The Bailiff:**

I am amazed you are not much smaller. [Laughter]

**The Connétable of St. John:**

I am shrinking, Sir. One of the big complaints though is the font size. Look at the font size, and this is a photocopy of my own bill. The font size is so small for elderly people, and we have a lot of people who keep their telephone solely because it is the only means of contact, when they get the bill they have difficulty in reading it. It is done in this pale green colour, which does not stand out. Could they please look at putting something that is user friendly, nicely bold, so that the size and the font and the colour stand out? There was nothing wrong I am told with the old billing system, and I would agree with them, as far as the face and the presentation. Could that be looked at please?

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

The Assistant Minister will bear me up; we really did go through in detail with J.T. about this. I have to say, J.T. ran a focus group which included the Senior Citizens Association and they got feedback ... in fact one of the areas that J.T. did in reality probably, was that they listened to a focus group of the complainants that wanted improvement and one of them was - and I have got an example of a bill on my iPad - what customers wanted, what senior citizens wanted, was to know what the amount of the bill was in big font, so I do not know where the Connétable has got his bill. But the font size of what is owed is right in massive great big print. J.T. is almost like a Minister, they cannot win either way. They did consult with the Senior Citizens Association, they did have a focus group and people still are not happy. What I am confident of is that they are continuing to listen, that this new system will deliver far better information to all types of customers, will deliver real-time information to people about their bills and J.T. are listening, as I would expect them to do, they are a communications company. But if the Connétable wants to come in to see them I am happy to take him by the hand and get an iPad for him at the same time. [Laughter]

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

I had a meeting with them for several hours in December. Members will see the font size of a bill, which is a standard ... I have a number of lines and really you need a magnifying glass or, in my case, I have to hold it out there. Will the Minister please take that on board? I am speaking on behalf of the many people who have contacted me about this.

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

I often stand in this Assembly and say: “Yes, I will listen to the issue and I will respond to it.” We have a board who is charged with managing this company on the people of Jersey’s behalf. They are well aware of the issues. I see a number of Members gesticulating and saying: “That is not true what the Connétable is saying. Bills are clearer ...”

**The Connétable of St. John:**

Point of order.

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

No, I am not giving way.

**The Connétable of St. John:**

I did not say any untruths. The facts are there and you can see them for yourself. If any Members have got a problem there they are.

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

J.T. has dealt with a big issue. They have learnt lessons. They have been contrite. They have responded. They have put more resources in and they will continue to improve the billing information, which at the end of the day is designed to give customers better, more detailed, information in real-time about their bills. They have learnt lessons and it will continue to be improved. People need to call J.T. if they have got problems; they will respond.

**The Connétable of St. John:**

You cannot get them on the telephone.

**The Bailiff:**

I am sorry, Connétable, I had in fact forgotten that I had seen Senator Ferguson’s light before allowing you so many.

**4.15.5 Senator S.C. Ferguson:**

Just a quick one: the queries towards the end of December will have dropped because the latest bills were much delayed. We had an apology from the company and I will be contacting them later this week about my bill which is gobbledegook. But how much testing was there and how much did the whole system cost?

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

The whole system was £10 million, and we discussed that last night. That gives Members perhaps an indication this was almost a complete rewiring of the entire platform that J.T. operate in. So a big thing. They had 3 dress rehearsals in relation to the data transfer, some of which did not work because of the old billing system with the data that the old billing system have simply being completely inadequate for customer needs, which has ended up with some mistakes being made. I cannot add any more than that.

**The Bailiff:**

That brings questions on notice to an end so we will now move to questions without notice and the first period is to the Minister for Treasury and Resources.

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

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

My question is related to the Esplanade Car Park site. Were the Esplanade Car Park site to be pre-let and built what contingency does he and the Resources side of his department have to balance the migration of perhaps 1,250, in my calculation, 1,400 office personnel for this part of town and to encourage the re-use of secondary office accommodation in the traditional centre of St. Helier?

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

I am sorry, I do not understand the question. Forgive me, I just do not understand what the Deputy... I do not want to take up valuable time, is he asking about the car park or the consequences of development on Esplanade Square? Forgive me.

**Deputy S. Power:**

I will rephrase the question. The States of Jersey Development Company is proposing to build somewhere between 160,000 and 250,000 square feet of offices. That will incur a migration, by my calculations, of about 1,250 to 1,400 office workers to that site. What contingency has he got or has his department got for the re-use of secondary office accommodation in the traditional centre of St. Helier?

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

New office development, Grade A office accommodation, is clearly being provided in both Esplanade Square and on other competing sites in St. Helier. As the Chairman of the Planning Panel I note his observations on the Esplanade Square scheme, he clearly knows quite a lot about the other sites and this whole issue, so he knows the Grade A space that is going to be provided on the Esplanade. I agree absolutely with the important opportunity it provides itself with office of substandard and traditional offices which used to be residential being made available for residential use and regenerating town, and that relates to the questions earlier, and we must work together with the Minister for Planning and Environment on regenerating opportunities for which there are huge, exciting opportunities for the regeneration of town for residential and other community uses.

**5.2 Connétable J. Gallichan of St. Mary:**

I am sure the Minister will be pleased to hear this is going to be something completely different. In the sadly lamented absence of the Deputy of St. Peter I recently attended a meeting of the *Le Réseau de Femmes Parlementaire*. The subject of the conference was *Une meilleure représentativité des femmes aux postes de décision* and I was interested to learn that in a number of countries the state-owned enterprises have a structure whereby a certain proportion of board members must be made up of women. I wondered, as the shareholder of a state-owned enterprise, whether the Minister would consider any legislation or any guidance along these lines?

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

That is a good point and I will take that on board in relation to the board appointments that we have, however I would politely say to the Connétable if she wants to attend upon the Treasury, sometimes Deputy Noel and I wonder whether there are any men in the Treasury. I am not going to say “dominated” but the Connétable would recognise that we have got a great deal of very professional, high-ranking women in the Treasury, and now in other States departments. While I do not support legislation I certainly support an equality and *peut-être je devrai répondre en français, je suis d'accord avec la Connétable*.

**5.3 Senator S.C. Ferguson:**

In a power cut all fibre connected dwellings with landlines but without much battery will be cut off. Not only will you be cut off but very often you will have to reboot the router, to which the moral is, if you are a more mature person with fibre connections you need to get a battery installation. Will

the Minister, a shareholder, put it to J.T. that they should publicise the necessary additional provisions required by subscribers?

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

Yes, I agree.

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

Would the Minister, as the sole shareholder in J.T., comment on the situation where small companies are feeling unfairly penalised when J.T. acts in its role as the renter of wholesale lines? Where, for example, work is done and then it appears the contract to which that person is working is undermined by J.T., where it appears there are cross-subsidies from the infrastructure network to offer cheap retail offerings, where it appears there are maintenance contracts offered, which have not been agreed in broad terms with the regulator. Would the Minister not acknowledge that the situation is utterly unsatisfactory and will only be resolved by complete separation?

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

We had a big conversation with J.T. last night, as I indicated previously, and the issues that the Deputy raises, of which some we explored. To be clear there is a separation of roles between the shareholding function and the regulator. I realise that I have a lot of work to do in the next few months, with my excellent colleague, the Minister for Economic Development, on the whole issue of data costs. There is a lot of talk about J.T.'s inappropriate activity or unfair dominant position. That issue should be dealt with by C.I.C.R.A. (Channel Islands Competition Regulation Authority), overseen by Economic Development, but clearly there are tensions that have been raised. I recognise that and it is high up on my agenda to resolve. I have to say in J.T.'s defence they have got answers which satisfy me every time I go with a hard example of where they have acted unfairly but I cannot answer this in 15 minutes. This is a big issue which the Minister and I are both going to be discussing at length and we will talk to Members about their concerns.

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

I wonder if the Minister could reassure me: when will the joint report of the Ministers be completed?

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

I think we have a lot of work to do and I would under-promise and hopefully over-deliver and say that I would want to resolve these issues by the summer break. There is a lot of work to be done on this area, and Digital Jersey is also involved in these discussions now.

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

Has the Minister undertaken any fresh research into mechanisms to raise revenue from zero-rated companies promised 3 years ago, and if not when will he be coming to the States with any proposed or possible ways forward?

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

I refer the Deputy to the comments that I made a number of months ago in relation to that and there is nothing further I can add to the previous statements I have made to this Assembly.

**Deputy G.P. Southern:**

The Minister has failed to deliver his promise.

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

I have not failed. I would refer the Deputy to the previous statements that I gave responding to the very well-intentioned proposition of the Deputy of Grouville, but I am not going to take up question time in repeating things that I have already discussed at length in this Assembly.

### **5.6 The Deputy of St. Martin:**

The Minister is well known for his enormous amount of time and effort that he devotes to his Ministry. But following his recent elevation to Assistant Chief Minister, could he tell the House how he will now split his time between the Treasury and Financial Services?

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

I am grateful for the Deputy's question. Ministers all work hard and I will continue to do whatever I can to discharge my Treasury duties but working alongside the Chief Minister with the responsibilities that we have at Financial Services.

[11:45]

Currently the plan that I have is that I do effectively one day a week on Financial Services and other activities. But long hours and long days are necessary and we have got really exciting - as the Deputy will know - implementation plans for the McKinsey review which is working, which is even convincing Deputy Higgins that we may have a booming financial services again, which I do believe if we do want it. I also have a very good Assistant Minister which acts for me in a seamless capacity. We are a team and he will be getting increased discharging of Treasury functions, as he has done so brilliantly in the term of office following this change. But in reality we have been doing this effectively and operating in this manner for a number of months already.

### **5.7 Deputy R.G. Bryans of St. Helier:**

Is the Minister aware that his comments relating to a figure of future savings of £70 million being sought sends a ripple of concern through a service currently embarked on a public sector reform? Is he aware this could send out the wrong message and if so could the Minister clarify where these savings are to be found?

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

I am very happy to respond to that question. The Chief Minister was earlier answering questions about long-term planning and I think one of the really good things about this Assembly and Jersey politics, even though we like to have a sort of yaboo about it, is our long-term planning. The next M.T.F.P. (Medium-Term Financial Plan) is already being thought about and that next M.T.F.P. is going to require growth in the other areas that question time has been answered about today in terms of health and other areas. If we are going to find new money for health we are going to have to take some money in other areas. That is a debate that needs to happen. We are not going to be in any way saying where those savings are but the really excellent work that the Chief Minister has been leading on modernisation, now joined by the Minister for Economic Development on modernisation, is going to yield some savings and opportunity but it is not only about savings and it should not be about savings. It is about delivering better services to the general public. Of course we are going to need savings but the £70 million number, which may be needed, may be needed until 2020. That is a long way off and is less than 10 per cent overall. All organisations must constantly improve and that is what the States of Jersey is doing and I warmly thank the Deputy for his work on the modernisation agenda and it should not be misinterpreted. We have got some adjustments to make but they are not really radical when one thinks about them and looks at them in the long term.

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

On the theme of the Minister's new promotion, the Minister is of course known for his single-minded energy and commitment to all the political roles he takes on. I wonder, in his quiet reflective moments, has it occurred the possibility that within the various roles of promoting and regulating the finance industry, being in charge of public finance, setter of taxation and so on, that there may be conflict of interest issues arising? If so, if that does be the case, what arrangements will he make to ensure that that situation is managed?

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

The Deputy I think is being a little unfair. If you think about the roles of other Treasury Ministers in other places, he would see them being very much involved in the area of financial regulation. The budget for Jersey Finance sits with the Minister for Economic Development and it has been kept there for good separation reasons. Financial regulations, one almost might say that the Minister for Economic Development is being responsible for financial regulation as well as promotion had 2 masters. The Minister in his department is responsible, as he said on the radio this morning, for promotion across all industry sectors. What has happened is that the clarification of financial services regulation and, yes, we do have to do tough things to financial services entities, and they have been necessary in some places, and we have to do things that are necessary. So I think it is a better segregation of responsibilities and I am not doing this as Minister for Treasury and Resources, I am doing this as with the support and standing alongside the Chief Minister in relation to financial services. If I can put some of my energy in putting Jersey in a better space in terms of getting inward jobs and growth then I am happy to serve.

**5.8.1 Deputy J.H. Young:**

I am grateful for the Minister's clarification of his intentions. Would he not accept that in the very passion of his advocacy, as he does on everything, the perception he has created often that he is in fact a promoter of the finance industry? Would he not accept that?

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

I am a promoter, as I hope every Member is, of Jersey. Whether or not that is the work that I do in the Middle East, in London, or here or St. Peter Port or in the Isle of Man, I am promoting Jersey and in the interests of Jersey people, and in the public interest at all times.

**5.9 Deputy M.R. Higgins:**

I am glad the Minister mentioned the McKinsey Report because that is what my question is about. The Minister states that he is increasingly optimistic about the future of the finance industry. Why is it no one outside the Executive has seen the McKinsey Report and will he share that report with the Corporate Services Scrutiny Panel so they can see whether his optimism and his bullish view of the future is justified?

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

What you do not do is you do not publish your confidential plans so that the competition can read them. That is why it is not going to be published and that piece of incredibly important research, intellectual work, with the industry and the regulator, is important and it is sensitive. What we will be doing is we will be publishing a new financial services framework, again with the Chief Minister, the Minister for Economic Development, in the next couple of months, which will be the broad principles of where we see financial services, but it will not contain what the competition would like us to do. In the same way the competition would love to know what S.o.J.D.C. is doing, we do not want the competition and we do not want to put Jersey at a disadvantage the strategies we will be doing. It is not Corporate Services which scrutinise financial services, that is the Deputy of St. Martin's Economic Affairs group, and I understand they have been briefed on McKinsey and



as they should be. So it is not Corporate Affairs it is the Economic Affairs Department and they have been, as I understand it, briefed.

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

There is a big difference between a summary or a briefing and seeing the figures and being able to decide whether what we are being told is correct. I find it disingenuous for the Minister to say that we are not going to publish it to the competitors. Giving it to States Members who can properly scrutinise what the Minister is doing and seeing if we are being fully informed about what is going on is not tipping-off your competitors. It is trusting other States Members.

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

I have nothing further to add.

#### **5.10 Deputy C.F. Labey of Grouville:**

Given the Minister's new role with the finance sector, can he confirm he equally supports the agriculture, fisheries and tourism industries and if they too will receive equal assistance and promotion from the Minister for Treasury and Resources, and if so how?

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

I welcome the Deputy's question. Of course all Ministers support all sectors. Financial services provides 40 per cent of G.D.P. (Gross Domestic Product) directly, more on top of it. So proportionally and the crisis that has happened in financial services has meant that we have had to give it more attention. But if I or the Chief Minister or Minister for Economic Development can do any more in terms of raising the profile for Jersey, for agriculture, tourism, the digital sector, Gigabit and fibre is about putting Jersey on the map for technology businesses. We should do so. But it is not a virility contest of who can spend the most time on different areas. I know the Assistant Minister is going to Paris with the Minister for External Relations. The Paris Salon de l'Agriculture, I think that is right. Fantastic. We all need to be doing it. It is not just a one man or one Minister job.

#### **The Bailiff:**

That brings questions without notice to the Minister for Treasury and Resources to a close. We now move on to the period of questions to the Minister for Education, Sport and Culture.

### **6. Questions to Ministers without notice - The Minister for Education, Sport and Culture.**

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

This follows on from the questions that were asked earlier. I was pleased to attend the presentation of certificates to Les Quennevais students last week and was amazed at the ... not amazed but really gratified by the high level of achievement they demonstrated, and also to find out what they are doing now. I was very pleased to see a good number of the students now working either in the construction industry or following construction programmes at Highlands. This good news does not seem to be getting down to even Members of this Assembly. Will the Minister continue to celebrate and to enable the celebration of the value and diversity of our students?

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

I would like to thank the Constable for bringing this subject up. Her final question was will I continue to celebrate the diversity and achievements of our students and, of course, the answer is as the Minister for Education, absolutely. She mentioned the Trackers apprenticeship scheme earlier on in her question. Trackers apprenticeship scheme has been a huge success. We have already

achieved our targets virtually for the 3 years in about 18 months to 2 years. I would like to see the Trackers apprenticeship scheme expanded not only in terms of width and breadth of the opportunities for young people, I would also like to see it extended in terms of numbers. There will be a financial implication to that and I certainly am already working on the next Medium-Term Financial Plan with regard to a growth bid. The most important part of the Trackers scheme that everybody seems to agree is fundamental is this question of mentors, and so I would be very much looking in the next M.T.F.P. to expand the number of mentors and by doing that I will be able to expand the number of apprentices.

## **6.2 The Deputy of St. Martin:**

Does the Minister support the hockey club proposals for better facilities at Les Quennevais?

### **The Deputy of St. John:**

The new sports strategy is currently in the progress of asking for business plans from all the different sports clubs and associations that there are. I feel sure that the hockey club will be in the process of formulating that business plan. If on examination it is robust then I feel sure that as part of the new sports strategy we will be able to assist that particular club.

### **6.2.1 The Deputy of St. Martin:**

I think we all know the importance of organised and structured activities outside of school and the downward effect on antisocial behaviour but if the hockey club are going to get exclusive access to the AstroTurf at Les Quennevais will the Minister guarantee to replace 100 per cent that lost area for the young people of Les Quennevais?

### **The Deputy of St. John:**

I do not want to see any of the facilities at Les Quennevais overall reduced in one way or another. I think the answer to the Deputy's question is that I would support anything that expands the opportunities for out-of-school activity for young children. He is absolutely right. It is key to the development of young people and to avoiding them getting into difficulties because they are bored. So, yes, I would support it.

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

The Minister will be aware that we have a highly selective education system with various tiers of selection, which cut across financial and academic criteria. Does the Minister believe that this system is ultimately sustainable and if not what steps is the department taking to review the pros and cons of our system?

### **The Deputy of St. John:**

The performance of our education system, particularly at secondary level, is quite good when compared and benchmarked against other systems. However, the Deputy is right in that there are elements of the current structure that are socially divisive, and I think most people in this Assembly appreciate that. He will also know that a Ministerial Oversight Group was formed some 9 to 12 months ago to inspect and to look at and think about the structure of our secondary education. At a recent meeting we have opened that out to include Assistant Ministers. There are 5 Ministers, the Assistant Ministers have now joined. At the last meeting I proposed successfully that we carry out 2 reviews. One internal and one external. The internal one will be carried out by the department and the reason that it is going to be internal is that I do not believe that by making it external, which was the original thinking, we will learn anything new about the structure of our secondary education.

### **The Bailiff:**

Minister, I appreciate this is a complex topic but I think you must wind up.

**The Deputy of St. John:**

This is a very complex topic, Sir. I will try to be ... there are 2 reviews if someone wants to ask me another question I will answer exactly what I think they are going to be.

**6.3.1 Deputy M. Tadier:**

I am glad to know the internal inquiry will now be conducted internally. That has reassured me. Will the Minister say which are the elements that are socially divisive? He said that there are elements that are socially divisive; what are they?

[12:00]

**The Deputy of St. John:**

I think the Deputy already knows the answer to this, as again many Members of this Assembly, I have said it on several occasions. We have probably one of the most selective systems certainly in Europe if not the world and there are some commonalities in Guernsey as well in that system. But maybe not quite so much as there is in Jersey. The degree of selection that we have is good in some ways in that it gives extra parental choice. I believe that it does do very well. We do very well for the most able students and I think we do very well for the least able students. I think our special educational need provisions are very good. Where there may be difficulties and where there are areas that we need to think about is in the whole central section of ability range in our students.

**6.4 Senator S.C. Ferguson:**

Given that we seem to be conducting reviews on reviews on reviews, when can we expect to see the results of these reviews because education is one of the most important things that we have got and we cannot just carry on like this? What about looking at the ideas that are coming out of Michael Gove where he talks about making the State schools as good as the public schools? What on earth is going on in the department? We were promised these reviews in 2012, what is happening?

**The Deputy of St. John:**

You can expect them in time for the next election. Education and its structure needs to be a major debating point in the next election. These 2 reviews: one will be on the structure of our current system. That will be the internal one. The other one with some external help will be around what is becoming increasingly a focus of all education systems around the world.

**The Bailiff:**

I think the question was the timing and you have answered that, Minister, so perhaps we can move on.

**6.4.1 Senator S.C. Ferguson:**

Supplementary. Has the Minister not thought of asking the Members of this Assembly who have a very varied educational background for some thoughts from them?

**The Deputy of St. John:**

The education system will need political input and there will need to be political choices. The evidence can be produced in an internal report but at the end that internal report cannot tell this Assembly what to do. There will need to be difficult political choices that will be around that education system. So it will, I feel sure, come to debate at the earliest point in the next political cycle.

**6.5 Deputy G.P. Southern:**

I will try and be brief. When will the Minister come to the House with a plan or proposals for the long-term funding of higher education students since the results of a recent report and survey is done on the issue?

**The Deputy of St. John:**

The U.K. grant system is up for review in 2015. It is not yet clear what will happen to higher education costs in the U.K. It would therefore be premature for me to come to this Assembly with new proposals before I know what that will be. We have already changed the higher education grant system in many ways. In the M.T.F.P., the one that we are currently in, the department applied for increased funding to increase the thresholds and to adjust the thresholds in various ways. This Assembly turned that down. In the next M.T.F.P. I believe that the next Minister, certainly if it was me, would be applying again for increased funding to adjust the grant threshold.

**6.6 Deputy J.M. Maçon:**

Now that the results of the raising minimum standards in mathematics has been produced from the department, can the Minister advise whether a proposal to provide bursaries and grants to local students to take on mathematics and teaching courses to come back to the Island for a minimum period in order to fill the deficit that is currently present with regards to the expertise in mathematics, has that proposal been considered and if not, why not?

**The Deputy of St. John:**

I thank the Deputy for that question because it enables me to answer what the second review will be, which is on how we retain and train, and what are the terms and conditions and all sorts of things around the excellence in teaching and retaining the best teachers. What we need to do in this Island to make a major step-change in that area. Most education systems around the world have now recognised that of all of the things that are affecting education systems the quality of teaching is perhaps the most important element.

**6.6.1 Deputy J.M. Maçon:**

My question was focused on individuals getting into the profession not only to retain them, but also to get them there in the first place and we know there is a global shortage of mathematic teachers and we need to do things in order to encourage that.

**The Deputy of St. John:**

The Deputy is absolutely right, and the review that we will be doing with external help around the quality of teaching will address the very things that he is talking about and we should get the results of that in, I would say, September.

**6.7 Deputy S. Power:**

During the last States sitting the Minister kindly attended a lunchtime presentation by the Jersey Amateur Swimming Association on a 50-55 metre pool project. Has he given any thought to the value or validity of the suggestion to carry out a feasibility study on that pool?

**The Deputy of St. John:**

Yes, I did attend that. It was a very interesting presentation, and I agreed that we would look at the feasibility of the fundamental thing that they were suggesting, which was that the AquaSplash could be modified into 2 by 25 metre pools with booms down the centre. That is an interesting suggestion. There would need to be a lot of work done on the financial implications. Can I just say though that, without wishing to raise expectations too much, of all of the Island Games competitors there is only one, that is Bermuda, that has a 50-metre pool. All of the other islands use 25 metre

pools, and for training purposes it is a 25-metre pool which is the most important, and that is an area that our sports department are looking at, as part of the sports strategy.

**6.7.1 Deputy S. Power:**

May I ask a supplementary on that? Would the Minister not subscribe to the theory that irrespective of the number of jurisdictions within the Island Games competitors that have a 50-metre pool, it would be to underwrite Jersey as a centre of sporting excellence for swimming or it to seriously consider a project such as this?

**The Deputy of St. John:**

There are about 10 50-metre pools in the United Kingdom. The swimming governing body in the United Kingdom says that to be viable they need a catchment of at least 500,000 people. The economic impact or the opportunities that might come from a 50-metre pool in Jersey are not in Education's remit. That is something that we would need input from the Economic Development Department as well.

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

What responsibility does the department have for children's safety when they are being dropped off or picked up by car on the school premises?

**The Deputy of St. John:**

The department has a responsibility but it is a shared responsibility with Transport and Technical Services. Of course children's safety is paramount. Teachers do whatever they can to assist but ultimately T.T.S. is responsible for safety on the roads, ultimately the Education Department is responsible for children's safety, and that is a paramount concern, while children are on school premises. We do however, try to work together as much as we possibly can.

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

What advice does the department give head teachers on traffic management within and around their schools?

**The Deputy of St. John:**

Each school has a 'Safe routes to school' programme and plan. So the school heads develop their own but with assistance from the police and T.T.S.

**The Bailiff**

That brings questions to the Minister to a close. There are no matters under J.

STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY

**7. The Minister for Economic Development - statement regarding the Channel Islands Ferry Service**

**The Bailiff**

That brings questions to the Minister to a close. There are no matters under J. Under K, although it is not on the Order Paper, I think Members have been informed that the Minister for Economic Development wishes to make a statement on the ferry service and he gave notice within the relevant time. Minister, would you like to make your statement?

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

A year ago I made a statement explaining what had been done in preparation for the expiry of Condor Ferries' permit to operate car and passenger ferry services on 31st December 2013. I would like to take this opportunity to bring Members more up-to-date. My previous statement updated the Jersey-Guernsey joint statement on sea transport. This allowed the Harbour Master to agree a 5-year permit with Condor. This has now been done and an interim 5-year permit covering car and passenger services is in place. I made it clear that we need new long-term arrangements in place that would ensure that Jersey and Guernsey are provided ferry services using modern and reliable ships. I said that ideally this should be delivered through a competitive tender or other competition mechanism but, based on current market conditions, I have concluded that, at present, a successful outcome to a competitive tender cannot be achieved without risks to the continuity of services. Therefore, since my previous statement, our focus has been on working with Guernsey authorities and Condor. As a result of these discussions and negotiations, the opportunity to purchase a new vessel was identified by Condor. On 5th October, the company announced to the media that the opportunity existed to replace its 2 ageing and increasingly unreliable fast ferries on the U.K. routes with a totally new "Austal 102" trimaran. However, although signalling that they wish to invest in the vessel, Condor indicated to the Jersey and Guernsey authorities that they would require a longer-term agreement to justify the significant capital investment. In response, an analysis has been undertaken of Jersey-Guernsey-U.K. routes, their constraints and the size of the markets. This analysis has been discussed with Guernsey and indicates that while there are a number of options for the longer term, the practical implementation of those options may take longer than the time available to make the decision on the purchase (or not) of the Austal 102. The analysis also indicated that over the short term the Austal 102 can provide some immediate improvement in the quality of service to the Islands. Clearly, before making any final decision, I am obtaining comprehensive advice including, but not limited to, 3 key areas that will govern the final decision. Firstly, under provision available to me in the Competition Law, I have asked C.I.C.R.A. to conduct a market study of the operation of current ferry services by Condor to better understand their performance both in terms of pricing, efficiency and profitability. I am awaiting the final version of this report and will take further advice on its findings before deciding on what it implies for a potential long-term deal with Condor. Second, E.D.D. (Economic Development Department) and the Ports of Jersey will determine how to evaluate the optimal fleet configuration taking into consideration the impact of new emissions legislation, new technologies to reduce pollution and the potential to use L.N.G. (Liquid Natural Gas) as a fuel. Clearly, this must be conducted at the right time to inform our long-term thinking. Third, any agreement should remain non-exclusive. However, within a revised sea transport policy, the market scope will be extended to include Ro/Ro freight as well as combined passenger and car ferry services. This means that anyone wishing to compete in one sector of the market would have to offer at least a minimum standard on all services. This is one way to safeguard the Island's long term position and to discourage a potential operator "cherry picking" just the profitable parts, which we have previously experienced and which ultimately causes damage to the market without long term consumer benefit. In addition, an option to tender for services would be retained. Any new agreement will build-in additional service protection so as to ensure that services continue during the period in the run up to an open tender. What is more, by including Ro/Ro freight explicitly in the market scope, we create a package of services that would likely be more attractive to a potential tenderer. I will update Members of progress in due course.

[12:15]

**The Bailiff:**

Now we have 10 minutes of questions. Deputy Power.

**7.1.1 Deputy S. Power:**

Could I ask the Minister as to how realistic he thinks it might be to rely on any agreement with Guernsey given his recent experience with aircraft registration? Also, the precedent having been set by Guernsey in agreeing on the one hand at one stage to a ferry route and ferry operations jointly with Jersey and then to break that agreement.

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

All I can say to the Deputy is that to date negotiations have been very positive with Guernsey on this particular matter and clearly it is very much in their interest they recognise, from advice that they have separately had, that the route represents, from a commercial perspective, a network of routes, that is where the viability lies. So clearly we have a situation here where both islands have a common interest and consequently I see no reason why we should not operate together constructively, which has proven to be the case to date, and join the negotiations.

**7.1.2 Deputy J.G. Reed of St. Ouen:**

Would the Minister explain what has caused him to conclude that a successful outcome to a competitive tender cannot be achieved without risk to the continuity of services?

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

Quite simply, if we have a period of uncertainty then we run the risk under the current arrangements that the current operator could quite simply run the service down and not invest in the vessels and, indeed, the routes, during a run-down period in the way that would serve the Island's best interest. I would also point out that economic conditions as such currently, and have been for a number of years, where margins are much tighter, which we are seeing in the European and U.K. ferry markets, and the availability of capital is also restricted. So indeed the market itself, from the conditional point of view, is not particularly strong.

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

Just as a supplementary, I am seriously concerned that the Minister for Economic Development says that if it went into a competitive tendering process the current provider could wind-down its service when we are told at the beginning of his statement that an interim 5-year permit covering car and passenger services is in place. Is he suggesting that that interim arrangement is not sufficiently robust to allow a competitive tendering process to take place?

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

No, I am not saying that. What I am saying is that there are potential opportunities here for a longer-term agreement with an incumbent operator whose performance has been improving and, both from surveys from customers and also surveys that were undertaken more broadly, in the current economic climate that seems to be the more sensible way forward. That is simply what I am putting to the Deputy.

**7.1.4 Connétable M.J. Paddock of St. Ouen:**

I see in the statement that the ferry service company is looking at replacing 2 existing ships with one. Could the Minister explain how that would affect the services?

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

Scheduling details are still to be finalised as part of the negotiations. The vessel that is being replaced or intended to be replaced is ... we have currently 2 86-metre catamarans that will be replaced with one single vessel which is 102 metres. It has, broadly, double the capacity. It carries 50 per cent more passengers and 50 per cent more cars than is existing and it is going to, we believe, do a double rotation. So in terms of the service provided to the Island, there is going to be

no loss of service, in fact there will be far greater reliability, far greater capacity, far more environmentally friendly and so on.

#### **7.1.5 The Deputy of St. Martin:**

The Minister states that this is one way to safeguard the Island's long-term position. Would he agree with me that increasing the size of the harbour to take larger vessels would be another way of increasing and safeguarding our position?

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

Yes, but we have to be realistic about the cost of employing capital to that extent to meet the objective that the Deputy refers to. But, yes, of course it would be.

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

In the 3 pieces of work that the Minister is going to carry out which will dictate his decision, where in those 3 pieces of work will there be some consideration of the various route options that might exist, for example, direct from Jersey to the U.K. and, indeed, France, and in fact to the public to have some input? Where is that going to be done in the 3 pieces of work?

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

I am not sure if the Deputy is referring specifically to what consumer preference might be because that was dealt with by a Green Paper a few years ago and that was carried out jointly with Guernsey. So we have a clear understanding of what consumer preference is. The second part of the question is part of the negotiations that are under way looking at all options, including the potential of a direct route from the U.K., from Jersey, and various other permutations that would be presented by the opportunity, potentially, of this new vessel.

#### **7.1.7 Connétable L. Norman of St. Clement:**

Just briefly, I am pleased about the new interim 5-year agreement, but the statement does not say when the new trimaran will be arriving. Has that been decided or have we got to wait another 5 years for that?

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

What in fact Condor have said to us is that they are looking for a longer-term agreement, that we have an interim 5-year agreement in place from 1st January 2014. What they are looking for is significantly longer for an investment that equates to round about £50 million for the Austal 102. They have not committed yet to that vessel coming on to the route until negotiations are complete for a longer-term agreement. As I have said, they want it considerably longer, they start at a range of round about 20 years, negotiations are closer to 7 to 10 years at the moment, but those negotiations are ongoing at the present time. If successful, the new vessel would be on-station, we understand, by round about October of this year.

#### **7.1.8 The Connétable of St. Brelade:**

What will the Minister do to ensure any vessel purchased or leased by Condor will be fit for purpose, especially with regards to the ability to navigate safely into all port services, including Weymouth.

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

I am not sure if the Connétable is referring to the safety of the vessel itself and the crew, or the capacity. Could he perhaps clarify?

#### **The Connétable of St. Brelade:**



That is the size of the vessel and the ability to navigate into ports such as Weymouth.

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

That would be part of the ramp permit arrangement. Certainly from a Jersey perspective, a ramp permit clearly would need to be issued for an extended period beyond what is currently in place and that concentrates, among other things, on safety and various regulatory requirements, and fitting the vessel into the port is clearly important. Of course, the Connétable will appreciate that the significant investment of some £50 million would not be undertaken by the operator if the vessel was not going to meet the requirements of the various ports that it was serving.

**7.1.9 The Connétable of St. Brelade:**

A supplementary on that. I do take the Minister's point but will the Minister take independent advice as to the suitability of this vessel, in terms of, as I say ...?

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

Yes. From a Jersey perspective, that would certainly be undertaken as part of the permit considerations.

**7.1.10 Deputy J.M. Maçon:**

Within this contract is the Minister able to clarify if there is a break and review clause?

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

If the Deputy is referring to the longer-term agreement, that is under negotiation at the moment. The current agreement runs for 5 years from January 2014. The intention is to potentially extend for a further 2 years, which would be the break clause before a total extended 10-year period.

**7.1.11 Deputy S. Power:**

I am glad to see the second condition whereby the Ports of Jersey will determine optimum fleet evaluation. I wonder, can the Minister assure the Assembly that he is aware that the Austal 102 ... there is only one in existence on service to the Canary Islands and that this is the second vessel ever to be built; that he will appraise the vessel independently of Condor so that, in relation to the Constable of St. Brelade's question, this potentially prototype vessel is fit for purpose on Channel Islands routes?

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

...

**7.1.12 The Deputy of St. Martin:**

Is the Minister aware that if you rotate a single vessel twice during a 24-hour period there will always be somebody embarking at an anti-social time and somebody disembarking at an anti-social time?

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

Yes. The rotations that I mentioned in the schedules have yet to be concluded but there is potential, obviously, that if you are doing a double rotation that the tide times, of course, being a tidal port we are constrained in that regard. But, yes, indeed, the schedules need to be finalised and considered as part of the overall package.

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

Over recent months Condor have been doing serious advertising on deals, 3, 4 and 5-day deals, in the media and through letter drops. Yet the public are telling me that they are trying to get these

deals, shall we say, 2 adults and 2 children, and they cannot get any of these deals even if it immediately comes through the door or immediately it has been in the newspaper. The deals are not available. Will the Minister please look into this because if there are some catches going on with the public, your department needs to be aware of them.

**The Bailiff:**

I do not think that arises out of the Statement, but anyway ...

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

I think he was referring to the Minister's department as well. Yes, of course, I am not aware of any issues; they have certainly not been raised with me. If the Connétable has some examples then he is definitely welcome and at liberty to pass them on. We will raise them, of course, with Condor.

**The Connétable of St. John:**

Yes, I will get the people to write direct to the Minister.

**PUBLIC BUSINESS**

**The Bailiff:**

He will be so pleased, I am sure. Very well, that brings questions to an end. I know there are 2 others but that completes questions. There are 2 matters which have been presented, therefore, R.13: States of Jersey Complaints Board: findings - complaint against a decision of the Deputy Chief Officer of the States of Jersey Police - response of the Minister for Home Affairs, presented by the Privileges and Procedures Committee. Secondly, R.14, presented by the Minister for Treasury and Resources which are certain land transactions under Standing Order 168(3). It would seem a little inappropriate to agree to start on P.171 under Public Business. Would Members agree to take a couple of short items before lunch?

**The Deputy of St. Ouen:**

Could I propose we start at P.164 and work down the agenda from there?

**8. Ratification of the Agreement on the Exchange of Information relating to Tax Matters between the Government of Jersey and the Government of the Republic of Slovenia (P.168/2013)**

**The Bailiff:**

I have been advised the Minister for External Relations is happy to do P.168 and P.169. Would that be convenient to do them? They would seem fairly standard. Very well, then I will ask the Greffier to read Projet 168, which is Ratification of the Agreement on the Exchange of Information relating to Tax Matters between the Government of Jersey and the Government of the Republic of Slovenia.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion - to ratify the agreement between the Government of Jersey and the Government of the Republic of Slovenia on the exchange of information relating to tax matters, as set out in Appendix 1, to the report of the Minister for External Relations, dated 3rd December 2013.

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

This proposition follows a well-trodden path in asking the Assembly to ratify a tax information agreement signed with a Member State of the European Union. In this case the agreement is with the Republic of Slovenia. The agreement contains nothing, I believe, with which Members would not be familiar and I move the proposition.

**The Bailiff:**

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

**9. Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 9) (Jersey) Regulation 201- (P.169/2013)**

**The Bailiff:**

Then linked with that is Projet 169 - Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 9) (Jersey) Regulations - lodged by the Minister for External Relations. I will ask the Greffier to read to read the citation.

**The Deputy Greffier of the States:**

Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 9) (Jersey) Regulation 201-. The States, in pursuance of Article 2(1) of the Taxation (Implementation) (Jersey) Law 2004 and following the decision of the States, taken on the day these Regulations are made, to adopt Projet 168 of 2013, have made the following Regulations.

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

These Regulations give legislative effect to the decision that the Assembly has just made and I move the principles of the Regulations.

**The Bailiff:**

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

**Senator S.C. Ferguson:**

No, thank you.

**The Bailiff:**

Do you wish to propose the Regulations?

**Senator P.M. Bailhache:**

I move the articles of the Regulations.

[12:30]

**The Bailiff:**

Regulations 1 and 2. Is that seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? All those in favour of adopting Regulations 1 and 2, please show. Against? They are adopted.

**Senator P.M. Bailhache:**

I move the Regulations in Third Reading.

**The Bailiff:**

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

**10. Draft European Union Legislation (Implementation) (Jersey) Law 201- (P.164/2013)**

**Senator P.M. Bailhache:**

I do not know whether Members are in fiscal mode, whether they might like to deal with the European Union Legislation Implementation Law.

**The Bailiff:**

Are Members are happy to take that one?

**Deputy J.A.N. Le Fondré:**

Can I make a suggestion, P.165 and P.167 instead?

**The Bailiff:**

I am in the Members' hands. If you want to take one that Members hopefully are going to treat as reasonably routine. Let us take them in the order then. Let us take Projet 164 first, though, the Draft European Union Legislation (Implementation) (Jersey) Law lodged by the Minister for External Relations. The Deputy will read the citation.

**The Deputy Greffier of the States:**

Draft European Union Legislation (Implementation) (Jersey) Law 201-. A Law to enable the States or the Minister for External Relations to give effect in Jersey to legislation of the European Union and to make supplementary provision in relation to that legislation, to make amendments and other provision in connection with the Treaty of Lisbon, and for related purposes.

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

As Members will know, our relationship with the European Union is set out in Protocol 3. Sometimes we are obliged to implement E.U. (European Union) legislation, but sometimes it is in Jersey's interests to implement such legislation even though, strictly speaking, we are not obliged to do so. Examples of that type of rule are rules about health, the environment and data protection. In 1996 the Assembly passed a law to enable the Assembly to make regulations to give effect to such rules whether they applied as a matter of law or not, and to the Chief Minister to make Orders where there was an urgency and it was expedient in the public interest to make the change by Order. The classic and principal example of the latter are sanctions Orders where the European Union has implemented U.N. (United Nations) sanctions or, indeed, made sanctions of its own against rogue states or governments or individuals engaging in terrorist, money laundering or other criminal activity. The simplest and quickest way to give effect to such international obligations is by Ministerial Order: 36 such Orders were made in 2012 and 26 such Orders in 2013, so that there is an average of about 30 a year of sanctions Orders. With the creation of the Ministry of External Relations, the Assembly passed these responsibilities from the Chief Minister to the Minister for External Relations. The broad purpose of this new law is to bring up to date various references in our legislation: the European Communities have become the European Union; the Treaty of Rome has become the Treaty on the functioning of the European Union, and to remove some obsolete references. There is one relatively significant change which is to allow the inclusion of ambulatory references in our legislation. I mentioned the number of sanctions Orders that are made and each of these involves considerable work among officials in different departments of the Government and,

of course, the Law Drafting Office. Sometimes the changes are quite minor, for example, to add one or 2 names to, say, a list of Syrian politicians whose financial transactions are subject to control. An “ambulatory reference” means that if the European Union modifies a list of that kind the modification will immediately come into force in Jersey and a Jersey bank would be obliged to take note of such a change at exactly the same time as a bank in the United Kingdom or in France. Not only would there be no hiatus, but considerable administrative and legislative effort will be saved in Jersey as well. I hope that this provision may become a model for other small states, both sovereign and non-sovereign. I move the principles of the Bill.

**The Bailiff:**

Are the principles seconded? **[Seconded]** Does anyone wish to speak on the principles? Yes, Deputy R.G. Le Hérissier.

**10.1.1 Deputy R.G. Le Hérissier:**

I think we have to be very careful and I think other Members will go into more detail. I do not stand up as an anti-E.U. person on principle, I think it is a body in need of fairly drastic reform but I do not stand up in that context. What I am worried about is the power this may give the Minister. There is this case of extending sanctions, for example. Now, does that mean he or she has the discretion to say: “I do not like what is being proposed re sanctions”? For example, there is a bit of a rolling campaign at the moment to get a boycott which may transfer into a movement against Israel and the products from ... and you saw it with that Oxfam celebrity - ex Oxfam celebrity star - the other day and the products that come from the Occupied Territories, for example. Now, if the Minister were to be presented with this from the European Union, what discretion is there in order to deal with it? There is a real danger. The Minister said, and I know he will be utterly tasked at hearing this, an opportunity was being taken to tidy-up things. There is a passing mention to Protocol 3 but there is still not that fundamental reform of Protocol 3 which the population have been seeking for so long.

**10.1.2 The Deputy of Grouville:**

In a similar vein to my colleague on my left, I have some serious reservations as to the powers that this legislation wields, especially to do with the sanctions. By giving the ability to impose or even choose not to impose sanctions to one person does give an awful lot of power and it does not even have to come back to this Assembly. This is not giving the Minister for Education, Sport and Culture the ability to charge library book fines, this is huge powers in this legislation and the Minister proposes that it is just updating the legislation but it also could exclude this Assembly from some very big decision-making. I would very much like to hear if Scrutiny intends looking at this so we can have some reassurance.

**10.1.3 Senator S.C. Ferguson:**

Should we be following all the E.U. Directives so slavishly? What a lot of people may not understand is that the Somerset Levels, for example, were flooded as a result of a 2007 Directive. It was a new E.U. strategy for flood and coastal erosion risk management, which was based on a report in 2004, which talked of making space for water, which I think is a euphemism for flooding. Do we really want to follow all these Directives so slavishly? Protocol 3 only covers matters of trade and customs duty, as I understand it. I may be corrected but this is when I read up about it. The Minister has talked about health and other requirements. We should not be going into these areas without considering it more carefully. We are just signing our sovereignty away. Have we got any sovereignty left, I wonder. The Minister states it is mainly sanctions. Well, what is our clear foreign policy and is it really optimal, as other Members have said, for the Minister to make these decisions unilaterally? It is not clear that we would always want to follow the U.K. or the E.U., or the United Nations even, slavishly. Deputy Le Hérissier mentioned Israel and I totally

endorse what he said, and while I am sure that the current Minister would not do anything on that without coming back to the Assembly, we are setting something up for the future and I think we need to be very careful about this. I would ask the Minister to take this proposition back and change it to Regulations and not Orders because we are told that you need the speed for sanctions. Frankly, having been in the business, you just press one button and the money has moved, so it has probably gone before even the sanctions are brought in. Frankly, I think that is a red herring. I would ask the Minister to take this back and make these Regulations not sanctions.

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

I support what has been said by the 3 previous speakers. Given there are 51 Members in this Chamber, we should all be having a say. More and more power is being given to the Council of Ministers, in this case to one Minister, and it is a real concern. The remainder of the Members are just being sidelined and this is yet another way of sidelining Members and I do not believe we should be going down the road of signing-up to this particular law just to appease the Council of Ministers *per se*. I am more concerned what happens in the future where my children and grandchildren want a say and yet it is all left in the hands of one person or just the Council, of Ministers. No way. I want this type of legislation to come back to the House. I could not support this and I sincerely hope Scrutiny are going to pull it in and do some work on this.

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

I share the reservations voiced by other Members generally anyway, about the loss of sovereignty generally, of handing over powers to an external remote body, particularly one where we have absolutely no say or input into who sits or who represents, in effect, us. When I heard the Minister make an extremely effective case for efficiency, obviously it is going to save law drafting time and so on, it is very efficient. Of course, the alternative view is that it would be bureaucracy empowered. Do I think it is the right thing for us in this Assembly to just rubberstamp things in the interests of efficiency? Where are the checks and balances? I particularly noticed that in Schedule 2 of the law we seem to have a list of changes as a result of this proposal that we have to make to 19 different laws which we have presumably passed and been responsible for in this Assembly, including such things as the Licensing Law. That is interesting, are there aspects of our Licensing Law that are going to have to be changed to facilitate this? Then we have got data protection. Of course, that is a massive growth industry in itself that I think nobody understands and is a big, big problem. So 19 laws which I think, if I understood the proposal right, we are going to facilitate automatic changes in accordance with the decision of a body elsewhere which the only check and balance we will have is if the Minister makes an Order and, of course, that really means that the civil servants will draft it and put it in front of the Minister. We all know just how difficult it is to do any scrutiny of this material; I do not think the Ministers will have a chance. I am really troubled by this as a principle. Really, I would be happier, as other Members have said, if there was a safeguard by a decision of this House being required by Regulations. I really do hope Scrutiny can have a look at this in some way. I do not know if it is possible for me to oppose that or I have to wait for the vote on the First Reading, but I believe this should go to the Scrutiny Panel.

### **LUNCHEON ADJOURNMENT PROPOSED**

#### **The Bailiff:**

Very well, the adjournment is proposed. The Assembly will reconvene at 2.15 p.m.

[12:45]

### **LUNCHEON ADJOURNMENT**

[14:16]

**The Bailiff:**

Deputy Young, I think you were speaking just before the adjournment and I was not clear, did you wish to propose that this matter be referred to Scrutiny because you certainly have the right to do that if you so wish?

**Deputy J.H. Young:**

I apologise if I was not sufficiently clear, it was not what I was seeking to do. But having had the opportunity to look at Standing Order 79, I think the proper thing to do is for me to propose that the debate on this proposition be suspended for the purposes of a Scrutiny Review, if that is possible.

**The Bailiff:**

Yes, you certainly have the right to do that. Is it seconded? **[Seconded]** Yes, very well. It has been proposed and seconded that the debate on this should be suspended, pending consideration by the relevant Scrutiny Panel as to whether they wish to have it referred to them, so we are now debating that. Does anyone wish to speak on it?

**10.2 Draft European Union Legislation (Implementation) (Jersey) Law 201- proposition of Deputy J.H. Young to refer the matter to Scrutiny in accordance with Standing Order 79**

**10.2.1 Senator P.M. Bailhache:**

I understood over the luncheon adjournment that even if this proposition had not been moved, the Chairman of the relevant Scrutiny Panel intended to exercise her right to scrutinise on the basis that the States had by then adopted the principles of the law. I think that a number of misapprehensions have been expressed by Members during the course of the debate this morning, but I think I would prefer not to respond to them because in the knowledge that the Chairman of the Scrutiny Panel wishes to scrutinise it and has an absolute right to do so it seems to me that it is sensible for me to accede to this proposition, if I am able to do that, and to welcome the scrutiny by the Scrutiny Panel.

**The Bailiff:**

Thank you very much, Minister, that obviously assists Members considerably. On that basis, does any other Member wish to speak on the proposition of Deputy Young? Very well, do you wish to reply, Deputy?

**Deputy J.H. Young:**

No. Can I have the appel, Sir?

**The Bailiff:**

Yes, the appel is called for then in relation to the proposition of Deputy Young that the debate on this be suspended and that it be referred for consideration by the relevant Scrutiny Committee. I invite Members to return to their seats and the Greffier will open the voting. Have all Members had an opportunity of voting? The Greffier will close the voting. The proposition is adopted: 35 votes pour and one vote contre.

<b>POUR: 35</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator P.F.C. Ozouf		Connétable of St. Peter		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				

Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A.N. Le Fondré (L)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

## **11. Public Elections: Introduction of S.T.V. and A.V. (P.171/2013)**

### **The Bailiff:**

Very well. We will now return then to the Order Paper and the next matter, therefore, is Projet 171 - Public Elections: introduction of S.T.V. (single transferable vote system) and A.V. (alternative vote system) - lodged by Deputy Tadier and I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion – to request the Privileges and Procedures Committee to bring forward plans in time for the 2014 elections for the implementation of (a) a single transferable voting system (S.T.V.) for multi-member constituencies; and (b) an alternative voting (A.V.) system for single-member constituencies.

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

So we finally get round to debating this proposition to change our voting system. It has not come out of the blue; it was a recommendation that came from the Electoral Commission. It is probably one of their least controversial, in one sense, in the sense that it is not political necessarily, although it may be interpreted politically by Members and it will be interesting to see the arguments that come up today, some perhaps more genuine than others, if I can say that, some more compelling certainly. There will be arguments made about: “Of course, this is the right thing to do but it is not



the right time”, that old chestnut. But let us hear what Dr. Renwick said himself, and I do refer Members to page 3 of the Report and Proposition, P.171: “There can be no justification for maintaining multi-Member plurality in Jersey in preference of S.T.V. It is rarely possible for an electoral system expert to give such a definite judgment: in most cases, one electoral system performs better on some criteria, while another performs better on other criteria; the final decision then depends on which of these criteria one values more. In Jersey’s case, however, all the plausible criteria point the same way: S.T.V. performs better on all criteria.” That was presumably acknowledged by the Electoral Commission and it was put forward that it should be implemented in 2018. Part of the rationale I understand, and I stand to be corrected, and other members on that panel will have the opportunity to speak, but I understand that the reason it was suggested it should be implemented in 2018 rather than 2014 was that we were, of course, going to be implementing other reform packages for 2014 and that it might be too much for the electorate to cope with all in one go. I do not necessarily agree with that rationale, I think it would have been better to implement the whole package as a whole. But even if we do accept that rationale we are now at a point where nothing has changed, essentially, save for a reduction in 2 Senators, which was always the default position. So we will be electing 8 Senators come September, which we are all aware of... October even. We start in September but the election will in October, thank you for the correction. I will speak about that in a moment. It is going to be a very interesting election to elect Senators numbering 8 from a potential of 16, 20 - who knows - 25 candidates. We could maybe do better by flipping coins or drawing straws, but let us see how that pans out. Dr. Renwick goes on to say: “It would also be advantageous to introduce A.V. for those elections in single-Member districts.” There is something of a paradox there, I believe that quite clearly Dr. Renwick’s research and also the mathematics behind it prove that S.T.V. is the most urgent form of change that is needed but, at the same time, we might as well change to A.V. for the single seats. There will be those Members, and I think the P.P.C. which I am on have tended to say - and I think it may be reflected in this Assembly as well - that Members might be more comfortable with introducing the alternative vote for single seat elections than the single transferable vote for multi-seat elections, on the basis that the count is much simpler for the former. It is true that perhaps the one drawback for the single transferable vote is that it will take slightly longer to count, but I think it is a trade-off that is worth making, insofar as the increase in the democratic merits of that and the decrease in democratic deficit, which the current system has in place, is so far outweighed by the complexity in the system that we would be installing that it would be much of a net benefit to introduce. Indeed, again to quote Dr. Renwick: “The only credible criticism of S.T.V. in Jersey is that it is complex. There is no doubt that the process of counting votes under S.T.V. is often complex. But ordinary voters do not need to understand that complexity in order to understand how to exercise their vote and why the election result is as it is.” In other words, anyone in our community who can vote and can count from 1 to 8 or can count from 1 to 3 or 1 to 4 in other cases, or 1 to 10, depending on the number of candidates, can exercise their vote. I would suggest if any member of our community has difficulty doing that they may not be in a position for other reasons to cast their vote anyway. So let us not have the argument about complexity, I am coming up to talk about that. While on the subject of complexity, though, I will quote a St. Brelade’s blogger who goes under the name of “Tony’s Musings” - he has given me permission to quote. These are the comments from the Comité des Connétables: “S.T.V. will require multiple counts with the results from separate electoral districts having to be totalled to establish whether or not a candidate has been elected and which preferences should be distributed. It is unlikely that staff and volunteers will be able to complete S.T.V. counts on polling day.” This is what Tony says in response to that. He said: “This does not seem like a good reason for not adopting S.T.V. It is notable that the Comité do not say that it would not be a fairer system, they simply say that it would be unduly long and place too much of a burden on staff and volunteers. While this is a very pragmatic argument, it is not a very good one. If one voting system is much fairer than another and

the mathematics show that it is, to say that it would not be practical is not an argument, it is more of an argument for making it practical.” I want to focus briefly on the theme of mathematics and I want to put a conundrum before the Assembly to demonstrate a point. There is a riddle, if you like, a mathematical riddle which is known in the circles as the Monty Hall Problem. It is a game show and you have 3 doors ... let us say it is Unlock the Box. Now one of the 3 boxes contains a prize in there. It is not the prize of electoral reform, although we would possibly like that because the chances of electoral reform are perhaps more than 1 to 3 ... 3 to 1 against, or 2 to 1 against. But we have 3 boxes, 2 contain nothing, one box contains, let us say, £50,000. The contestant will choose a box at random and I think we can all agree that the chances of that box containing the £50,000 is one in 3. What the game show host does is he opens up the other 2 boxes, which I also hope we can agree at least one of which is empty, and he removes one of those empty boxes. Now we are faced with 2 boxes; the one that has been chosen by the player and the one remaining box. Monty Hall’s problem is do you swap boxes? Does the contestant swap boxes? The answer mathematically is absolutely, the player will always swap boxes. Why? Because the game show host has removed one of the boxes which definitely did not contain the £50,000. It was possible, of course, that neither of them had £50,000 or it is possible that one of them had £50,000 in it. But he has only removed the one that did not contain £50,000, therefore, there is a two-thirds chance that in swapping the box the contestant will have a two-thirds chance of winning the prize. So any logical person will do that. This problem has caused divisions right around the world because it is counterintuitive. People think: “Well, there are 2 boxes remaining, therefore, there must be a 50-50 chance of it being in the other box,” not a two-thirds chance. It does take a while to get one’s head around that. The reason I say that is that mathematics is best left to those who understand mathematics. Voting systems, by and large, are best left to those who understand voting systems. It does not mean that ordinary members of the public or lay members of any assembly cannot get their heads around it, it just means that it is not necessarily very easy to demonstrate in the space of an hour or so. We have an expert who has given us categorical advice as to why we need to change. Now, if Members will bear with me and look at the document which I have just circulated, I want to demonstrate - certainly in the case of A.V. it is a lot easier to demonstrate - about why it is not always an effective way to choose the best candidates. When I say “the best candidates” I am talking about the most popular candidates because essentially electoral contests, for better or for worse, are about who is the most popular and that should be based, of course, on policies. So if we use that terminology, I am using it in a way which I hope is not offensive but understood by all Members.

[14:30]

The Irish presidential election in 1990 had 3 candidates. They used something very similar to A.V. It is the instant run-off but it is one which, to all intents and purposes, resembles A.V. but it is only different insofar as it has physically another round of voting at a different time, whereas, of course, A.V. does it at the same time. We see that the ultimate victor, Mary Robinson, who I think was the first female President of Ireland - yes, that is correct - she would not have won under the first-past-the-post system; she achieved just under 39 per cent of the vote, Brian Lenihan achieved 43.8 per cent of the vote and Austin Currie produced the smallest vote of 17 per cent. But, of course, due to whatever alliances there were, the majority of Currie’s vote then went to Mary Robinson and she was elected with a majority of 51.6 per cent, so more than half of the voters chose her. Figure 2 shows something that may well be happening in a month’s time. Certainly there will be 2 by-elections in St. Helier and true to form, history often repeats itself, there are 5 candidates in that by-election. Deputy Martin is not in the Assembly and I did circulate an email previously asking her to beg my forgiveness for using her as an example. I am very happy from a subjective point of view that Deputy Martin got elected but was it necessarily a fair result that would have happened under a different system? We see that there were only 8 votes in it from a total valid vote cast of

707 and it was only really about 1 per cent difference between first place and second place. One has to ask fundamental questions about our system when, essentially, 75 per cent of voters, those who bothered to turn out, the result is not somebody that they voted for. It does not mean that under the A.V. system, Deputy Martin would not have been duly elected; she may well have been. It certainly was not guaranteed. Mr. Cole and Mr. Pipon would certainly have had a sporting chance and that is food for thought. One has to question what kind of effect it has on voter turnout and voter deficit, apathy, *et cetera*, when members of the public say to us that there is no point in voting “because my vote does not really matter.” When faced with such compelling arguments and statistics, it is not easy for us to always refute that. Not every election, of course, is going to come down to a single vote. If we turn over the page, Dr. Renwick has given a very, if you like, compelling, non-political use of the alternative vote. If we imagine that a club, it could be a church, for example, wants to choose a new colour carpet for their community hall, they have 3 options: light green, dark green and light blue have been put forward as options and of course, under the first-past-the-post system, were they using that, the light blue carpet would be chosen with 65 votes rather than 33 for light green, 58 for dark green. What the explanation thereof as to why it might not be the correct result is that it depends on what criteria is important to the voters and the members of that church group when they vote. Some of the church members might be concerned primarily about whether the carpet is light or dark and so then light blue is probably the most popular choice. But if they are more interested in colour, it seems that the election has produced the wrong result. More members want a green carpet than a blue carpet but the green vote has been split between 2 different shades of green. It could mean that the church ends up with a blue carpet when the majority wanted green carpet. That can happen very easily in politics and it does not simply have to be about left and right, it could be about many more complicated factors. One of the compelling arguments to adopt A.V. and S.T.V. is that it allows electors to cast their vote in a non-tactical, non-strategic way. It means that you do not have to worry about splitting the vote, to be quite frank. It is quite likely in the St. Helier elections coming up that there will be a split vote. It is difficult to predict what that will be. Those who are immobilised, perhaps, in Jersey and have been politicised for decades and used to running elections will tend to make sure they only put one candidate in and they will tend to make sure that they do not split the vote. It does not mean that a maverick cannot come out with similar political views but essentially the electors are the ones who feel hard done by. I recall also the Senatorial elections in 2008 when we had 21 candidates for 6 seats. Very interesting election time that was because there were many critical key issues which were naturally divisive. People had different solutions to them and the majority of people, if you like, and I am going to use these terms very crudely, cast an anti-establishment vote. I do not want to get into the rights and wrongs of whether that exists but I think broadly speaking, there were more people who turned out and voted for an alternative but of course that was split. It will be interesting to see how that pans out when we are electing 8 seats. It was only 2 weeks ago that we had Senator Ozouf making a very compelling argument as to why the current system is unsustainable; it needs to be changed now. It was not that it needs to be changed in 2018. I think he was even saying that it would be an embarrassment internationally when he is flying around the world. He cannot look people in the eye because we do not have a very good electoral system. It is nothing to do with any of the other inequalities that we have in our Jersey society but in this case, it is purely to do with the electoral system. We do need change and I fully agree with that. We were told by Dr. Renwick when he came over that there is no conceivable reason for delay. It is like smoking; there is the good time to give up smoking, if you happen to do it already- of course, it is best not to start in the first place – which is to do it now, not to do it in 4 years’ time. I think the same logic does apply here. The last example, and I will keep this brief, because this is something that could be open-ended and there are obviously lots of arguments which are compelling that could be made. It is simply to give an example of how S.T.V. can work and does work practically. I draw Members attention to figure 4. I apologise to any Members who already understand the

system but it is fairly complex. The difference, I think, which is the fundamental point of S.T.V., and which I accept is a big shift from how the current system works, is that it works on a quota system. In other words, there is a threshold which each of the successful candidates must meet and surpass in order to be elected. The reason we have to change our thinking is because essentially, there is only one vote. Every person in the Island has one vote, so it is one man, one woman, one vote. Of course, they can cast their preferences from one to 16, let us say, if there are 16 candidates. We could limit that, incidentally, to 8 or 10. That remains to be seen. Once they have cast their vote, the top preferences, any that surpass the threshold are elected. Any of the surplus votes are then redistributed. Any of those who were last would have their votes redistributed proportionally. So under our system, it is dependent on the overall turnout. Let us say there are 16 candidates for 8 Senatorial seats. The quota would be the total number of votes, which in this scenario is 45,000 - optimistic for Jersey but we can always aspire - which would be divided by the number of seats there are plus one, which is 9 in this case and then add one to that. That is your quota, so it will be 5,001. The reason for that is because after that, once each of the candidates has been elected, there would only be 4,492 votes, which is not enough to meet the threshold of 5,001. So anyone getting 5,001 would be elected. It means that there is the same test for each of the candidates which has to be met and therefore the idea that there will be some kind of candidates who are less elected, if you like, than others, would not be a factor. Currently, it could easily be a factor and we have heard what happens to the fifth, sixth and potentially eighth places in the current Senatorial elections; what kind of mandate will they have? Well, this gets rid of that problem insofar as it gives everybody the same mandate. I will finish by saying that we already understand alternative vote and S.T.V. essentially because it is something that we use in this House. We do it in different rounds but when we are electing a Chief Minister, do we use first-past-the-post because it is simpler? No, of course not. We impose that on the electorate in our constituencies often, but when it comes to the Assembly choosing Chief Minister with 3 or 4 candidates, we would not dream of accepting a Chief Minister who has 24 votes, let us say, and another candidate who has 20 and then another candidate who has 7 votes, or something to that effect, because we know that the Chief Minister, in this case our candidate and the office holder, has to hold the majority support of the Assembly. Why are we denying that to members of the public? Why should they not have the same satisfaction that the person who is their sole Deputy, and it could be the Deputy of St. Saviour No. 3. I am looking at him now. Why should they not have the satisfaction of knowing that they voted and put him there and that the majority of those who came out to cast their vote have a person who may not always be their first choice but is somebody who is not universally unpopular. Incidentally, that happens when we elect multiple positions, let us say, to P.P.C. or any other bodies which are multiple. We have a similar round system. You could have a universally unpopular candidate who manages to hold on to a large minority support. For want of a better expression, let us take this outside of Jersey. You may have a B.N.P. (British National Party) Member, an extreme right, who may have significant support for those who want to shut down immigration completely, who potentially harbour racist youths and think that all foreigners should be sent out of the country. Politically, that is not an invalid view to hold, although it is questionable morally for most of us. With 30 per cent of the vote, that candidate could be returned all of the time if there are 2 or 3 other candidates contesting that seat. That does not do anything for democracy and I will leave it at that. I would be happy to listen to Members views and to answer any queries at the end in summing-up.

### **The Bailiff:**

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

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

I am unusually going to speak without having prepared any notes and Members may say afterwards they now understand while I always speak with notes or on the other hand, they may say why do I bother to collect any notes? **[Laughter]** I think Members need to understand; these are 2 completely different changes to systems. They have completely different features. I am able to support and do indeed quite strongly support A.V. for single Member constituencies but I have quite serious problems in relation to the concepts behind S.T.V. They are quite different. I hope that Members will not judge them as a job lot but will judge each one on their own merits. The problems with not having A.V. have been very, very clear. You get a situation, potentially, where it prevents good candidates from standing because they do not want there to be so many candidates of the same type that they will split the vote and therefore let in a candidate who has a minority view. Whatever one is thinking of in terms of politics on key issues, there is a danger that you could have one candidate only who represents a minority view and 3 candidates who represent a majority view, who, by being there, split the vote and thereby let the minority person in. That is obviously a very unsatisfactory state of affairs and does it matter what the minority view may be, whether it is left or right or some particular issue of electoral reform, which people are interested in on a particular election. Therefore, it seems to me to be an obvious and very simple system whereby there is only one seat up for grabs and you say: "Okay, we look at the numbers and then we take out a person who is last and redistribute their votes to arrive at a result." That seems to me to be eminently practical. It will require a few recounts but all those who were involved in the single seat counts in places like St. Mary, St. John and Trinity know that you are the first ones to get some results and, indeed, you could stay on a couple hours more or perhaps an hour more, in order to do this sort of process. It is practical, it produces a fairer result and I have no difficulties with it.

[14:45]

S.T.V. is a very complex animal, the second animal, because it starts on the premise that there is a danger that if, shall we say, in any particular community, 55 per cent supported a particular view on a particular area of the Island and 45 per cent another, that all the candidates returned would be those who would reflect the 55 per cent and that would be unfair. But that is not the way it works in Jersey. I just do not see that is the way it ever worked in Jersey. If we look at Senatorial elections, generally speaking, the Senatorial elections have returned a mixture of candidates. Indeed, the people of Jersey seem to love to return the ... I am searching for the right word, the stirring candidate. My late uncle, Senator J.J. Le Marquand, who was an absolutely delightful fellow, a delightful man, did a lot of charitable work and helped people out. A wonderful person but he was a classic rebel. You know: "I am going to shake them up. I am going to stir up the establishment, *et cetera*." People loved that and voted for him and he ended up at the top of the poll or finished second, whereas other candidates ... I have to be brutally honest; it will remain a mystery all my life how on earth I topped the poll **[Laughter]** and yet somebody with the immense intellect of a Ralph Vibert never did. I do not know. It is a complete mystery, there we are. Thank you to the electorate anyway. But S.T.V. is based on false promises because it does not happen. Look at St. Helier No. 1 result last time in which we have a Deputy Pitman and a Deputy Martin who have returned with a Deputy Baker. Not exactly all the same politics, are they? You could go right through the multiple areas and look at it and see how there is a variety of people who are being returned. So that is the first issue. I do not think it is necessary in Jersey. Secondly, it is so complicated. I understand it but it is so complicated, the public are going to think we have gone barking mad if we bring this in and say: "What on earth are you doing? This is such an artificial system." So I have real problems. But, thirdly, it really, really, really would not work for Senatorials. I think the Assembly, as a result of the mysterious processes by which we make decisions, that we have ended up with a number of Senators - of whom I will not be a candidate next time - but how on earth are you going to apply S.T.V. to a Senatorial election, whereby you do

not know what the final result is for each person until St. Helier. St. Helier comes up maybe at 1.00 a.m. or whatever. Are you going to then proceed to say: “Okay, well now we have some who have passed the bar”, so we start to redistribute their votes and we have others who have not, so we start to redistribute their votes. You are going to end up with about 5 or 6 different counts taking place over days. It is completely and utterly impractical. So we certainly could not bring it in in any shape or form, it just would not work. So, to summarise my *ad hoc* speech, I think there are very strong reasons for supporting A.V. but a very poor case for S.T.V., particularly in Jersey. Now, some people are of the opinion that you cannot bring in A.V. for the single constituencies and yet not have a changed system for the others. I simply do not agree with that. I think they are entirely different. The arithmetic is quite different, the logic is quite different, the voting patterns are quite different, so I am going to vote for (b) but not vote for (a). Thank you very much.

#### **11.1.2 Senator P.M. Bailhache:**

Deputy Tadier referred to the Electoral Commission in his opening remarks and I thought that I ought to say something to explain the position of the Commission. The Commission did recommend the adoption of A.V. and S.T.V. but not in 2014. The reason for that was very straightforward; it has some supporting evidence in fact in the Annual Social Survey, which was published at the end of last year, where 33 per cent of the people expressed confidence in Government, by which they meant, I think, us, compared with 50 per cent of people expressing confidence in Government in Great Britain. Confidence in our political system, in our electoral system, is at a low ebb. The reasons are not relevant today but that seems regrettably to be a fact. If one looks again at the Annual Social Survey at the end of last year, people were asked why they did not get involved in government, get involved in voting in the 2011 elections and 32 per cent of the younger people, up to the age of about 45, said as their principal explanation: “I do not understand the political system in Jersey.” 41 per cent decided not to vote deliberately because either they were not interested or they thought that their votes would not change anything or something of that kind. One-third said that the reason they did not vote was that they did not understand the political system. We have a complicated system, which a significant minority of the people say they simply do not understand. Now, even Dr. Renwick conceded that S.T.V. was complicated. At page 4 of Deputy Tadier’s report, he quotes Dr. Renwick as saying the only credible criticism of S.T.V. in the Jersey context is that it is complex. There is no doubt that the process of counting votes under S.T.V. is often complex but ordinary voters do not need to understand that complexity in order to understand how to exercise their vote. So if we introduced S.T.V. and even, I think, A.V., we would be adding a further complexity to a political system that is already complicated. Would that, I ask rhetorically, encourage or discourage voters from going to the polls? I think the answer to that must be that it would discourage them and we cannot afford, frankly, to have even lower polls than the deplorably low participation than we have at the moment. I do not think that it is good enough, as a matter of fact, with all respect to the expert adviser, to say that ordinary voters do not need to understand how it works. That seems to me to be a slightly patronising view. The Electoral Commission took the view, as I have said, A.V. and S.T.V. should be introduced but not in 2014. If the electoral system could be simplified, then the Commission thought that they could be introduced in 2018 and that would give time for an explanatory booklet to be circulated, for presentations to be given to explain how the systems worked and in general, a public information campaign to take place. We have not simplified our electoral system; we have turned our back on reform and, for my part, I do not think that this is the appropriate time to introduce a further complexity to what is already a complicated system.

#### **11.1.3 Deputy J.M. Maçon:**

When the Privileges and Procedure Committee considered this proposition, I think it is safe to say that the committee were very much divided on which way things should go and there were different

permutations, as Senator Le Marquand has outlined. All the same, we did invite Dr. Renwick over to give a presentation to States Members on these voting systems, and we thank those who did attend. One of the key interesting facts that I remember from that presentation is that if one was to adopt either of the particular systems that are being proposed today, the difference in the vote is estimated to be around 5 per cent. So this can leave you 2 logical conclusions, one, which is if the difference is only 5 per cent, that means the majority of the time, regardless of the voting system you have, you have the same result, in which case, why muck around wasting time, changing the law, all these types of things, if at the end of the day, the majority of the time, you are going to the same result. Why bother? Why waste the effort? Why waste the energy? On the other hand, you can come to the other conclusion, which is: "Yes, but that 5 per cent difference may be a better reflection on how Islanders feel about the particular merits of whatever candidates before them and that is desirable and therefore worthwhile doing. It is quite logical to come to either of those conclusions and that will come down to political preference. I think with this system, which has been proposed, we are talking about a change in philosophy in that you do change it to first-past-the-post, which I think is a clear indication of who you do support: "I want this person", to a ranking system where you do change the philosophy slightly in that what you are doing is you are expressing a preference. So you are saying: "I want this person, this person, and this person and that person." There you start getting different nuances of how desirable each system is and then you start getting to the question of: is someone's mandate, who has 40 per cent first place votes, so this is someone who the electorate really wants, should that then, after the various voting rounds, is their mandate less credible than someone who has a majority of fourth place votes? That is a philosophical question that each Member will have to come to a conclusion about which one they think is fairer and more accurate because that does bring into the question of mandate and who has a more credible mandate. Someone with a lot of first place votes but not enough to get elected outright or someone who might trail with a lot of fourth, fifth place votes and that is up to individual Members to come to a decision about how they feel ... how credible that makes the mandate. I do think that there is an issue in understanding the system because inevitably in this type of system, as with the first-past-the-post system, you will have tactical voting and in order to understand that, you will have to understand, I think, what the merits are in placing someone first place or second place or third place. So for example, if you are in a situation whereby you know this particular politician who you like and whom you want to get in, we are talking a multi-seat Member constituency, so I am talking to S.T.V. here. If you know someone is going to get in, well I am going to put my first place vote against someone who I think is slightly weaker, just to give them that little bit more of an edge than perhaps the other candidate, who I will support, I do want to get in but I know they have a strong backing behind them and will probably get a lot of first place votes anyway. This is when the tactics come in and this is change to our current system. I am not saying that tactical voting does not happen in our current system; of course it does. But it does mean that a more deep and complex understanding of the electoral system is needed. I am not saying that that cannot be, that that is insurmountable and it cannot be done, but I am just saying it is a different way of approaching how we do an election. Whether that is desirable or not will be for Members to decide today. There is one point which I will have to disagree with Senator Le Marquand about and that is adopting just A.V. but keeping first-past-the-post and other systems. I do think that it would not be desirable to go to the public and say: "For single-seat constituencies, we are going to go for A.V. The multi-seat Member constituencies are going to keep first-past-the-post." I do not think that is acceptable. I do not think that will endear us with the public at all. To be fair, some people do struggle with putting a cross in the box sometimes. I do not mean to criticise people but we know that some people struggle with just the simple one, just put a cross in the box, never mind. Okay, that is the minority, to be fair, but again, to change the system but then to have 2 different systems running at the same time, I do not think is desirable and therefore, I come to the conclusion that if one wants to adopt this approach, then it is far more logical to adopt

them together rather than to have 2 different systems running at the same time. I do not know if it is showing in our comments but one interesting additional fact is the example of the Isle of Man. They changed their election law to bring in this type of system. They tried it the first time around and after they tried it, they decided to abandon it and went back to first-past-the-post.

[15:00]

So it does not cure all ills. It is a political decision and it very much depends how Members feel about different things. At the moment, perhaps despite its flaws, I still think first-past-the-post at the moment is the more understandable system. It is easier to administer and at the moment, although I will wait for other speeches from Members, I am in a mind to keep the *status quo*. I know, shocking and awful, we should be here to look to change things but, in this particular example, I am minded to stay where we are, although I will listen to what other Members have to say but I hope that that contribution has been useful and insightful for Members.

#### **11.1.4 Connétable J.L.S. Gallichan of Trinity:**

Obviously Deputy Tadier only quoted part of our report. I think the most important thing to read out for all the Members is for the States Assembly to decide on the merits of a single transferrable voting system or a multi-Member constituency is for the alternative voting. Whatever is approved by this Assembly, we will have to go with it. All that we have pointed out is that obviously things would have changed. You will not have the same day for the results, so be it. As you can imagine, a small Parish like Trinity, we will have mostly got our count out by say, 10.00 p.m. When it comes to Senators it could be very late in the evening. Obviously this would have to change as this would come in ... because of the long hours that most people work on that polling day, the following day for the staff at Parish Halls is a day off. Obviously that would have to change because I cannot imagine that those who are taking part in an election for Senator would like to wait until we have the election on Wednesday, we have a day off on Thursday and we start the recount on Friday. Now, what happens if we do not get the results out by Friday? So, I think, to be fair, that is all we were pointing out: that there was nothing to say we would not go with it. If the House or the Assembly decides that this is what they wish to do we will have to adopt what goes on. I do not think there is anything about that. But all I would just say is: it seems quite amazing that ... I think I have been in this House for 12 years now, we have been struggling with reform for everything. We just cannot rid of Constables; we cannot get rid of Senators; we do not know if we are going to have Deputies or whatever title we are going to have. Why should we be changing it now until ... I would say the time to go is when you reform the House, maybe, and everyone will realise there is a major change. But that is entirely up to this House. That may be my opinion. If the Assembly votes it through I can assure you the Connétables will do the elections, as with the Adjoint, that should be held in this Island and we will support it.

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

I will be brief. I want to rise to confirm what I said, I think in the previous electoral debate, that as a Member in a single Member constituency, I shall be supporting the proposal for the A.V. system in single-Member seats because I believe that the first-past-the-post system in single-Member constituencies where there are a large number of candidates where the electorate, at the moment under the first-past-the-post system, have to choose one candidate from a long list of more than 2 people. If the result of that ballot is that the first-past-the-post candidate gets less than 50 per cent of the vote, I do not believe that fairly represents the electorate views. So a system which allows voters to cast or gives them the option of expressing a second preference vote and reallocate the second preference votes for the lowest scoring candidate, reallocates those votes until one of the candidates reaches 50 per cent, as is intended by the A.V. system. I find it a very persuasive argument. It means that every person that goes to the vote in those constituencies, their vote is



counted and is meaningful. That can only be good, I think, for a democracy. I think, in looking for an example, one does not have to look any further than the London Mayor, where, if one looks back, you will see the declarations of votes where every one of the candidates - I think in the 2012 London mayoral election - the successful candidate did not achieve a 50 per cent majority on the first round and the reallocation of votes that put Mr. Johnson over the 50 per cent resulted in him being elected, obviously a very clear result. The electoral system coped with it. One reads the declaration of votes. Every candidate is listed there with their first preference and second preference vote. Everything is there openly to be seen. I think that is a good model. I have to say I am less than clear about the other system. I had better get the name of it right; I do apologise: the S.T.V. system. But I think Deputy Maçon is right. I just could not countenance a situation where we adopted a second preference system, if you like, for single-Member constituencies but have a different arrangement for multi-Members. I think that would not only confuse the public; I just think it would just get really unfair and divisive if we did. I think Members have to decide either to go with this or not. Personally I would have hoped that we would just make that decision *en bloc* and not be faced with having to make the choice between (a) and (b) because I think that is not really meaningful. But on the basis that I think the arguments are pretty overwhelming for the A.V. system, I shall be supporting it.

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

Very, very briefly, just a couple of things. The Social Survey has been mentioned, or the results of the Social Survey has been mentioned by Senator Bailhache and he speaks about the public have low confidence in Government. Perhaps when Deputy Tadier is summing-up, you will perhaps try and respond to that. My own thoughts are that perhaps part of the reason why the public or some members of the public have low confidence in Government is they do not feel their vote counts. It seems to me that looking at the voting systems that have been spoken about and mentioned about, mainly by Deputy Tadier but equally the Electoral Commission, it does or could help to engage the public and at least make them feel that they have a great impact in the election process or the election of States Members. We also speak about a general lack of understanding of the political system. Well, whose fault is that? That is not just because we have got Constables, Deputies and Senators. We have had that for years. It has got to be deeper than that. Maybe it is partly our responsibility, and I hold my hand up, but we need to be able to explain our political system and better celebrate, perhaps, that we do not have currently political parties and we are independent individuals that make up this Assembly. But equally we have the right processes in place that ensure that the best individuals get selected for Ministers through an A.V.-type system. So, why not extend it out? Senator Bailhache says: "Well, do not do it now because you have not reformed it; you have not created the large districts with multi-Members. So, leave it." We are going to have a very large district with multi-Members because we have got Senators still. We have got other Districts that will not change, like St. Helier for the most part, who already have a number of Members, 4 in one particular District. So, I do not see the argument necessarily that are particularly strong to avoid it. I do understand, I fully understand, the issues that the Constables raise regarding how the counting is managed. But other countries do it. Maybe it is a case of you do not get all the results immediately. Clearly in the Senators, for argument's sake, there are, I would expect, quite a large number of individuals that are going to exceed the 5,001, if I take the example that has been given - there were 16 candidates, the number 5,001 on the first count. Well, straight away we are going to know that those individuals are elected. It is only going to be the individuals that fall below, as I understand it, at that level, that would participate in this sort of transferable vote system. But if I have got it wrong, please correct me. But I also think that the suggestion is too complicated or complex for the members of the public to understand when there are other countries, including, for example, Ireland that are able to manage the system. I think it is

just dumbing-down and not recognising that the Island's residents do have common sense and can, with the right information, fully grasp the proposal that they are being presented today.

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

In my view the reason that the apathy that exists at election time does so, is less to do with the voting system than what happens afterwards because unfortunately since the introduction of Ministerial government we have a situation that after a person gets elected when they enter this Chamber, unless they become a Minister or Assistant Minister, they have very little opportunity of taking forward their manifesto, and, as such, are basically unable to represent their electorate. In relation to this proposition I think we could be missing a trick here. I am reminded of that saying about lies, damn lies and statistics. When you have a multi-Member constituency you are not voting for one person; you are voting for several people, and if you add the percentage that those several people had of the vote, you will find that it is probably heading towards 75 per cent, not less than 50 per cent. So I really do not see the advantage of this.

#### **11.1.8 Deputy S. Power:**

I think I would agree first of all with one of the comments Senator Bailhache made and that is perhaps with the damage that has been done by this Assembly on electoral reform and the work of the Electoral Commission, that now may not be the right time for A.V. and S.T.V. But I agree with it because it is a fairer system. I do not know how many Members in the Assembly have any experience with it. I probably do, which was the 1973 and 1977 elections in Ireland when I did vote. It, to me, was an inherently safe and safer system where you could rank your preferences in the order from one to whatever the number of candidates were. I think Deputy Tadier correctly pointed out we actually use it within the Assembly to elect very important positions of responsibility, from Chief Ministers down to wherever there is a contested election. So, my own experience of comparing first-past-the-post to proportional representation or variations on a theme is that P.R. (proportional representation) and S.T.V. or A.V. is inherently safer. I will support the Deputy today on this. I do not have much else to say except I will make this observation. In the interesting example he used of the 1990 presidential election in Ireland, the candidate who won, who should not have won but did win, and she was the best candidate, went on to become a United Nations Commissioner for Human Rights and a member of the elders of Kofi Annan and Desmond Tutu and Nelson Mandela. The reason she won was that the party system picked 2 other people who should have won but because of her credentials and the transfer system afterwards, she was elected president. It was a historical vote, a historical election, so I am glad; it is a very good example of how alternative voting and transfer voting works and how fair it is because the best candidate won because of the system of voting. So, not much else to add except that I think it is a very good idea. I am not sure of the timing. But I will support Deputy Tadier.

[15:15]

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

This is one of those rare situations where my heart says I should be supporting this, absolutely wholeheartedly and committedly. However, my head says otherwise. My problem is that while I can appreciate the advantages of P.R., whether it is S.T.V., A.V. or whatever, in producing a fair result where you have got single Member constituencies, for the life of me I cannot get my head round what it means when you have got 3 or 4 or 6 or 8 candidates and you have then got to start eliminating and toughening-up and how does that work? With a multi-Member constituency does it still retain that element of fairness and a reflective more accurate picture of what the electorate wants? I was desperately waiting for that moment of clarity when I understand it from the speech of the proposer. I am afraid I think I ended up in a worse place between the boxes opened or not opened and 2 boxes or 3 boxes. I do not know if it was Hunt the Lady or it was Crown and Anchor

we were playing at one stage. I did not get a clear picture of what that meant to the Jersey situation of multi-Member constituencies. Unless in the summing-up I can get that moment of clarity I think I may reluctantly, because I do agree in principle in single Member constituencies, this is the way forward and will be the way forward eventually. At this stage I do not see it as the top priority. So, over to the Deputy.

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

Just a few thoughts. I think the issue with Deputy Southern is not to look at the advantages as portrayed by Deputy Tadier, it is to look at the negative way in which the current system is working, in other words, a whole raft of people are getting in on very small minority votes, particularly at the tail of elections, as it is most vividly demonstrated in Senatorials and maybe most vividly demonstrated in the by-elections due to take place in St. Helier. So, it is putting the disadvantages of one system against the comparative advantage that could be gained. It is certainly not electoral Nirvana. But it is putting the disadvantages of what is currently happening. Like the Constable of Trinity, I am suffering, as I have said before, from a severe case of reform fatigue. But what I think is quite interesting ... it is worth remembering because it is very hard to lift our eyes up to the heavens and be optimistic because we battered ourselves so much about electoral reform, quite rightly. But take the elections for Constables. There is a good chance, and for some Deputies, where there are people in entrenched seats, there are Constables in entrenched seats and we know that a lot of the potential candidates will not put themselves forward other than some kind of statement, stubborn statement, which they know will end in defeat. But we know under this system there is a good chance, if there were, for example, to be 3 people competing for a seat, that there will be a looseness about the result. There will not be a predictability about the result and it could start opening-up areas and elections which hitherto have been closed. I think that has to be a good thing. If people think when they go to vote there is a chance, which is what they do not think at the moment, either in terms sometimes of the individuals or in terms of the policies that they allegedly promote, if they think there is no chance they get disillusioned. It is a fact that there is no excitement, there is a no edge to a lot of elections and there is an incredible predictability to a lot of results which I fully admit to, unlike the Greffier. **[Laughter]** I think this might help. It will never provide a total revolution but it would help in providing a bit more fluidity to elections, a bit more openness. It would give people who are thinking of running in constituencies where there are highly entrenched candidates, it would give those people a feeling, certainly if there were, say, 3 of them running, that there is a real unpredictability about the result. That, surely, would make things a bit more exciting. And for Senatorials with S.T.V., and I am very surprised that Deputy Young is prepared to accept the logic of A.V. for single Members but not S.T.V. for others. If he allows the current system to continue, what he is really saying is people can slip in with all sorts of minority votes and that that is acceptable. That is an incredibly frustrating matter for the electorate where they feel games have been played; plumping has gone on to a massive extent within the election so only one or 2 candidates have been chosen. So there is this unconscious collusion between the people who want strong candidates to come in and those who want the very low vote candidates to come in. What happens if you plump, of course, for one or 2 only? You are helping those very low vote candidates come in. You are conspiring to bring them in. Well, that is my view and maybe Deputy Tadier would contradict it. So, just a few thoughts from a fatigued reformer.

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

The Deputy, if I may respond... this was not correct. He was putting words in my mouth, that I was not accepting S.V. because I preferred some kind of a gerrymandering solution, it seems. What I was saying is that I support A.V. I do not know the detail about S.V. but it seems sensible that we do the same thing for both and therefore I think we make one decision and we do not split it between a separate decision for A.V. So, I support the whole.

**Deputy M. Tadier:**

Sir, a point of order: can we only allow second speeches when they enhance my position and support it? [Laughter]

**The Bailiff:**

The Deputy was clarifying what he had said when Deputy Le Hérisier he said had misconstrued what he said.

**11.1.11 Deputy J.A.N. Le Fondré:**

I was a bit worried we had introduced a bell for the length of speeches and the quality of their content without us all knowing, in which case I shall shut up now, I think. I think I am probably in the position of at least one other speaker, which is at present reluctantly voting against. But I am open to being persuaded, if that makes sense. I think Deputy Maçon made the point that when Dr. Renwick made the presentation, in practical terms, it only affects the outcome in about 5 per cent of the cases, in which case why are we doing it? My view is also probably skewed against supporting this from the point of view: I did not find the referendum a good process in terms of the voting and to me it did not give a clear outcome. I know this is a different scenario; you have got to vote a candidate here. But it does kind of bias me against moving away from a first-past-the-post under present circumstances. What I would ask the proposer: I note in the Irish example he has given, it makes reference to “exhausted ballots” because the actual total voting is the same in both rounds, whereas under the referendum the numbers drop because they went from 16 down to 14. So I am just curious if there is a nuance there that I may have not picked up on. I think, in summary, at the moment I am probably not supportive. I do agree with those who have said that it has got to be all-in or all-out, to my view. In other words, I do not think one should cherry-pick between (a) and (b). I think if you are going to support (a) you should support (b) as well. I think, having said all that, Deputy Le Hérisier’s comment about the issues around the marginal votes is important. But I shall wait to hear the speaker sum-up.

**11.1.12 Deputy M.R. Higgins:**

Just very briefly. Senator Bailhache quite rightly pointed out that the public have little confidence in this Assembly and the Members who constitute it? Why? Because we fail to bring in the reforms that we have been trying to bring in for something like 6 years, in the case of some of us, or 3 years, and because States Members fail to honour the promises that they have made the electorate. So, there is general apathy and I think disgust with what we have done here. Now, I happen to believe that S.T.V. and A.V. would result in an improvement to the current system and I hope Members will support it, if not least to salvage something from our appalling record on reform. As far as Deputy Le Hérisier’s argument is concerned, unfortunately, I think he is going to reinforce the vested interest of those Members who fear change because they believe they will lose their seats and their future income and if they do vote thinking about their own position again, they will further erode confidence of the public in this Chamber because it is seen as riven with self-interest and not really the interests of the population. I urge Members to support.

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

I am a little bit disappointed that not more Members are putting their lights on. Maybe they do have reform fatigue. I think Deputy Tadier has made a very good case. I was one of those Members who attended the presentation by Dr. Renwick, and an excellent presentation it was too, and I went away enthused that at last we had something to hang our hat on with regard to reform. Even more was I confident that this was going to happen when I read the report of the review of our electoral system when, as quoted in the proposition, Dr. Renwick is quoted as saying that we have to change our system of voting. I felt really disappointed to hear Senator Bailhache say that

because we have turned our back on reform we should not be looking at changing to A.V. or S.T.V. To me that smacked of sour grapes and I am disappointed that he should not want to support one of the proposals in the report produced by his panel. Some play has been made of the Social Survey and it is almost as though those 3 ... I do not know how people take part in the Social Survey; I think it is a very small number of people who fill in the form. Because 37 per cent apparently have got no confidence in Government; we are all useless; we have to significantly change our way we run our affairs. I just find it strange that we put so much emphasis on the Social Survey comments which, as I say, are only a small snapshot of people who are asked questions about various things in the Island. On this particular issue Deputy Tadier has made a strong case. I was particularly interested in the comments of the Constable of Trinity, who, of course, is the Chairman of the Comité, and we have had the Comité's comments, which are very fair. What I believe the Connétable is saying, if the States today vote for change in the way we elect in single constituents' seats or seats of multiple seats for S.T.V., they would do what they have to do and if it means that, in particular where we are going to be electing 8 Senators, that result, the final result is not known until the Friday, is it so bad? Is that really the end of democracy in Jersey, that we wait another 24 hours for the result? In the last election it was well past midnight; I think it was about 1.00 a.m. when the final results were through and counted and we could have all gone home and come back in the morning. Would we have been any the worse if we had have had to wait until 8.00 a.m. or 9.00 a.m. the next day for the results? I really think we are making too much fuss about the workload. I fully understand that Parish staff, if they have been there since 8.00 a.m. in the morning until 10.00 p.m. or 11.00 p.m. at night, should be allowed to go home; of course they should. Of course, if they need ... and I am not sure if I understood the Constable when he said the Parish staff have Thursday off. I am not sure if he said that or they would like to have Thursday off, having worked all day Wednesday. I am not too sure. But even if we wait until Friday for the outcome, I do not think it is so disastrous. It will only apply to the Senatorial election and it is very unlikely it would apply to any of the multiple seats in St. Helier or I think St. Clement was another one. Some people are suggesting that - and I think it was Deputy Le Fondré said that they want to cherry-pick. They want A.V.: "Yes, we will have A.V." I think Senator Le Marquand was one and I think Deputy Young is another. Well, no, I do not think you can because I think you do a disservice if you do not have S.T.V. for the multiple seats.

[15:30]

I do remember the famous words uttered by the Minister for Treasury and Resources when we were debating his proposition on reform. He said that the outcome of the next Senatorial election would be a Horlicks. Now, I am surprised that that word was allowed in this Assembly but he did say it would be a Horlicks. So I am repeating it because presumably it is allowed as parliamentary language. **[Laughter]** Now, I used to like Horlicks. Before I went to bed it was quite good for a good night's sleep. I really believe that the best outcome for Senatorial election 2014 will be an S.T.V. voting system and I do believe that we cannot have a situation where... and again, Senator Ozouf highlighted this when he made his speeches on reform, that we need to be sure that there is some reality about the lower places, the 5th, 6th, 7th and 8th, perhaps, and S.T.V. will achieve that. What is the problem? The only problem is, and, again I get very angry when I hear people say: "The electorate do not understand it." Do we assume that our electorate are so incompetent that they cannot put numbers 1 to 8 or 1 to 10, whatever numbers we wish, on a form when they vote? Most of the electorate, if not all, are quite capable and we should give them credit for doing the right thing when they fill in their voting slip in a multiple constituency and also if we have A.V. in the single constituency. Therefore, as Deputy Le Hérissier said, we will see stronger results in what is known commonly as safe seats, where I believe already people are being lined up for their safe seat and a little bit of jockeying around within the Parish to make sure that there are now

challengers. We cannot have that. We have to have a democratic election. A.V. will help and I hope Members will support the proposition.

**The Connétable of Trinity:**

Could I just clarify to the Senator? The staff are at the Parish Hall for 7.00 a.m. The election starts at 8.00 a.m. and the normal procedure at the moment is, because it is the way we go, they have the following day off. I said that would have to be reviewed if this came in. That is all.

**Deputy J.H. Young:**

I am sorry again, but the Senator did again misrepresent me. I did not cherry-pick in those comments.

**11.1.14 Senator S.C. Ferguson:**

Like Senator Le Gresley, I am extremely disappointed in those who say the system here is very complicated. It is a great deal less complicated than the U.S. (United States) and, if you look at the number in this Assembly who are not Jersey-born, we have plenty of people who have been smart enough to understand the system. So I fail to see why the locals think we are so thick, be that as it may. As for the fluidity argument, all you need is 3 candidates in a single-seat constituency and it usually results in an election upset. I have seen a number like that in St. Brelade and it has always been great fun. We are in the final stages of a reform programme. Now, the scientific method states that you do one change at a time. If you have too many variables, you are not sure of what works and - hang on a minute - we are trying to get the boat out. We are trying to get people to come and vote. If we keep changing everything and we suddenly get everybody coming out to vote, what is it that we have done that has got them all out to vote? Can we just do it in stages and do it logically and methodically? I really would prefer to do this in an organised manner.

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

My previous remarks have been referred to and P.P.C.s comments have referred to the various outcomes of the previous electoral proposition. I hope the reality of quite what a disaster electorally we are facing in October is beginning to become understood by Members. Senator Le Gresley may light-heartedly talk about Horlicks - I was trying to be polite - but there is no doubt that the elections, as currently cast, that we are looking at in October are going to be a travesty of democratic legitimacy. It is going to be serious and what worries me about this proposition ... and I do have some sympathies with it and I will just explain why I am even more worried about the legitimacy of the people that will be sitting in this Assembly. While lawful and while elected unto the rules that this Assembly will have set, it will be, I think, a serious problem of democratic legitimacy. I was in Westminster last Wednesday and I met with a number of people and I described our system. Without any information about what I tried to do in the reform debate, I explained the single seat, the multiple seat, the unequal distribution of seats and the vast difference of the mandates that people get. I then explained how the election would work with the Constables, the Deputies and the Senators with 8 seats. This individual, who knows a lot about parliaments and democracy, was pretty well aghast. I think we are facing a real problem in relation to the legitimacy of our electoral system. It is really bad and what worried me is, while I have sympathy, this idea that you can have a system of mix-and-match. We are in the mess that we are in and it is interesting to hear Deputy Higgins scold Members for not doing what we said. We had a reform. We did have a solution. We did have at least a best-of-the-worst situation and maybe this is what this is, but I think the system will be enormously problematic and it is as a result of incremental change which is effectively just a bit of this and that without overall change; unintended consequences being made. We are having a debate about how we are going to elect people, which is going to be fundamentally different than what we have at the moment. The A.V. system for single-member votes is a game-changer in terms of its results. Maybe suitable for party politics -

better than it is individuals or not, there are views about that - but certainly it is seen to work better. One needs to be clear about that. A.V. is seen to be better when you have a clear party political system as opposed to individuals. This idea that you can have A.V. but not S.T.V. is absolutely crazy. I know that Senator Le Marquand is a mathematician, but how on earth are we going to explain to people that they have got an alternative vote system in a single Deputy election, say, of St. Saviour No. 3 and the Constable, but an S.T.V. system in some other district (which, by the way, of course, are different sizes and different mandates) and we are going to have a non-S.T.V. for Senators? People do not understand the system at the moment and they are not going to understand the system in October. They are not going to come out to vote, as the Social Survey will say, out of protest and out of absolute exasperation. I see Constables that voted against the proposition last week nodding their heads. I hope they reflect on that. We are going to see a real problem. Deputy Tadier may be right. He may well be right that A.V. and S.T.V. is a better system, but what worries me is the fact that it is going to make ... it is quite disrespectful to say: "Oh, electors vote but they do not need to understand the mathematics of it." I think Jersey people do need to understand the mathematics of what they are doing. To now layer-on an unfair, chaotic, unequal, undemocratic system on a complicated electoral system, I think we are going to end up in even bigger problems. I do not know whether or not it really is too late. Maybe we are past the Last Chance Saloon. Maybe there is nothing that is going to rescue us from the democratic ... I see some Members shaking their heads. There are many Members of this Assembly ... I see Deputy Le Hérissier looking at me quizzically. He spoke very strongly against the reform debate. We are not re-debating that now but, let there be no doubt, there are problems ahead in our democratic legitimacy in these elections. To have a Back-Bencher bring forward a minority proposal which has not really been examined, I saw a number of Members looking at this and working out what it meant. Making a decision without having a proper system of scrutiny of it on the hoof is really dangerous. I do not know how I am going to vote on this. I have sympathy. Deputy Tadier will sum up, but ...

**Deputy M. Tadier:**

It is a point of order, Sir. To suggest this is on the hoof, this was arranged back in September and meetings were put on by the P.P.C. where speakers ...

**The Bailiff:**

Deputy, this is a matter you can deal with ...

**Deputy M. Tadier:**

I can deal with that, but I think it is out of order, Sir.

**The Bailiff:**

It is not a point of order.

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

It is not a point of order. The point is that we have got a minority member of P.P.C. coming forward with a radical proposal to change our system which has not been the subject of the referendum question. It was in the Electoral Commission's report, but it has not got democratic legitimacy. We have not asked people. I am not necessarily saying we listen to people when we ask them because we do not. **[Laughter]** I think it is a problem. P.P.C. has got some real thinking to do. Members of this Assembly have got some real thinking to do to see whether there is anything that we can do to pull back from what I regard to be the cusp of a political disaster: accountability disaster, unfairness, inequality in our electoral system. I will listen to what Deputy Tadier says come summing-up. There are reasons why you would support this, but layering this on

top of the patchwork of non-decisions that we have made is a serious problem and it could lead to even more voter apathy and even more confusion, unfortunately.

**11.1.16 Deputy R.C. Duhamel:**

Just a quick point rather than to labour on the maths behind the system, which will perplex a few. I have only got one question and that is, on pages 12 and 13, what is outlined for the 2 different systems of A.V. and S.T.V. are the 2 different versions: the Australian version where you have to rank everybody, otherwise your vote cast is invalid, and the normal system where you can still not use all of your ranking votes. The proposition does not suggest, if indeed we go for it, which of those 2 systems we will be voting for and I think it would be helpful for the Assembly as a whole to determine which system, the Australian system or the normal one, we would be voting for in both those cases.

**The Bailiff:**

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

**11.1.17 Deputy M. Tadier:**

First of all, I thank all Members who have spoken. I was pleased that a number of Members did speak and I think it was a good-natured debate. There seems to be 5 points that I need to address in summing up and if I can summarise these first rather than necessarily go through everyone who spoke. It seems to me that there have not really been any arguments against the principle of A.V. A.V. is understood. It is relatively simple to grasp even though I think it is 8 per cent of the cases in which it make a difference not 5, but we do not need to argue over that.

[15:45]

Even if it is 8 per cent, which demonstrably has a difference - and I would speculate in a non-party system it may be higher - that interprets as 4 seats in this Assembly. If we were all elected in single seats, there would be 4 different States Members there. I ask the question: what is an election process if it is not a mechanism to implement the will of the people? That is what an election is. It is a way and sometimes it can be a blunt tool - certainly under our current system it is a blunt tool - to implement the will of the people, that the electorate speak and that their opinion is listened to. I will address the arguments for S.T.V. It seems to me that there are arguments being put forward which are to do with timing, one I addressed at the beginning. "This is not the right time. This is a good idea, but it is not the right time." I will try and refute that. "The complexity of S.T.V. is too great for the net gain." I do not believe that is true. I think it is the other way round. The net gain is demonstrable, both mathematically and empirically. We have been told this by the experts. The third point is the rationale behind S.T.V. Deputy Southern said he wants some more explanation. In the meantime he can glance over page 14 which gives a quick explanation of the rationale for S.T.V. and why it is better. The fourth point is that the 2 systems cannot be worked together and then the last one, point 5, is to show that the problems of our current systems are so great that it would be a dereliction of duty for us to remain with the system when there is an option for another system which is demonstrably better. Now, there might be a lot of horse-trading that goes on in this House once Members are elected, and Deputy Baudains suggested that the electorate are not so concerned about the voting mechanism but what happens afterwards, and perhaps this horse-trading is an example. But just because we have horse-trading does not mean we should have a system of election which is used for horse racing to determine the winners. First-past-the-post is all very well when it comes to determining the winner of a horse race or a greyhound race; when it comes to deciding whether or not the will of the people is being implemented, it is a very poor tool indeed. Now Deputy Maçon said there are people out there who struggle to put a cross in a box. Who are these people and what is the Chairman of P.P.C. doing about this? We make these flippant



comments, I think, in a debate but there are people out there who genuinely struggle to put a cross in a box.

**Deputy J.M. Maçon:**

Would the Member give way? I did say afterwards that that was a very extreme minority.

**Deputy M. Tadier:**

If there are extreme cases out there where people either have a physical hampering that they cannot put an X in a box due to issues with their hands or mental issues, there will be provisions made for them and we need to make sure that those with mental capacities to cast votes are able to do that. Senator Bailhache, I believe, was selective. He said that the system was complex. I do not believe S.T.V. is overly complex, the net gain is there. But he suggested by adopting a system, possibly A.V. but not S.T.V. or having A.V. and S.T.V. now is too complicated; it would suppress voter turnout. But that is not what the expert advice said. It has to be said that this is not my idea. I could quite happily go on under a system of first-past-the-post. We should not be asking ourselves: "How does this benefit me?" or: "How does this benefit my constituency?" and I am sure none of us will be doing that. Dr. Renwick said that first of all the current system we have: "... can seriously misrepresent opinion. If groups of voters tend to vote for the same set of candidates, the largest group can secure all the representation even if it is the minority of the population as a whole who would do that." Second, is that the consequence of this is that "... multi-Member plurality can lead to a large number of wasted votes, an effect that is likely to depress electoral turnout. There is clear evidence that greater proportionality in elections leads to higher turnout. In non-partisan Jersey, standard measures of proportionality have little meaning. But wasted votes are strongly associated with non-proportionality. Thus, it is safe to surmise that Jersey's non-proportional voting system harms electoral turnout." This was an expert commissioned by the Electoral Commission whose findings they took on board, albeit for 2018. Now this will be the only change that is being brought forward, so to suggest that because we have a rotten system at the moment we cannot do something which makes it better is a perverse argument. We already have 2 types of voting system. I will refer Members to page 9 of the report where we see Jersey has a mixture of single Member plurality and multi-Member plurality. That is the complicated issue and to suggest that S.T.V. and A.V. cannot work together is a contradiction. Because we were told the Electoral Commission's preference, certainly the politicians that were represented in here, was to perpetuate that system of single seats alongside multi-seat constituencies, be it 5 seats in the super-constituencies and one for the Constable seats. Either way, the current system we are left with is still going to be a mixture and I would say that rather than layering a more complex system on top, what we are doing is layering a fair system on top of a broken system which will be changed in the future. Perhaps the right analogy is to talk about the curate's egg. I like that example; I had never heard that expression until 2 weeks ago. The curate's egg originally, I think, came out of a cartoon, a political cartoon, where the piety of a reverend was taken into question and he was lampooned because he was asked: "How is your egg, curate?" and it was a bad egg basically. He did not want to eat it and he said: "Well I can assure you that parts of it are very good indeed" so that some parts of it are bad and of course that is where the joke arose from. Now how do you want to eat your curate's egg, I would ask Members? Do you want to eat it with a spoon or with chopsticks? I suggest currently the electorate are eating their curate's egg with chopsticks and I am simply saying it is a very ineffective and crude way of eating your egg. Do it with a spoon and then at the next election we may even give you an egg that is worth eating. We may even give you some candidates and a system that is fit for purpose. We fail to do that because of all the various different opinions we have but we can at the very least put these differences aside and listen to independent expert advice and implement them fully. Now, do I need to give the example of how S.T.V. can work in practice? I think I will because Deputy Southern asked me to. On page 14 we

have again a non-partisan example of how a decision might be made. A group of people have to choose 3 different locations that they want to visit while on holiday in the U.K. and it goes through basically how the S.T.V. system works. People vote preferentially, I will not go through it in detail, but ultimately the ones that are chosen are Kew Gardens, Blenheim Palace and Alton Towers from a potential list of Tate Gallery and Legoland. What would have happened of course if they had stuck with the first-past-the-post is that all the attractions that would have been visited would have been Kew Gardens, Blenheim Palace and Alton Towers ... sorry, I think I have got that wrong. It probably does not help my case at all. **[Laughter]** But let us read the rationale, shall we? I am sure Dr. Renwick knows more than I do: "This redistribution is shown in the second line. It turns out that most garden lovers also like country houses, and some like art galleries, while few are so keen on theme parks. The effect is that Blenheim, with 15 extra votes and 30 votes in total, now also passes the quota and is confirmed as the second venue to be chosen." The conclusion of that is: "If we look at how the votes have panned out, we can see that the majority of the club's members prefer sedate excursions." The majority of States Members prefer sedate government, not necessarily the public: "... but a significant minority would prefer something more lively. The S.T.V. system ensures that both these preferences are reflected in the final choice. If, by contrast, the multi-Member plurality (first-past-the-post) method currently used in Jersey elections had been employed, each Member would have had 3 votes, and those preferring sedate pleasures might well have captured all 3 slots. That may be appropriate in some contexts. But if you want the outcome to reflect the spread of opinion among voters, it is not." So if we want all States Members to be sedate, then we stick with the multi-Member plurality. If we want a little bit of liveliness injected into our election and the subsequent candidates that emerge are successful, we adopt the S.T.V. model. The timing issue is spurious, quite frankly. How long do we have to wait? We were told that we cannot implement the new system now because we will do it in 2018 because there were too many changes being brought through. Now we know that there are no changes coming forward in this election, and this is why I have had to delay this proposition, this is the ideal time to implement A.V. and S.T.V. together. Now can we have A.V. and S.T.V. running separately? Absolutely, yes, we could. The reason for that is we have 2 different systems. In an ideal world we would have one type of States Member and we would either have multi-Member constituencies or single-Member constituencies, we would not have a mixture of the 2. That is the issue. It is not the voting system which is being proposed here that is the issue, it is that the current system is broken and that needs to be amended. Now P.P.C. is already doing that work hopefully to come out with a single class of States Member to implement Clothier. That will be done in 2018. Senator Ferguson is quite right: you do one change at a time. So what we do now is we implement S.T.V. and A.V. In the future we implement the single class of States Member and then let us see what the turnout is for those elections. So I do agree with Senator Ferguson, although she may not have been speaking in support of this proposition, but that is how I interpret the argument. The complexity of this: I believe that nowadays with spreadsheets, once all the results are in for Senatorial candidates it simply is a case of collating that information in a piece of software. It could be done, if need be, in an Excel spreadsheet. All the Parish Halls would phone-in their results with the second preferences there and a mathematical function in a spreadsheet will tell us relatively quickly the results and who the successful candidates are. Personally, I believe that could still be done on the night but if necessary it might be needed to be done the next day. If the Parish Halls need I.T. (Information Technology) support with that, I am sure that the Judicial Greffe can provide that. That is not an issue and, as I have said, I think the advantages far outweigh it. I think the problems of our current system are understood. The potential dominance and the actual dominance of large enough minorities which do not reflect public opinion and which skew public opinion are demonstrable. The mathematics and the expert advice are clear, as clear as he could ever be, he said. I believe that when we have a system on the table which is demonstrably better, both politically and mathematically, and we fail to adopt that, we are showing a dereliction of duty to the public that we

are meant to be representing. So I ask Members to be bold. If Members feel they can only support part (a) I think that is a step in the right direction. If Members can search their consciences and support both parts, I think that would also be beneficial. I ask for the appel.

**Senator S.C. Ferguson:**

Just a point of order, I am sure the Deputy did not mean to mislead the House but in fact we do have a final tranche of the reforms brought by the Connétable of St. Mary to the States in that we will have 2 less Senators in the election this year and therefore we have not yet finished the process of reforming the States from the last but one P.P.C. I am sure the Deputy did not mean to overlook that fact but it is a fact that we have a further amendment to the structure of the States coming through in October/November.

**Senator P.M. Bailhache:**

May I raise a point of order?

**The Bailiff:**

Yes. I hope it is a point of order, Senator.

**Senator P.M. Bailhache:**

Well it is a point of order. The point of order is this: I understand the Deputy is seeking to have separate votes on (a) and (b). If the Deputy is permitted to have separate votes on (a) and (b) then that will mean the Deputy of Trinity will be elected on an A.V. system and the Deputies in the neighbouring St. Saviour system will be elected on a first-past-the-post system. I am just wondering whether as President you will consider that that is an appropriate constitutional arrangement.

[16:00]

**The Bailiff:**

Senator, thank you very much but I consider it is not for the Chair to rule on this matter at all. It is entirely a matter for elected Members. It is entirely up to elected Members as to whether they wish to pass both, neither or one.

**Deputy R.C. Duhamel:**

Sir, the Deputy did not answer my question.

**Deputy M. Tadier:**

Yes, thank you. The question I have been told which I did not pick up is: would electors be required to use all of their ranking? So, for example, if there were 16 candidates for 8 seats in the Senatorial, no, they would not. I do not think you could impose that and that is the Australian method. That was not the case for the referendum, not that that is the best advertisement for the system anyway, but people would be able to plump if they wished and the system could nonetheless cope with that.

**The Bailiff:**

Very well, so the matter for the Assembly is the proposition of Deputy Tadier. He has asked that they be taken separately so the first vote will be on paragraph (a) which relates to S.T.V., that is the multi-Member matter. The Greffier will now open the voting.

<b>POUR: 16</b>		<b>CONTRE: 25</b>		<b>ABSTAIN: 2</b>
Senator A. Breckon		Senator S.C. Ferguson		Senator P.F.C. Ozouf
Senator F. du H. Le Gresley		Senator A.J.H. Maclean		Senator I.J. Gorst

Connétable of St. Clement		Senator B.I. Le Marquand		
Connétable of St. Brelade		Senator L.J. Farnham		
Deputy R.C. Duhamel (S)		Senator P.M. Bailhache		
Deputy R.G. Le Hérisier (S)		Connétable of St. Helier		
Deputy G.P. Southern (H)		Connétable of Trinity		
Deputy of St. Ouen		Connétable of St. Peter		
Deputy of Grouville		Connétable of St. Lawrence		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Mary		
Deputy S.S.P.A. Power (B)		Connétable of St. Ouen		
Deputy M. Tadier (B)		Connétable of St. Martin		
Deputy T.A. Vallois (S)		Connétable of St. Saviour		
Deputy M.R. Higgins (H)		Connétable of Grouville		
Deputy of St. John		Deputy of Trinity		
Deputy J.H. Young (B)		Deputy K.C. Lewis (S)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		
		Deputy G.C.L. Baudains (C)		
		Deputy J.P.G. Baker (H)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy R.J. Rondel (H)		

### The Bailiff:

Very well, so I will ask the Greffier to re-set the machine for the vote on paragraph (b) which is A.V. and the Greffier will open the voting.

#### **POUR: 20**

Senator A. Breckon  
 Senator B.I. Le Marquand  
 Senator F. du H. Le Gresley  
 Connétable of St. Clement  
 Connétable of St. Lawrence  
 Connétable of St. Brelade  
 Connétable of Grouville  
 Deputy R.C. Duhamel (S)  
 Deputy R.G. Le Hérisier (S)  
 Deputy G.P. Southern (H)  
 Deputy of St. Ouen  
 Deputy of Grouville  
 Deputy S.S.P.A. Power (B)  
 Deputy M. Tadier (B)  
 Deputy T.A. Vallois (S)  
 Deputy M.R. Higgins (H)  
 Deputy G.C.L. Baudains (C)  
 Deputy of St. John  
 Deputy J.H. Young (B)  
 Deputy of St. Mary

#### **CONTRE: 21**

Senator S.C. Ferguson  
 Senator A.J.H. Maclean  
 Senator L.J. Farnham  
 Senator P.M. Bailhache  
 Connétable of St. Helier  
 Connétable of Trinity  
 Connétable of St. Peter  
 Connétable of St. Mary  
 Connétable of St. Ouen  
 Connétable of St. Martin  
 Connétable of St. Saviour  
 Deputy J.A.N. Le Fondré (L)  
 Deputy of Trinity  
 Deputy K.C. Lewis (S)  
 Deputy E.J. Noel (L)  
 Deputy A.K.F. Green (H)  
 Deputy J.M. Maçon (S)  
 Deputy J.P.G. Baker (H)  
 Deputy of St. Martin  
 Deputy R.G. Bryans (H)  
 Deputy R.J. Rondel (H)

#### **ABSTAIN: 2**

Senator P.F.C. Ozouf  
 Senator I.J. Gorst

## **12. Law Officers' Department and members of the Law Society of Jersey: revised disciplinary process (P.152/2013)**

### **The Bailiff:**

Very well. The next matter on the Order Paper is Projet 152 Law Officers' Department and members of the Law Society of Jersey: revised disciplinary process lodged by Deputy Le Hérissier and I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion (a) to request the Chief Minister to bring forward within 6 months proposals for revised procedures to deal with any complaints made against lawyers working in the Law Officers' Department (other than H.M. Attorney General and H.M. Solicitor General) to ensure that they conform with "best practice"; (b) to request the Chief Minister to consult with the Law Society of Jersey and other interested parties to develop a revised complaints and disciplinary procedure for members of the Law Society that conforms with "best practice" and to present a report with recommendations to the States within 6 months and (c) to request the Chief Minister to consult with the Crown on the desirability and feasibility of establishing a revised complaints and disciplinary process for H.M. Attorney General and H.M. Solicitor General and to report to the States with recommendations within 6 months on the outcome of this consultation.

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

Like the previous proposition, this has been a long time in coming but the gap between the laying of the proposition and the debate has in fact been quite useful. There have been quite a few meetings with the Attorney General, one or 2 with the Chief Minister's Department, and I would hope that this would go through - famous last words - fairly quickly. If Members will read the Attorney General's comments they will see he does support (a) and (c). I have had a conversation with Senator Philip Bailhache, the Chairman of the Legislation Advisory Panel and it is my intention to withdraw (b). I will explain the reasons why. What we are really going ahead with to debate, I hope, is (a) and (c). As I said, if you have read the Attorney General's comments you will see that he does support (a) and (c). Because basically what is being asked for is that his department engages in discussions and consultation with the Chief Minister, who, as you may recall, in a recent decision of this Assembly, has taken over Judicial Services. Not the judiciary; Judicial Services and the issues and the structures that surround them. I would hope that this would be a good trial run, so to speak, where that department can produce a good worthwhile report for the States. The reason why this has arisen is not because there are hundreds of people queuing up to make complaints about the Law Officers' Department, there are obviously some, but it is because there were comments made by the Law Society of Jersey to me, and I think to other Members, that there should be parity in terms of dealing with the discipline of lawyers within the private and the public sectors. There then arose the issue that members of the public sector lawyers for various reasons are not members of the Law Society of Jersey. So how can the remit of a body which is both a representational body and a regulatory body at the same time - in itself an interesting concept - exercise a disciplinary remit over the public lawyers, so to speak? So I then looked at the way in which there could be a merging of the systems. It struck me the more I looked at it, the more I felt, having been involved way back in 2005 and beyond in some of the reforms that there were to the disciplinary process for the Law Society when it brought its definitive law in in 2005, that that system was in need of reform and perhaps I was wrong to try and hitch my proposals on to the Law Society of Jersey proposals. What has happened subsequent to that, and that is why I had the conversation with the Chairman of the Legislation Advisory Panel, is that the Law Society of Jersey has decided to carry out an in-depth review of its disciplinary procedures. I

understand it is on the brink of reporting to the Legislation Advisory Panel on that matter. What I would say to Members in withdrawing (b) is that I will wait for that report, as I am sure the Advisory Panel will, and see whether it does indeed conform to best practice. That could be a free-standing report where Members of the House may wish to make amendments to ensure that it conforms to best practice. It is a big issue; a big issue. It is an understandable process because it has all become a bit like Topsy, it has just grown. I am not sure the role of the lay people, I am not sure the role of lawyers, I am not sure the role of the Attorney General, and I am not sure all these issues have developed quite as the Law Society of Jersey envisaged. So root and branch reform is needed and I will wait for the report and what the comments are of the Legislation Advisory Panel. So I would like to move (a) and (c) because I think it is very important. Excellent though the Attorney General's own report is, the most important bit I think of his report is the practice in other jurisdictions, and you will see quite a few different models. But what you will see in most of the models portrayed is that there is a happy merging, so to speak, of how lawyers are dealt with, be they from the private or public sectors. In fact, I thought the Guernsey model was a very good one. There is a good sorting out of the different steps in the process so that people are not confused and that they do feel they will get justice, so to speak. I think also the point has been raised, and this is why I would like a further inquiry by the Chief Minister's office with the Law Officers' office, that Law Officers of the Crown could be so easily subject to malicious complaints because they have to make very difficult decisions about prosecutions and so forth and we have seen those issues in front of us the last few years. My view is other jurisdictions have handled this. I think disciplined bodies or bodies dealing with the issue of the implementation of codes of conduct, there are those 2 aspects, they are quite capable of distinguishing between malicious, highly-personally motivated complaints and those would strike at the heart of how the professional performance of the individual has indeed been carried out. I think they have become very used to that. It may happen in the initial phases. The notion that these bodies will be faced with a whole string of malicious complaints by prosecuted individuals who are taking every step possible to halt or inhibit their prosecution, while that may happen, they have lots of others ways in which they can do that now if they so wish. We have seen some of the mischief-making that can occur in that way but I do not think that can be a good reason. There are other professions, doctors, as we have seen portrayed in the press recently, the police; these are people who face very difficult decisions all the time and decisions that are going to clearly upset the individuals that they deal with. So I do not see on those grounds why one group of persons should be exempt and why that group of persons should be unnecessarily alarmed. I am worried, I am very worried, about the enormous burden that the Attorney General carries but no doubt that will be part of the review. In the nicest possible way he seems to appear in an enormous number of guises and I think that has to be examined. Because if you, for example, look, the Attorney General has just published the disciplinary processes for his department. But again the point remains, and although that is not really what this is entirely about, disciplinary processes, that he could or she could be subject to the same criticisms as other departments in that people are judging their own employees. Now there is a point at an early stage in the process where that makes sense, where you try and keep things informal and prevent it escalating if you can or if it should not escalate. But there is a big issue about people judging their own employees and popping-up a considerable number of times in the process and I think it is important that that be dealt with and that be examined. So on those grounds I would like to move... and I would like Members to bear in mind that the Law Officers' Department, irrespective of what I have said, have supported (a) and (c). Thank you.

**The Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on paragraphs (a) or (c)? Yes, Chief Minister.

**12.1.1 Senator I.J. Gorst:**

Yes, I think it is right that I do say a few words but I will keep them brief. As the Deputy said in moving the proposition this responsibility rightly falls now under my department since the decision in the Assembly last September. Part (a) asks that the procedures to deal with any complaint made against lawyers working in the Law Officers' Department should conform to best practice. I would just say that a number of points that the Deputy has just made I do not think are covered by his own request in this regard. So we just need to differentiate between what the piece of work might entail and some of the comments that the Deputy has made during the end of his opening speech which will not necessarily be included. Can I say that in my experience I want to take this opportunity of saying that I believe the Law Officers' Department is populated by individuals who are highly professional and dedicated to public service with a very strong sense of duty. They would not be, I believe, in that office unless, like elected Members, they felt that strong sense of public service and that strong sense of duty to our community. I am not aware of any issues relating to the conduct of their professional duties and I have to say that I hope and I am confident that none will arise in the future. Of course, having said that, it is always, I think, sensible and appropriate to consider how such matters might be handled should they arise in the future so that Islanders at large and this Assembly can be confident that the system we have in place deals with such issues with rigour, with transparency and with independence.

[16:15]

I think that that is what we would expect and that is what Islanders would expect. Again, I am pleased that the Attorney General has taken the initiative with regard to this matter and he issued last year the code of conduct for the Law Officers' Department. I think that is a very positive and helpful development. It helps this Assembly and members of the community see the process which is in place currently. Therefore, I am able to say that I can accept part (a) of this proposal: that I will go away and work with the Attorney General to review those disciplinary processes which underpin the code to make sure they meet those criteria which I just spoke about. I will not comment on part (b) because the Deputy is, as I understand it, not moving that part. It is already, as he has said, been under review by the Law Society and now by the Legislation Advisory Panel who are looking at the proposals which the Law Society has brought forward. Part (c) asks for consultation with the Crown on the desirability and feasibility of establishing a revised complaints and disciplinary process for the officers of Attorney General and I would just say that I make the same comments in regard to the office holders of those officers as I did with regard to the Law Officers Department generally. Again, however, it is always appropriate and sensible to keep those processes and systems under review and therefore I am quite content to accept the commission that the Deputy is asking me to do, working in consultation with the Attorney General, the Legislation Advisory Panel, the Law Society and the Crown to examine that matter in perhaps more detail and to ensure that any proposals are brought forward within the timeframe envisaged.

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

I am pleased that a review is going to take place and I hope that Chief Minister will make an appeal to all who have had dealings with the criminal justice system and Crown Advocates and others who they have been coming up against, and if they do have any concerns that they will address them to him and they will be taken on board by this review. In fact I am going to cite one that has been complained of to me and I followed this case, and I know other Members have also followed this case for some time, about the unreasonable conduct of some Crown Advocates in planning applications where they were demanding the people met the timescales involved and were intolerant of any delay and yet were many, many weeks themselves late on meeting their own deadlines. I might add that the people that they were dealing with were put under tremendous stress, people with heart conditions, and I would say their health deteriorated considerably because of the pressure they were put under. So I would hope, as I say, the Chief Minister will call

members of the public to submit examples of where perhaps Crown Advocates and others have gone wrong and also take that information from States Members and the system would be better for it.

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

Just to briefly echo Deputy Higgins remarks. Obviously the members of the staff of the Law Officers do, in case of civil litigation, particularly on grounds of appeal against planning applications, find themselves in a very difficult position, which I know from having worked in a law firm is always difficult, where one side, i.e. in this case the Minister, is represented by qualified and highly experienced lawyers and the other side is a litigant in person. Where that litigant in person is confronted with having to communicate with a lay expectation of the way these sort of processes would work and the response is one you would expect from a lawyer, that is a very problem area. So therefore I would hope that the Chief Minister would interpret what has been proposed here are the procedures that would really get down into that kind of very much operational level of functioning in terms of where individual members of the Attorney General's Department are having to deal with members of the public directly. This is a situation where States Members, that are often assisting or helping or trying to guide those members of the public, are not party to this. Under the current arrangements there is no way that individual members can be involved other than a long-chain communication and be in a situation where they have to act as mentor, guide and calmers-down when these crises occur. So that is a real issue. I think some of it will go away in the planning area when the Minister for Planning and Environment brings forward the changes to the law for the new appeal system. I really hope that that issue is taken out and our lawyers do not find themselves having to deal on legal issues with litigants in person. Of course there is a general point there. There are issues of appeal on planning but there are also appeals on other matters. We pass laws here on employment law, on the population law, all of which are going to give rise to appeals and certainly things like the long-term care law. So I think that is where I would like to see this part of the proposition put into taking a much more human-friendly approach. I am not being critical because it is not easy for professionals having to deal with lay people, lay litigants in the way I suggested. I hope very much that a best practice arrangement will provide help, guidance and some support for the members of the Law Officers' Department who find themselves having to deal with such cases. But generally I think this is a very positive move forward.

#### **The Bailiff:**

Does any other Member wish to speak? I invite Deputy Le Hérissier to reply.

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

I thank all Members who have spoken and they have made very good points. One of the issues was the issue of how we dealt with the Assistant Magistrate's case within the system and I hope something will be learnt from that. This is not an attempt to get that specifically dealt with but I hope there will be more comfort. On that basis, I move the proposition and ask for the appeal on (a) and (c).

#### **The Bailiff:**

Separately or together, Deputy?

### **Deputy R.G. Le Hérissier:**

Together.

#### **The Bailiff:**



Very well, the appel is called for then in relation to paragraphs (a) and (c) of the proposition. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 36</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator A. Breckon		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F.du H. Le Gresley		
Senator I.J. Gorst		
Senator P.M. Bailhache		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisssier (S)		
Deputy G.P. Southern (H)		
Deputy of St. Ouen		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy J.H. Young (B)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		

### **13. Maritime Security (Jersey) Order 201-: extension of provisions to Jersey (P.165/2013)**

#### **The Bailiff:**

The next matter on the Order Paper is Maritime Security (Jersey) Order 201-: Extension of Provisions to Jersey, Projet 165, lodged by the Chief Minister. I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion to signify, pursuant to Article 31 of the States of Jersey Law 2005, whether they agree (i) that a request be made to the Privy Council for the making of an Order in Council that would extend to Jersey, with appropriate modifications and

adaptations, certain provisions of the Aviation and Maritime Security Act 1990 as summarised in the report of the Chief Minister dated 6th December 2013; and (ii) that the British Overseas Territories Act 2002 (to which reference is made in the said Act of 1990) shall extend to Jersey, so as to be law in Jersey.

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

As Members will be aware from reading the proposition and from what the Deputy Greffier has just read out, this is a request for the States to agree to an extension of an Order in Council and therefore Standing Orders allow the Chief Minister to ask the Minister whose department this falls under and therefore I would like to ask the Minister for Economic Development to act as rapporteur in this instance.

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

The current 1996 Order provides the fundamental framework for modern port security, allowing areas to be designated as restricted and providing powers to inspect ships. Although, of course, regrettable that this ever became necessary the Order has potentially protected the Island from terrorism as well as shipping passengers and freight. In effect it is a deterrent that also protects our reputation by ensuring we meet international standards, an important consideration as we represent an entry point to the U.K. This proposition simply seeks to update the existing order as a result of changes to U.K. law as well as the coming into force in 2003 of the Shipping (Jersey) Law and the subsequent States of Jersey Law 2005. An additional matter is that the 1990 Act provided the basis for the U.K. to ratify the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and its associated protocol concerning the safety of fixed platforms. At the time Jersey did not request these instruments to be extended. Since those days security has become of ever greater importance as well as the importance of meeting international standards. The convention and protocol are important instruments in the fight against terrorism. Among other matters they established our jurisdiction over people in foreign-flagged vessels in territorial waters, and to act against those persons if they commit terrorist offences such as seizing control of a ship or damaging navigational equipment or facilities. For Jersey's authorities in these matters to be recognised and accepted by the international community, the Order in Council by itself is not sufficient. Extension of the United Kingdom's ratification of the Convention and Protocol is now necessary. Additionally, as the report by the Chief Minister makes clear, we need to show the international community that we have in place effective systems to counter money laundering and terrorist financing. It has been recommended to us that Jersey should seek extension of the Convention and the Protocol as part of maintaining international standards. Finally, we seek to ask the United Kingdom to extend the British Overseas Territories Act 2002. This Act provided for the renaming of dependent territories and British dependent territories' citizenship as respectively British Overseas Territories and British Overseas Territories' citizenship. These newer terms should be the ones used in the Maritime Security Order. This is, in effect, a tidying-up exercise. I propose the proposition.

**The Bailiff:**

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

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

Yes, I have just got a very brief question to ask. I am struggling to understand part 2 of the proposition, which is that the British Overseas Territories Act shall extend to Jersey so as to be law in Jersey. Why I question this particular part of the proposition is that I do not understand why we are being classed as a British Overseas Territory and not a Crown Dependency, which obviously is something different?

**The Bailiff:**

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

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

That is because this is a British Act which refers to the British Overseas Territories but it is being extended to Jersey, it is not about the fact that we are that we are a Crown Dependency, it is a U.K. Act that is why it refers to British Overseas Territories. It is being extended by Order in Council to Jersey.

**The Deputy of St. Ouen:**

Just for further clarification, is the Minister saying that Jersey will not be classified as a British Overseas Territory within this Act?

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

No, Jersey is not classified in that way.

[16:30]

**The Bailiff:**

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

**14. Draft Amendment (No. 22) of the Standing Orders of the States of Jersey (P.167/2013)**

**The Bailiff:**

The final matter of public business is the Draft Amendment (No. 22) of the Standing Orders of the States of Jersey, Projet 167, lodged by the Privileges and Procedures Committee. I will ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

Draft Amendment (No. 22) of the Standing Orders of the States of Jersey. 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.

**14.1 Deputy J.M. Maçon (Chairman, Privileges and Procedures Committee):**

I hope the report to these amendments will be relatively straightforward; however I will spend a little time explaining them. I can confirm that at present no States Member, past or present, has contacted me with any concerns to do with these amendments. Parts 1 and 4 of these amendments to Standing Orders have been brought forward to ensure that the Committee of Inquiry on Historic Abuse is able to undertake its work without any unnecessary constraints. I would stress most strongly at the outset that the Privileges and Procedures Committee has no involvement at all with the way in which the Committee of Inquiry will operate and it is entirely a matter for that committee. It is, of course, very important that none of us in this Assembly try to interfere in any way with the independence of the inquiry and the way in which it decides to go about its business. Although the committee has not yet announced its procedures, it is likely that some people appearing before the committee may wish to be legally represented. At present Standing Orders are quite restrictive by specifying that an inquiry can allow a witness to be represented by an advocate or solicitors. These terms in Jersey legislation only refer to a Jersey qualified advocate or solicitor. It is possible that the inquiry may consider it appropriate for lawyers from outside Jersey to represent witnesses, as has happened with application for the redress schemes. Number 2 of these

amendments therefore widens the scope for lawyers who can be allowed to represent witnesses to include non-Jersey lawyers. I would reiterate that by making this amendment the Assembly is not deciding that witnesses will be able to be legally represented as that entirely a matter for the committee itself. But this amendment will give greater flexibility if the inquiry does allow some witnesses to be represented. Amendment 3 makes a similar change in relation to support staff for the Committee of Inquiry. When the States agreed to set up this inquiry it was made clear that it is on a much larger scale and cost than any previous inquiry held in Jersey and it will need a significant number of support staff from outside of Jersey. At present Standing Order 151 says that the Greffier may appoint an advocate or solicitor to assist the Committee of Inquiry but this amendment widens that wording to make it clear that any persons can be appointed to assist and this will therefore include lawyers from outside Jersey as well as support staff dealing with matters such as documents such as document management. These amendments are hopefully straightforward and I propose the amendment.

**The Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the proposed amendments? The Constable of St. Martin.

**14.1.1 Connétable M.P.S. Le Troquer of St. Martin:**

I will speak because I am a little bit uncomfortable with the proposition. A proposition that sees changes to Standing Orders to accommodate something that I do not believe is a real problem. I could understand and I would accept criticism if we were saying there would be no representation at all, but that is not so. My understanding is that Article 48 of the States of Jersey Law 2005 makes provision for the making of Standing Orders. Paragraph 6 of that Article makes provision for the setting up of a Committee of Inquiry whose members may or may not be Members of the States. That is what has occurred with the appointed Committee of Inquiry. Standing Order No. 149 gives the Committee of Inquiry, if it considers it desirable, the ability to give leave to any person appearing before it to be represented by an advocate or solicitor. The proposition before us today states that Standing Order 149 permits a Committee of Inquiry to allow a person appearing before it to be represented by a Jersey qualified advocate or solicitor. I am unsure why Standing Orders does not say Jersey qualified, although my understanding is that only Jersey qualified advocates and solicitors can represent people in the courts in the Island, but I stand to be corrected. The inquiry itself may fall outside the process of legal representation in the courts. However, I am also not sure who has asked for this proposition to be brought forward in the first place. I understand the Privileges and Procedures Committee has to bring forward such propositions for changes to Standing Orders but I would ask the Chairman, if it is the appointed chair of the Committee of Inquiry who has sought this change to our Standing Orders or whether it is the Privileges and Procedures Committee members themselves or a member in that committee, or whether it is the victim or their representatives? The wording in the proposition tends to indicate that it is one of the latter 2 as the proposition states: "It is nevertheless possible that a committee would allow witnesses to be represented by lawyers from outside the Island." That indicates to me that the committee have not made such a request at this time, otherwise it would say so. The proposition goes further by saying the amendment does not in itself give witnesses any automatic right to be legally represented but removes the bar on non-Jersey qualified lawyers being allowed to represent witnesses. The opening paragraph of the proposition relates to this amendment, facilitating the work of the Committee of Inquiry into historical abuse. But, of course, it is far more than that. If this amendment is approved today it remains a permanent change to the Standing Orders for any future committees of inquiry. So I am not quite sure why we have to have this change. There are many advocates and solicitors - I should say all our advocates and solicitors - on the Island who act totally fairly and in the best interests of their clients under very strict codes, we

are not talking about Crown Advocates where some of the individuals concerned might have concerns that they were not being represented because the Crown Advocates and not so but may favour the inquiry in the wrong direction and not the client themselves. I am not seeking to keep the work for local solicitors or advocates - they are busy enough - but if this is just another decision to seek total fairness and independence from the legal profession then it seems to me we are party to suggesting that local lawyers, or some of them, would not represent victims fairly during the giving of their evidence to the Committee of Inquiry, and that cannot be right. I am sure there will be some people listening to the debate, maybe some of the victims and Members of this Assembly, who will criticise me, again, for having this view, but I believe, in accepting the proposition without question, that we will be changing Standing Orders for this or any future inquiries, that we are happy to chip away at the local traditions and rules for no obvious reason and we are quite happy to use lawyers from elsewhere because of the suggestion that there is a chance that some local lawyer would not represent the clients fairly.

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

I do not think it is fair to criticise this proposal, as the Constable has suggested. I do not think it is about chipping away because local lawyers cannot represent clients properly. I think it is about extending and recognising the practicalities that the people that are going to be required to appear before the inquiry, in whatever circumstance, whether as a person with their personal story to tell or somebody where things have been said about them that they need to reply to, do need the choice of their legal representation. At the moment we do not have a very satisfactory situation regarding legal representation generally, and that is something that I very much hope that we can look at in the review group. At the moment, Jersey-qualified advocates and solicitors have an exclusive right of audience before the Royal Court and there are very many English-qualified lawyers working with the law firms who provide an equivalent service in terms of their casework but, of course, do not have that access. This particularly shows when such matters as the employment tribunal arises where, for example, an English-qualified lawyer is able to represent a client at the Employment Tribunal but not, for example, in the Family Law Court, and then of course there is the Petty Debts Court and so on. There are also practical issues here that generally in my experience, having worked for a Jersey law firm myself, solicitors are subject to an equivalent level of qualification except they do not have the specialist qualification in Jersey law. Of course they are qualified lawyers. They are subject to regulation under the S.R.A. (Solicitors Regulation Authority) and a requirement for practising certificates, all of those things that I think we do not have here. In practical terms, sometimes, not always, there is a difference in the costs that they charge. But I think this is all about giving the people that do find themselves in need of having legal support at this inquiry that choice, and I think that is an important move, an important step, and I very much support it. So I do not think it is fair to say that it is chipping away and in any derogatory way it is against local lawyers. It is just accepting the practicalities of the modern day situation. Of course, some of the persons may not be resident in Jersey. They may be resident elsewhere and they may be used to having an established relationship with their own legal advisers and so on elsewhere. I think this is not a court of law. This is a Committee of Inquiry, and there is a difference. So I think in this case it is a step in the right direction and I think it should be supported.

#### **14.1.3 Senator P.M. Bailhache:**

I wonder if the Chairman of the Privileges and Procedures Committee might be willing to allow for Members to vote separately on paragraphs 2 and 3 of the draft amendment to the Standing Orders.

#### **The Bailiff:**

If I may, Senator, I think it is the right of any Member, just as it is with Articles in a law, to ask for a particular amendment to a Standing Order to be taken separately. So if you wish a particular one to be taken separately, it shall be.

**Senator P.M. Bailhache:**

Thank you very much, Sir. For many of the reasons given by Deputy Young, I can see there is great force in changing Standing Order 149 so as to enable witnesses, if they are to be given legal representation, to have the lawyer who has been helping them or advising them in the past. That lawyer may very well be an English solicitor or an English legal adviser and not a local advocate. I can see the force in permitting that to take place in the context of this inquiry, although I must confess that, like the Constable of St. Martin, I am not altogether happy that these are to be permanent amendments to the Standing Orders of the States rather than modifications that are relevant to the particular Committee of Inquiry that is under consideration. I would have much preferred to have seen it restricted to this particular Committee of Inquiry rather than broadened for the future for all committees. The amendment to Standing Order 151 troubles me rather more because this is to be a Committee of Inquiry that is to take place in Jersey, subject to Jersey law. The members of the Committee of Inquiry may very well find it difficult, because of the nature of their terms of reference, to take any advice from the Attorney General or from the Attorney General's Department, because the functioning of the Attorney General's Department is going to be a matter that is within their remit to a certain extent. I am very uncomfortable about the notion that the Committee of Inquiry should appoint, or the Greffier should appoint on their behalf, a foreign lawyer to advise the committee on matters which, as I say, fall under the jurisdiction of the law of this Island. I am not sure that I see any necessity for that. If the committee really does seek specialist opinion I am sure that specialist opinion can be sought by some other means, but so far as the task of counsel to the inquiry is concerned, which as I understand it is really the function covered by Standing Order 151, it seems to me that should be a Jersey lawyer. The committee will need advice on Jersey law and if they have advice from somebody who assumes that English law is always the same as Jersey law, they may very well go astray. So I am not persuaded at the moment that Standing Order 151 should be amended in this way and I propose to vote against that amendment.

[16:45]

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

It is a fact that amendments to Standing Orders can be changed again. We are being asked today to make changes specific to the Committee of Inquiry, of which Members have approved the terms of reference, and once their work is completed there is nothing to stop the P.P.C. of the day bringing back the old regime, if you like. So, changes can be made again to satisfy the concerns of the Constable of St. Martin and Senator Bailhache. With reference to Senator Bailhache's comments about the Greffe appointing a person to assist the Committee of Inquiry, I have not unfortunately got the proposition with me but from my memory - and Deputy Tadier is back in the Chamber now so he will probably be able to confirm - we had a long discussion about the issue of the Committee of Inquiry being able to appoint U.K. counsel to examine the decisions of the Law Officers' Department to prosecute or not to prosecute certain offenders. I seem to recall that one of the requirements of the Committee of Inquiry was to examine the decisions made in the Law Officers' Department of the day. Clearly that does need to be done by somebody totally independent, not in Jersey, and I think that is why the report from P.P.C. says, and I need to read it: "But it is clear that the forthcoming Committee of Inquiry will wish to appoint a counsel to the inquiry from outside Jersey to avoid any possible perception of conflict of interest." From my memory of the debate on the terms of reference, that was exactly what was required and so P.P.C. are basically carrying out

the wishes of the Assembly when we approved the terms of reference. If Deputy Tadier is able to speak - he has not spoken yet - perhaps he can confirm my understanding.

#### **14.1.5 Senator I.J. Gorst:**

Could I start by thanking P.P.C. for bringing forward these 2 important amendments to Standing Orders to enable the committee to do its important work? I understand the concerns of the Connétable of St. Martin and my Ministerial colleague on my right, but it was always envisaged from my perspective, and I was the mover of the terms of reference for the Committee of Inquiry, that we were going to need to amend the position so that a large majority of those appearing before the Committee of Inquiry - and there will still be a conversation to be had when the chairman and committee members come forward with the process to be followed about whether all people appearing before the committee need legal representation - who wished to have legal representation would want to be represented by a non-Jersey advocate or solicitor. I think we need to make clear that that bears no relation to the ability or standing of Jersey advocates or solicitors. It is the nature of some of the deep concerns of those individuals who need to, and we want to encourage to, appear before this committee that they want support from outside of our community, in many ways. It is not just when it comes to the legal profession but sometimes it is also with regard to counselling and professional medical or social service support, that because of the damage that has been done to them - I use these words carefully - within the system they feel that trust is at such a low level that they want to avail themselves of professional advice across a range of services, as I have said, from outside the Island. I think, therefore, it is extremely important that we today amend Standing Orders to allow that to happen. Could it be amended or revert back to its original form once the Committee of Inquiry is complete? I have got no doubt that that could happen because this is a most unusual situation, but it is one that we have to be careful to ensure that we do allow those people who will want to appear before the committee to have appropriate representation and to acknowledge and to accept the lack of trust that they have in our system as a whole. That brings me then to the second amendment with regard to counsel to the committee. It is important for the chairman and for the committee to show themselves throughout this process to be independent of political or any other type of interference from within our community. I have been able to meet briefly with the chairman and with members of the committee, but even such a meeting was only undertaken in the presence of care leavers and one other interested party, the Greffier of the States and the clerk that will be supporting the committee. I say that because it is important, because the chairman and the committee are absolutely clear that they do not wish to do anything that is going to compromise this inquiry. I appreciate that it is difficult for us in this Assembly to quite understand the depth of hurt and the lack of trust that there is with some members in our community about our institutions, because it is alien to us. We, I hope, in this Assembly hold our institutions in very high regard and we are grateful for those who serve in them, but we must acknowledge that there are some in our community for many years, because of what has happened to them, who do not have that confidence and therefore it is very important that we allow this committee to act in an independent manner. That, I believe, means that they will want to have counsel to the committee that is independent of Jersey. Yes, they will need, as Senator Bailhache says, for Jersey legal issues perhaps to consult with Jersey lawyers from time to time, but the general rule, I believe, that they will want to follow is one of having independent counsel to this committee. I would just remind Members - I cannot quite remember the timescale, it is probably a month or so, if not 2 now - that we in this Assembly unanimously voted for the Committee of Inquiry and for the terms of reference and we went to great lengths to try to ensure that there was an independent process in place to allow the appointment of the chairman and the members of the committee. I fear that if we do not allow that committee to appoint independent counsel to it then - maybe it is over-egging the pudding - we are in danger of compromising their independence right at the start before they have even got underway, and some members of our community will fear that

that is what we have done. I understand the concerns; I think largely they can be got over by reverting back the Standing Orders in due course. I understand the concerns of Senator Bailhache, but I would implore Members to allow these amendments to go through so that we can satisfy ourselves that there is not going to be any accusation whatsoever against this Committee of Inquiry that, firstly, they have not done everything to encourage all victims to come forward and be presented and tell their stories at this inquiry, because it is absolutely fundamentally important that they do otherwise it will not be able to reach conclusions and it will be undermined, and, second, that they have every means open to them to act in an independent manner. In this case, that means that they do need the ability to appoint independent counsel to the committee. So I do ask that we do not fall at this what is a first hurdle. It is very important that that independence is maintained and by changing the Standing Orders that will allow it to be maintained. So I thank the P.P.C. and I ask that Members give it their full support.

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

In fact, I am pleased to follow the Chief Minister on this particular occasion, because for once I am going to praise him for what he has just said. **[Approbation]** There is tremendous distrust out in the community about whether the Committee of Inquiry will be allowed to be independent and will get to the truth of what has gone on. I think if we interfere with any of these propositions being put forward by P.P.C. we are in danger of adding to that distrust. I fully endorse everything that the Chief Minister has said and I hope all Members will support it.

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

I think Senator Le Gresley said that I may speak. The Chief Minister was very conciliatory and spoke well, and he has already been praised for that, quite rightly. I am not sure why we are even in this position today to be questioning something that has already been agreed by the Assembly. If any Member here does not want the Committee of Inquiry to go ahead it is up to them to bring a rescindment motion. This has been a very long process already, and the reason I say that is because the damage that would be done, the very real damage that would be done, if we were to tinker with the Standing Orders and cast doubt in the minds of the people about whom this inquiry is, is that they would completely lose confidence in the whole process. These are people who rightly or wrongly but entirely understandably do not trust our system because they have been abused and, in many cases, when they have been abused some have survived that abuse. They have tried to tell people at the time what went on and for various reasons they were not believed or they did not have the power, the self-esteem, they had it knocked out of them so that they could not proceed for various obstacles. To suggest that quite frankly local lawyers who will be perceived to be conflicted and also remember that the terms of reference are looking at the prosecution cases to suggest that the Law Officers would even want to have anything to do without being given legal advice or the associative college of advocates over here is frankly beyond belief, so I would ask Members, it may have sounded slightly hyperbolic when I started off, but the damage I believe that would be done here is not something we want to go down in terms of a route. It is not something that I usually say because an Assembly is for debating but I believe that it sends out even the wrong message today, to those who are stakeholders in this whole process, where you are even questioning this particular article. So I do ask Members to certainly stick to this. If there is a debate to be had in the future about the merits and non-merits of allowing other representation in Jersey perhaps on the grounds of price and access to justice, then those arguments for and against can and should be put to the body which has been set up to look at the Access to Justice review. Those arguments need to be made and I know Members have already spoken robustly to that body because there are strong arguments on both sides and strong feelings, but this is not the forum in which they should rightly be raised.

#### **The Bailiff:**



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

**14.1.8 Deputy J.M. Maçon:**

Can I thank all Members who have contributed to this debate in what is not an easy subject at all? As has been said, these have come forward from the terms of reference of the decision made by the Assembly some time ago in allowing ... it is not allowing because what we are being asked to agree is that the Committee of Inquiry, if they should so choose, be permitted in whom they allow to represent those people who want to give submissions to the inquiry. The Committee of Inquiry members may choose that a different formula is appropriate but what we are being asked to provide to them is flexibility in how they go about their business.

[17:00]

I do not believe there is anything to object to. Again, we also have the issue of we know that there are people who have been involved in the redress scheme who have used what I will call foreign legal counsel, lawyers, whatever; do we really expect those people to yet again, having to go through what they have already gone through, open up to yet another ... okay, they might be Jersey-based lawyers, to go through that again and then to go through that process again with the Committee of Inquiry. I really do not think that is reasonable considering what has gone on already. Therefore that is why the Standing Orders have been drafted as they have been. I have already explained how the interpretation under the Jersey Law specifies how Jersey lawyers are considered. I think that the Chief Minister, when he spoke, summed up the situation and addressed the points well, as did Senator Le Gresley and Deputy Young. I understand how certainly within this Assembly there is always a desire to keep things as local as they possibly can. That is absolutely reasonable but in this particular context, given the particular circumstances, not only is it independent and all who contribute to it in running it need to be independent, but they need to be seen to be independent, and therefore that is why we have drafted the Standing Orders as we have. I hope that explains the rationale as to why it has taken this form. I know not every Member may like that but I hope that explains the position. I ask for the appel.

**The Bailiff:**

Do you want the appel in relation to every one because Senator Bailhache has asked that 151 be taken separately? I think the consequence of that is that probably each one needs to be taken separately, so may I suggest paragraph 1 you might ask for a standing vote. It is just interpretation.

**Deputy J.M. Maçon:**

I think appel voting for all, Sir. I think it is important that this is put on record.

**The Bailiff:**

The appel is called for in relation to paragraph 1, the Greffier will open the voting.

<b>POUR: 36</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator A. Breckon		Connétable of St. Martin		
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				

Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

**The Bailiff:**

Then we come to paragraph 2, which is the amendment to Standing Order 149, and the Greffier will open the voting.

<b>POUR: 37</b>	<b>CONTRE: 1</b>	<b>ABSTAIN: 0</b>
Senator A. Breckon	Connétable of St. Martin	
Senator S.C. Ferguson		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F.du H. Le Gresley		
Senator I.J. Gorst		
Senator P.M. Bailhache		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Saviour		
Connétable of Grouville		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérissier (S)		
Deputy of St. Ouen		
Deputy of Grouville		

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

**The Bailiff:**

The Greffier will reset the machine and we will move to paragraph 3, which is the amendment to Standing Order 151, and the Greffier will open the voting.

<b>POUR: 36</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 0</b>
Senator A. Breckon		Senator P.M. Bailhache		
Senator S.C. Ferguson		Connétable of St. Martin		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
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. Ouen				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				

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

**The Bailiff:**

Finally, we come to paragraph 4, which is citation and commencement, and the Greffier will open the voting

**POUR: 37**

Senator A. Breckon  
 Senator S.C. Ferguson  
 Senator A.J.H. Maclean  
 Senator B.I. Le Marquand  
 Senator F.du H. Le Gresley  
 Senator I.J. Gorst  
 Senator P.M. Bailhache  
 Connétable of St. Helier  
 Connétable of Trinity  
 Connétable of St. Clement  
 Connétable of St. Peter  
 Connétable of St. Lawrence  
 Connétable of St. Mary  
 Connétable of St. Ouen  
 Connétable of St. Brelade  
 Connétable of St. Saviour  
 Connétable of Grouville  
 Deputy R.C. Duhamel (S)  
 Deputy R.G. Le Hérisssier (S)  
 Deputy of St. Ouen  
 Deputy of Grouville  
 Deputy J.A.N. Le Fondré (L)  
 Deputy of Trinity  
 Deputy S.S.P.A. Power (B)  
 Deputy K.C. Lewis (S)  
 Deputy M. Tadier (B)  
 Deputy T.A. Vallois (S)  
 Deputy M.R. Higgins (H)  
 Deputy A.K.F. Green (H)  
 Deputy J.M. Maçon (S)  
 Deputy G.C.L. Baudains (C)  
 Deputy of St. John  
 Deputy J.H. Young (B)  
 Deputy of St. Mary  
 Deputy of St. Martin  
 Deputy R.G. Bryans (H)  
 Deputy R.J. Rondel (H)

**CONTRE: 1**

Connétable of St. Martin

**ABSTAIN: 0**

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Bailiff:**

That completes Public Business, so we come next to item M, Arrangement of Public Business for Future Meetings. I will ask the Chairman to speak to that.

**15. Deputy J.M. Maçon (Chairman, Privileges and Procedures Committee):**

I have received, apart from the reports that were lodged during this sitting... I would like to add P.164, which was referred to Scrutiny to table for 18th March, although within that time the Chairman may request a different period, but that is for that process to occur. Other than that, I would like to present the timetable as it is and would like to advise Members that we may need the sitting on the Wednesday as well, so it might be a 2-day sitting.

**The Bailiff:**

Can I just raise one matter from the Chair? Deputy Le Hérissier, I am advised there is an appeal against the cognitive planning matter, so I think there is an issue that will have to be considered as to whether P.103 can be debated.

**15.1 Deputy R.G. Le Hérissier:**

This seems to be the last available opportunity under the current cycle. It has had the effect of basically stymying debate on this issue within this Assembly. The appeal is not active as I understand it.

**The Bailiff:**

I am really just raising it, so obviously we will have to look at it and see what is happening but I am just alerting you to the possibility. Any other Member wish to say anything? Members in favour of adopting the business for the next meeting on 18th February? That closes the Assembly's business and we will reconvene on 18th February.

**ADJOURNMENT**

[17:06]