

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 24th SEPTEMBER 2014

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[9:30]

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

The Bailiff:

Members will have received a supplementary Order Paper and in particular this lists a number of matters which have been presented since this Assembly first started sitting. They are listed under C, and similarly there are some lodged propositions under D. Connétable, I think you wish to present a petition, is that correct?

PETITION

1. The Connétable of St. Helier will present a petition regarding the future use of Gas Place

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

Yes, if I could be permitted to say a few words before I present it. Thank you. Perhaps 2 things need to be said about this petition which seeks to halt any determination of the planning application on the Jersey Gas site. First of all, that the petition has had to be really rushed into the States because of the Minister's determination to press on with the processing of the application tomorrow, and therefore a lot of the petition papers are still out there having been taken around nearby residents. I need to apologise to members of the public who have been pursuing this petition that their efforts have had to be stopped and a lot of petition papers will not have made it on to this list. Secondly, I would like to point out that under the old committee system of government, if a committee president knew that a petition was being collected, the first thing they would have done would be to await the arrival of that petition so it could be given consideration by the States Assembly. I can only hope that the Minister for Planning and Environment will give the same respect to this petition which it is now my privilege to hand up for lodging. Thank you.

The Bailiff:

Very well. Yes, and in accordance with the Standing Orders to be referred to the Minister for consideration.

The Connétable of St. Helier:

Yes, please.

Deputy T.A. Vallois of St. Saviour:

Sir, may I raise the défaut on Deputy Southern, please?

The Bailiff:

Yes. Does the Assembly agree to raise the défaut on Deputy Southern? The défaut is raised. Now, as Members will have seen, I have given leave for an urgent oral question from the Connétable of St. Helier and there is also a statement to be made by the Minister for Economic Development. But if Members agree it seems to me we should first of all deal with the legislation for the Budget and then perhaps bring in the statement and the question at that stage before moving on to the rest of Public Business.

PUBLIC BUSINESS - resumption

2. Draft Finance (2015 Budget) (Jersey) Law 201- (P.141/2014)

The Bailiff:

So therefore, we will return to the Order Paper and the next matter is the Draft Finance (2015 Budget) (Jersey) Law, Projet 141, lodged by the Minister for Treasury and Resources and this is to bring into effect the matters in the Budget, and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Finance (2015 Budget) (Jersey) Law. A law to set the rate of income tax for 2015 and to amend the Income Tax (Jersey) Law 1961, the Customs and Excise (Jersey) Law 1999, the Goods and Services Tax (Jersey) Law 2007, the Stamp Duties and Fees (Jersey) Law 1998 and the Taxation (Land Transactions) (Jersey) Law 2009. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

The Bailiff:

Yes, Assistant Minister, and just so that Members are clear, there should be with Members 2 further amendments to the papers to reflect decisions taken over the last 2 days. So hopefully Members have that. There is an amendment to page 70 in Article 11 and an amendment to page 70 in Article 12. Assistant Minister.

2.1 Deputy E.J. Noel of St. Lawrence (Assistant Minister for Treasury and Resources - rapporteur):

Following the decisions reached in the Budget debate yesterday, the Draft Finance (2015 Budget) (Jersey) Law, as amended, proposes a standard rate of income tax and the income tax exemption thresholds for 2015. It sets out the impôt duties for 2015 and it reduces the stamp duty and land transactions tax payable on residential mortgages debt and properties worth not more than £400,000. In line with the amendments agreed by the States it amends the rates of stamp duty and land transaction tax applied to certain first-time buyer transactions. It also creates a higher rate of duty which applies to domestic property transactions worth in excess of £1 million. It also makes some other relatively minor amendments to the Income Tax Law or G.S.T. (Goods and Services Tax) Law and Stamp Duty Law. I move the principles.

The Bailiff:

Are the principles seconded? [**Seconded**]

Senator L.J. Farnham:

Can I raise the défaut on Senator Ozouf?

The Bailiff:

Does the Assembly agree to raise the défaut on Senator Ozouf? The défaut is raised. Does any Member wish to speak on the principles? Yes, Senator Breckon.

2.1.1 Senator A. Breckon:

The issues that concern me within this are the continual increase on impôt on wines, spirits, beers, cigarettes and fuel. The reason for that is, it is, in effect double taxation because when a 1 per cent increase is proposed in the Budget, when it translates to the industry it comes out as 4 or 5 pence or something like that, they usually say well, they are reviewing their costs and whatever else, and also G.S.T. is added to it as well. If Members want any evidence of that if they look at something that is commonly known, the price of petrol. I know Senator Ozouf, something he has looked at over the years, is the difference between the base cost of some of these things whether it is cigarettes, and I know in that the J.C.R.A. (Jersey Competition Regulatory Authority) did a report, I think the report cost about £70,000 and as a result of that I am not sure anything has happened. One of the issues was the fact that there was a Channel Island health warning, if that was taken, if that would reduce the price. There were other things and I think it is a fantasy really to believe that

if we put more on duty that the retailers will hold that and reduce their margins; it just does not happen.

The Bailiff:

Senator, sorry to interrupt but just to be fair, the Assembly has, of course, already agreed this in the Budget. This is just to bring into effect what the Assembly has already agreed by way of agreeing the Budget and I do not think it would be a productive use of time to re-debate the Budget when simply dealing with the legislation to give effect to what the Members have already decided on.

Senator A. Breckon:

The reason for me saying some of that is that I would ask that some of those Articles are taken separately so that a separate vote can be taken on, I think it is Articles 7 to 10 on that.

The Bailiff:

Yes, any Member has the right to ask for that.

Senator A. Breckon:

I would ask the Assistant Minister to do that and that, what I have just said, is the reason for doing that because I do not believe in the end that it is inflationary and other things and things that are mentioned. So for those reasons, I would ask that those Articles are taken separately.

The Bailiff:

Those are Articles 7, 8, 9 and 10. Very well. Does any other Member wish to speak? Deputy Young, I have seen, on the principles.

2.1.2 Deputy J.H. Young of St. Brelade:

Partly a point about stamp duty in relation to first-time buyers and partly a question, I suppose. I am finding it difficult to identify exactly where within this draft law we are helping first-time buyers on the stamp duty on the purchase as opposed to stamp duty on the borrowings. I see in this law, Article 11, but I regret I have not got the amendments before me as a result of the amendment discussions. So, I suppose the point I want to make is that I am still unhappy about the fact that there are additional tax being imposed on first-time buyers on properties up to £450,000 which I do not think is right in the current circumstances. If I can have a clarification, exactly point me to the Article in this law where it is included because I am having trouble identifying that. But nonetheless, my point remains is that first-time buyer provisions stamp duty; what we have ended up approving in the Budget is an increase on those transactions and I am discontent with that.

[9:45]

The Bailiff:

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

2.1.3 Deputy E.J. Noel:

To deal with Deputy Young's point first. There is a new Article to account for his amendments to the first-time stamp duty, it is going to be Article 12 and I will deal with that when we come to the detailed Articles. With regard to Senator Breckon, I am happy to take the votes on those items separately. I maintain the principles.

The Bailiff:

All those in favour of adopting the principles, kindly show? Those against? The principles are adopted.

Connétable S.A. Rennard of St. Saviour:

Excuse me, Sir, may I raise the défaut on the Deputy of St. John?

The Bailiff:

Yes, very well, Connétable. Does the Assembly agree to raise the défaut on the Connétable of St. John? The Deputy of St. John. The Connétable is clearly here. **[Laughter]** He cannot be missed. The défaut is raised on the Deputy of St. John. Yes, so then, Assistant Minister, coming to the Articles. Given what Members have said, would you wish to propose Articles 1 to 6 *en bloc* together?

2.2 Deputy E.J. Noel:

If I can do, Sir. I will just run through those Articles quickly. Article 1 sets the standard rate of income tax for 2015 at the rate of 20 per cent. Article 2 provides that the taxpayer who has returned to the Island after a period of non-residence of at least one year will pay tax by way of I.T.I.S. (Income Tax Instalment System) on the current year basis when taking up employment or working as a sub-contractor. Article 3 caps the mortgage interest relief available to marginal taxpayers at £15,000 for 2015 and for future years. Article 4 sets the income tax exemption threshold for 2015 year of assessment for individuals, married couples and civil partnerships. Each of the exemption thresholds have been increased by 1.7 per cent and then rounded as appropriately. Article 5 extends the availability of the double taxation credit relief on foreign income arising in a jurisdiction with which Jersey has an applicable double taxation agreement to marginal tax ratepayers. Credit being capped at the amount ... sorry. The ... **[Aside]** the credit being capped at the amount of the foreign tax paid on the relevant income. Article 6 amends the law to ensure that all oil supplying companies, other than the retail outlets as defined, pay tax on their profits at 20 per cent. I propose Articles 1 to 6.

The Bailiff:

Very well, are Articles 1 to 6 seconded? **[Seconded]** Does any Member wish to speak on any of those Articles? Deputy Young.

2.2.1 Deputy J.H. Young:

Article 2. I wanted to point out the situation of somebody who is on a previous year tax basis who leaves the Island and goes away to work in year one, let us say, elsewhere and enters into another tax jurisdiction and has to pay tax currently and they will of course still have their liability hanging over from previous years. Will this not bind pretty severely on people finding themselves having to pay more than one year's tax at once, effectively by it being moved swiftly from a prior year basis, where they are catching up their liabilities, on to a current year? I make the point, for example, if people lose their jobs, one of the extra double whammies they get, as well as losing their job and their income dropping down, in year 2, they have lost their job, they have lost their income and they have got a hangover from tax liabilities from previous years which is a real struggle to deal with. So having this requirement where you are going to impose on them, all of a sudden when they come back they have got an immediate requirement, seems to be a pretty unfair penalty. I am really discontent with this.

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

I wonder if the Assistant Minister has, at his fingertips, the portions of those paying past year income tax and those paying present year income tax and whether any moves are afoot to bring everybody on to current year tax.

2.2.3 Senator A. Breckon:

I wonder if I can ask the Assistant Minister if he could explain in Article 6, the new paragraph (4) where it says: “In this Article regional outlet means a facility from which hydrocarbon oil is sold directly to the public solely for use as fuel in motor vehicles or boats.” If that is the only change, could I ask the Minister to explain the current situation on the levelling of duty on boat fuel?

2.2.4 Deputy M. Tadier of St. Brelade:

Just on Article 1, the 20 pence in the pound is something that I cannot agree with. When we know that we are facing difficulties that is the first thing we should be looking to vary. It is completely wrong, in my opinion, that there are people very able to pay, I daresay even people whose earnings on their interest which outstrips the average earning of many Islanders, are still paying the same tax rate basically at 20 per cent when there is scope there for increasing that. I do not believe the old mantra that there is anything sacrosanct about the 20 pence in the pound. We know there are issues with Jersey’s underlying tax base of 0 per cent, which is an issue, but those who have vast amounts of wealth in Jersey, I believe would be willing to pay more and we could see a much more productive society, a much more equal society as a result, and that is something that will need to be pushed in the future. So I will not be supporting these Articles primarily because of Article 1.

The Bailiff:

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

2.2.5 Deputy E.J. Noel:

I will deal with Deputy Tadier’s point first, and he is entitled to his opinion. It is a shame he did not bring an amendment to the Budget debate yesterday. To go back to Deputy Young’s Article 2, this really is to capture those people who have left the Island for in excess of a year that when they come back they are treated in the same way as anyone else coming to the Island, that they pay on a current year basis because we do want to move all taxpayers over time to the current year basis. On to Deputy Southern’s question, the portion of current year basis payers versus prior year basis payers is roughly 25 per cent current year, 75 per cent prior year. We are looking at, in the long-term tax policy, to gradually move people from a prior year basis to a current year basis but that is going to be quite difficult to deliver in practice. There is a cohort of people who currently do not pay tax because of the exemption thresholds. Those could easily be moved to a current year basis because it has no effect. But this is a long-term project that needs to be built in with independent taxation and the rest of the modernisation of the tax system. Article 6, to answer Senator Breckon’s question, this measure effectively closes a loophole in the existing law that has been identified. There is no evidence to date that this loophole is being exploited but it just means that we are closing down that potential loophole which means that there is no escape for a utilities company or an oil providing company not to pay tax at the utility rate of 20 per cent. I maintain the Articles.

The Bailiff:

All those in favour of adopting the Articles ... the appel is called for in relation to Articles 1 to 6.

Deputy J.H. Young:

Can I have Article 2 separately, please?

The Bailiff:

Yes. Deputy Tadier, do you wish Article 1 separately?

Deputy M. Tadier:

Yes, please.

The Bailiff:

Very well, so the first vote will be on Article 1. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 42		CONTRE: 6		ABSTAIN: 0
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy M. Tadier (B)		
Senator A. Breckon		Deputy M.R. Higgins (H)		
Senator S.C. Ferguson		Deputy G.C.L. Baudains (C)		
Senator A.J.H. Maclean		Deputy N.B. Le Cornu (H)		
Senator B.I. Le Marquand		Deputy S.Y. Mézec (H)		
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
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 Hérissier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Bailiff:

Then we come to Article 2, also to be taken separately, so the Greffier will reset the machine and open the voting.

POUR: 39		CONTRE: 6		ABSTAIN: 2
Senator P.F.C. Ozouf		Connétable of St. Saviour		Deputy G.P. Southern (H)
Senator A. Breckon		Deputy M. Tadier (B)		Deputy M.R. Higgins (H)
Senator S.C. Ferguson		Deputy G.C.L. Baudains (C)		
Senator A.J.H. Maclean		Deputy J.H. Young (B)		
Senator B.I. Le Marquand		Deputy N.B. Le Cornu (H)		
Senator I.J. Gorst		Deputy S.Y. Mézec (H)		
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
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Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Bailiff:

Then we come to Articles 3 to 6 together and the Greffier will open the voting.

POUR: 42		CONTRE: 5		ABSTAIN: 0
Senator P.F.C. Ozouf		Deputy M. Tadier (B)		
Senator A. Breckon		Deputy M.R. Higgins (H)		
Senator S.C. Ferguson		Deputy G.C.L. Baudains (C)		
Senator A.J.H. Maclean		Deputy N.B. Le Cornu (H)		
Senator B.I. Le Marquand		Deputy S.Y. Mézec (H)		
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				

Connétable of St. Helier				
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Deputy R.C. Duhamel (S)				
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Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Bailiff:

Very well. Then we come, Assistant Minister, may I suggest you take the excise duty Articles together and then we can have separate votes if any Member wishes? So Articles 7 to 10.

2.3 Deputy E.J. Noel:

Article 7 sets the impôt duties on alcohol from 1st January 2015, and to remind Members, the increases in duties are equal to the following: 21.7 pence on a litre of spirits, 2.4 pence on a bottle of wine, nothing on a pint of standard beer, 1 pence on a pine of strong beer. The changes to the cider duty rates align in with the corresponding duty rates for beers resulting in a simplification of the impôt regime and corrects an anomaly that is currently present. Article 8 sets the impôt duties on tobacco from 1st January 2015, the increase being 22.4 pence on a packet of 20 king-size cigarettes. Article 9 sets the impôt duties on motor fuel from 1st January 2015. The impôt duties to that effect are a 2.1 per cent increase on the duty rates for 2014 will add 1 pence to the price of a litre of unleaded petrol. Article 10 is the last Article relating to impôt duties and sets the rate of vehicle excise duty from 1st January 2015. The rates set out in the table included in Article 10 have been increased by 1.7 per cent from the vehicle rates of duty for 2014. I propose Articles 7 to 10.

The Bailiff:

Are they seconded? [**Seconded**] Does any Member wish to speak on any of those Articles?
Senator Breckon.

2.3.1 Senator A. Breckon:

Just to say that is easy to include these in the budget increases because over the years there has been various opposition usually from the trade and that is understandable because there are reasons now in the prices of some of these things that we are well out of step with other places and they are easily comparable, if you compare a branded good whether it be a spirit or cigarettes or something like that and inquiries have been done to death, as it were, but nothing has come out of that. The other thing, it is inflationary as well because it will feed into the retail price index so it is a bit, in that respect, self-defeating and I think, you know, we have heard others say during this debate earlier about supporting tourism. Well, it is not the only reason that people come here but when people see some of the prices and they can also view things in airports, duty-free and see really there are some significant price differences. Although there may well be health reasons for doing this, I think we cannot keep on doing this, you know, somebody needs to look hard at the situation because we are out of step with other places. For those reasons I will be opposing all of these Articles.

1.3.2 Deputy M. Tadier:

Specifically on 7 and 8. The problem we get recurrently is that the Government does not have a joined up strategy when it comes to dealing with the legal highs of tobacco and alcohol. We are quite happy to tax it and try and tax it out of existence, at least that is the rationale that we are given, but in fact, as I have said, there is no underpinning strategy, there is no date, for example, in the future whereby we want to make Jersey a smoke-free Island. We are quite happy to just carry on taxing people with an addiction, and, as somebody who has recently kicked the habit of tobacco, I know that that is an addiction, it is something that people do not do rationally and there are also people we know will ... some of us will be going to Silkworth Lodge tonight where we see the great work that that charity does with addictions of various kinds, including alcohol. We are taxing people with an illness rather than going for a harm reduction strategy in a joined up way which I think is philosophically contradictory and problematic. We have not done anything to address duty-free in the Island. We are quite happy on the one hand to keep on putting up tobacco prices, not exponentially but far above the rate of inflation, and at the same time have a tax avoidance mechanism working here at the airport and on the boats because we still love the revenue that comes from tobacco sales and those companies obviously depend on it for their prices. So I am not saying it is an easy solution ... it is an easy problem to solve but I think it is fundamentally wrong to tax things that are highly addictive in this way especially when we are not dealing with the root problem in a joined up way. We know that alcohol and especially tobacco, which has no real leisure effects, whereas we know small consumptions of alcohol can be good for one even. So we are not looking at this in a joined up way. I cannot be supporting these and I have supported increases in tobacco in the past but until we have got a proper joined up strategy this is purely a regressive tax which hits many of the poorest workers in the Island who do fall into the dependency trap and I do not know why we are seeking to raise revenues from the most vulnerable section in society.

[10:00]

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

I come from the other end on this one. Given that we are only looking at putting a penny or point something of a ... on things like alcohol, and as far as I am concerned that is not where the problem lies. We see the price of a pint of beer, for instance, in Jersey at £3, a local beer, and you are

getting a pint of beer in the U.K. (United Kingdom) where taxes are much higher at 50 pence a pint less and more and I have got no problem with that at all, with what we are doing here. But some way needs to be found to rein in the traders who are ... every time we put a penny on a pint they seem to put a 10 or 12 pence increase to the public. That is where the problems are lying. It is a cash cow and some way really needs to be found to reel these people in, possibly put a larger hike on the tax and some way put a cap on what they can increase their cost by. That is of concern and in the reverse maybe drop the ... what you are picking up on the alcohol you might be able to drop the cost of putting a tax on the fuel given that there are still parts of this Island that require vehicle transport to get around and everywhere is not well served with ...

The Bailiff:

There appears to be another telephone somewhere near you.

The Connétable of St. John:

Yes or maybe there is a computer. I have lost my train of thought.

The Bailiff:

Sorry.

The Connétable of St. John:

Where the fuel may ... it is beneficial to getting around because there is not a bus service right across the Island in all areas. I know my closest bus stop is about half a mile away, in the area I live, and consequently I would prefer to see the fuel kept down if alcohol has to go up. But some work needs to be done from within this Chamber in capping the huge increases we see by the traders. Thank you.

2.3.3 Deputy S. Power of St. Brelade:

I object and I get infuriated with this Treasury rite of passage every year that seems to suggest that year on year in this Island, on this Island, the Minister for Treasury and Resources and his staff can increase impôt and fuel charges and other charges across this Island when middle income Jersey is struggling all the time. We have a clear picture of how middle income Jersey is struggling. We have a clear picture of what Senator Farnham has said on more than one occasion about the importance of the hospitality industry and the tourism industry to Jersey, and yet for the larger part our prices are higher than many prices in many cities in the U.K., and yet we have this 2-step between the Health Department and Treasury on some thinly disguised argument that by increasing impôt we are in some way improving the health of Islanders. I do not agree with it, I will never agree with it and I come from the background that I am a former smoker, I no longer drink and I have no vested interest in this industry but I do believe that we are punishing those that live moderate lives, do not drink to excess and try and run cars and motorbikes and take their kids to school, and yet it is completely ignored by the Treasury team. We talk about health on this Island and we talk about impôt at the same time, and yet the States lease the biggest duty-free shop at the airport to anyone coming and going from the Island. What kind of hypocrisy is that? What kind of hypocrisy is that? We either embrace the Island's image of a healthy duty-free trade at the airport or we stop this nonsense on this constant ritual increase of impôt every year. I would say to the Minister for Economic Development, take a close look at your harbour, Minister. Take a close look at your harbour and start selling the same duty-free and perhaps fuel at the harbour rather than just at the airport. Let us do it properly rather than half measures. I am going to vote against impôt again this year. I decided not to do an amendment because it would have been a waste of time and the mood of the Assembly was not for it. But again, I repeat what I say, that this is a rite of passage that must be reviewed at some stage because we are going to price ourselves out of the hospitality,

the tourism, and indeed for those locals who live moderate lives and again they have to face this ... these increases when I believe they are utterly unjustifiable. Thank you.

2.3.4 Senator L.J. Farnham:

I think the problem lies with a lot of the pricing is with distribution not just in wines and spirits but in tobacco where there exists an untenable monopoly, in my opinion, and of course we know the challenges of fuel because we are, on the world stage, an absolute tiny market so it is very difficult to introduce real competition in the distribution of that. It might be easier if somebody invented an engine that ran on beer and then economies of scale might be easier with distribution. The hospitality sector was surprised that the duty levels were low. But of course the Minister for Treasury and Resources and Assistant Minister must not start patting themselves on the back yet because these lower than normal increases follow years of untenably high increases.

Deputy S. Power:

Senator Farnham runs the risk of patting the Minister for Treasury and Resources on the back. He needs to review what he is saying.

Senator L.J. Farnham:

No, I think the Deputy just needs to listen a little more carefully, with due respect. I am saying that the hospitality sector was relieved that the duty increases were lower than they have been for some years. We have had years of untenably high increases. I would like the Assistant Minister to explain why cider has to be brought up so much. I am not a cider drinker, if that is not a cliché. I would like him to explain that. But I would very much like to see a policy. If there is to be future increases we should never exceed a cost of living increase in any of the impôts it is just damaging for the industry. I think we have probably gone too far because the differential between prices now in Jersey and in certain U.K. towns and cities, and I know there is a big ... a difference in economies of scale. I think we stand a risk of really damaging our hospitality sector and, you know, putting shackles on the bars and hotels and restaurants who have to make a living if they are forced to continue to put their prices up. So, please ... I am pleased these increases are lower than usual but let us hope, for the next few years at least, whoever is Minister for Treasury and Resources and the Treasury team look to continue this as a policy. Thank you.

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

I wonder, could the Senator declare his interest just so that we have it on the record?

Senator L.J. Farnham:

Yes, of course. I am a director of a hotel. I think that is well known by the Assembly. It is not a direct pecuniary interest in this instance.

Senator S.C. Ferguson:

Yes, I will declare an interest. I am an ex-smoker and a director of a no-smoking, no-drinking hotel. **[Laughter]** But, you know, during one of our hearings on the budget, the Assistant Minister said he did not think taxes should be used to affect behaviour and make social changes, so I wonder if he would like to comment on that. This is the nanny state again. It is penalising the whole population for problems of the few. The pensioner's pint and a smoke, and we have a growing ageing population, I would remind people, is sacrificed for the smaller proportion of people who need help and who are getting help from places like Silkworth. You know, the whole thing is totally inconsistent and I shall be voting against these.

2.3.5 Deputy A.E. Pryke of Trinity:

I will go on the health issues because a lot has been said about that, and just to carry on. I am a director, also I have got shares in the same hotel that Senator Ferguson has too. It is a very good one.

Senator S.C. Ferguson:

Working for you?

The Deputy of Trinity:

Tobacco and alcohol are the most cause of the premature deaths in Jersey. This has been ... this is the area that we have looked at time and time again. It has been rehearsed and it has been mentioned in this Assembly time and time again. With the tobacco strategy a lot of good work has been done and I take Deputy Tadier's comment, more could be done. Yes, more could be done. I, like him, would like to see Jersey in the future the first smoke-free Island. But we have got to be realistic as well. It is the biggest cause ... that and alcohol is the biggest cause of death, you just have to go into A. and E. (Accident and Emergency) at the weekends and you can see the effect of that. There is a lot of evidence that shows that increasing impôt duties does have an effect on the amount of people who smoke and the amount of people who drink; positive impacts. That is what we are aiming at is to improve people's health. The alcohol strategy, we have just ... the 3 Ministers, the Minister for Economic Development, the Minister for Home Affairs ... or 4 Ministers, the Assistant Chief Minister and myself have just lodged the alcohol strategy for the future. Some very good work is going to be done on there going forward. It is joined up and we are listening to all sectors, be it hospitality, be it on-licences, off-licences, and also obviously the health side of it too. So I will be supporting this because there is a lot of evidence around the world from W.H.O. (World Health Organisation) shows that increasing the impôt duty has a dramatic effect in people reducing the amount of alcohol, they spend, and also, very importantly, it stops younger people taking up the habit of smoking due to the price. Thank you.

2.3.6 Senator P.F.C. Ozouf:

I am acting in a supporting role today because the Assistant Minister has command and control. However, I will not let this part of the debate pass without making some observations because these are the normal chestnuts of a ... they are the annual event of the Budget. Frankly, there is a Twitter hashtag called Factcheck which is used when somebody says something that is wrong. If I can get my Twitter hashtag Factcheck out, let me just get a few things straight to Members because it is all very well knocking this issue around without looking at the underlying data. Just before making 2 or 3 observations about data, as opposed to hyperbole, rhetoric and emotion, I would say to Deputy Power, these ... please do not be so personal. In his remarks and in previous remarks he has said: "The Treasury rite of passage." These are not matters for simply the Treasury or any other Minister, they are matters for this Assembly, and this Assembly is the one that confirms the duty rates, not ... we invite Members to a set of plans and then Members are free to amend them and they could be amended. Frankly, at this stage, you are probably ... I am surprised you are even not getting a little frustrated with Members this morning because if Members wanted to change the estimates, if they wanted to change matters in relation to duties, then we would be dealing with corresponding amendments today as a result of the decisions yesterday. But those have not. These are last gasps, if the smoking analogy would be taken. These are last gasps, let us have another prod at a Treasury team that is trying to do the right thing, that, as always, listens.

[10:15]

Now, let us get just a few facts straight. About punishing, because there is no rite of passage and there is no punishing and there is no attack on middle income either. The real issue, as has been the case for a number of years ... I declare an interest as an owner of a garage, only simply as a related issue. The real issue remains but is improving, and the J.C.R.A. are dealing with this, is the issue

of the underlying price comparison. The U.K. price of petrol is much higher than that of the U.K. People in the U.K. have to drive a lot longer, a lot further distance than ourselves and I would draw Members' attention, and I will circulate it if they have not read it, the U.K. Jersey price comparisons which sets out detailed tables in the report, which sets out the U.K. retail price and the Guernsey price and compares it. Then it strips out duty and tax and Members can see the underlying issue. I know that I have spoken probably every year since the then Senator Norman brought a ... we got the forecasts wrong back in the Finance and Economics Committee of 2000 and some money fell out of the sofa, and Senator Norman then brought forward a proposal to abolish all duty rates. I was asked by the former Senator Frank Walker, the president of the Finance and Economics Committee to research this issue. Nobody had previously had to really look at it, and it was from that analysis on I realised that there was a fundamental systemic problem with the way the market for duty products operates. These things have been long ... these issues have been long established and they are at the heart of the reason why the Treasury and the Assistant Minister is proposing these issues today. Things have improved, I have to say, on the 3 areas of duty. On the 3 duty products there remains serious issues which must be tackled. They have got the powers ... the J.C.R.A. has the power to do it. It is virtually impossible and it has proven to be immensely difficult to work with some of the most aggressive companies that the world sees in terms of getting the information on tobacco. Trying to get information from vested interests in the tobacco trade, which lobby, which have huge resources, which do not reveal facts, has proven to be extraordinarily difficult. In my time in the States I have never received such threatening, such strong letters when I have made observations about the tobacco industry. I am not giving way. If there is a point of order, I will.

Deputy S. Power:

Point of order, Sir. **[Laughter]** We are talking about the Jersey Budget not the macroeconomic tobacco industry.

The Bailiff:

That is most certainly not a point of order, Deputy Power.

Senator P.F.C. Ozouf:

I will not be long but I just want to say that in relation to petrol matters, matters have improved but there is more work to be done, and the issue at the heart of this is the Treasury does not believe it should have a rite of passage but the Treasury does believe that we should be raising appropriate revenue from duty products in order to pay for the social programmes that we have been ... that Members are wanting to talk about. Deputy Power and others want investment in health care. Deputy Tadier wants investment in health care. Everybody wants a better education system. How do we raise the revenue to do it? It is appropriate and proper that we raise revenue, not to change behaviour and to preach to people, but where there is a product which is sold that has a detrimental cost to society, then it is appropriate that legislators make decisions on raising tax, and that is what we are doing. But underlying this, and I say to Deputy Power, his benevolence, his generosity, his incredible ability to have persuaded the Assembly a number of years ago on having no duty increases and he is asking now, at this late stage, he is going to vote again against the duty increases. The benevolence that he had when we had an emotional debate about St. Mary's pub shutting and the destruction of the pub industry and the end of the world for drivers, was not then translated through the benevolence of the proprietors of the companies involved in this industry because the prices went up. **[Approbation]** That is the issue, and I say it at every Budget time and I will say it if I am here for future Budget times, the underlying issue is that Members make loose comments. Fact check, look at the underlying pre-tax profits ... pre-tax price of diesel and petrol and they are much higher, they are inexplicably higher. They are, in terms of mean prices, pre-tax

prices are certainly lower in Jersey but if you take out the duty and tax the prices are significantly higher, and they are inexplicably higher, and they are higher than other markets that have the supposed high costs like the Isle of Man. The Isle of Man has the same size of market, they have the same transportation issues that we do and yet their pre-tax profits are lower. I say that the market is not working and the issues to do with the fuel farm where the Minister for Economic Development's team has done excellent work, his team is doing excellent work in breaking the gridlock, the cartel that was available, that was being made on aviation fuel, which is hurting our transport people, our airlines because they will not buy fuel in Jersey. But they are breaking it with determination and it has not been easy. The behaviour of the players in this market is nothing short of disgraceful, and I will say that in this parliamentary privilege and say that I have evidence of that and it is wrong. I urge the Minister ... I know the Minister feels probably just as strongly as I do about this. Now, I think we are working and we have evidence. In relation to tobacco I say this. I say C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities) has done a good valiant job in relation to trying to work this out, but against massive opposition by the tobacco lobby and they have got to deal with this issue. I want to raise tobacco duty but I do not want the retail price necessarily outside the increases that health say are the right thing to do. I also draw Members' attention, if I may, to the excellent work we have had also in previous Budget debates, and Deputy Power has made a number of inaccurate statements. We had previously scaremongering that there was, I think, £8 million revenue loss of tobacco smuggling. Well, I thank the Minister for Home Affairs for allowing his Customs Department to get approximately £18,000 to £20,000 worth of funding in order to establish exactly what the effect of the importation issues are. I do not know, Assistant Minister, whether or not ... maybe he will sum up because he will know, whether or not we have circulated the report from Home Affairs that we have because we have looked and I warmly congratulate the Home Affairs team on what they have done because they have stopped thousands of people, constructively and politely, and they have established the extent to which there is a duty-free issue of non-compliance. That is providing a very good set of information in order for the Assembly in future, I hope, to deal with the issue which I agree with Deputy Tadier on. I think we have got to cut the duty-free allowance of 200. It is crazy to have an issue whereby we are trying to prevent tobacco but we are having that issue where the 200 limit, we are within the Customs union within the E.U. (European Union). International arrangements mean that we cannot abolish duty-free on tobacco but I have said before that in my view the limit should be brought down to the equivalent of the Australian number, which is packets of cigarettes in Australia sold in 25 packets and they have a duty import limit of 50. We could do the same with allowing a duty-free limit of only 40, not that that would in fact deal with the issue. But the issue remains is that our colleagues in Home Affairs would have an enforcement issue and that is why it is not being proposed and that is why it is not being progressed. But the report, the fact-based report, it is absolute nonsense to suggest that there is tobacco smuggling of £8 million. Our Customs have done excellent work and the report will be before Members. On alcohol, I would say one other thing. I do not know where Members ... I know Members are probably tired and they have had lots of papers, but I had yesterday, on my desk, a licensing strategy. A licensing strategy dealing with, at last, the issue of the off-licence and on-licence issue. Ministers have delivered. I think the Chief Minister, Minister for Economic Development, Minister for Health and Social Services, Minister for Home Affairs, have delivered. Thank you, Minister, a brilliant report; R.139, at last, dealing with the issues which we have raised in so many Budget debates in relation to alcohol issues. We know there is an alcohol problem, we know there is an off-licence and on-licence issue. There is the report, it is there. I urge Members to maintain. The Assistant Minister will sum up, eloquently, I am sure, but in relation to the facts. Let us get the facts right. The underlying prices of these issues are too high, the market is not working. When States Members feel they are doing people a favour, people think they are doing ... States Members are being populous by saying: "No, we are not going to put duties increases." It does not translate into working families and working

individuals' decisions. There are issues of competition and they must ... they are being addressed. We have got better data, things are improving but as always, more work to be done.

Senator A. Breckon:

May I raise a point of order?

The Bailiff:

If it really is a point of order.

Senator A. Breckon:

It is. The Minister has just said that no Member has brought an amendment. Is it correct that you cannot bring a negative amendment, in other words do not do something, you must vote against it, as opposed to bringing an amendment?

The Bailiff:

No, in relation to the Budget you would bring an amendment saying: "Alter the figure for revenue from X million to X million minus £200,000" because you want to get rid of what they are going to do.

Senator A. Breckon:

I do not believe in it as it is so is it negative or is it ...

The Bailiff:

You are entitled to bring an amendment to change the proposals of the Minister, and I have to say, the Minister is absolutely right. If Members really did not agree with what was being proposed in relation to these excise duty rises, they should have brought an amendment because the Assembly has approved the Budget which contains those figures, and really this debate ought to come to an end because that matter should have been dealt with by Members by way of amendment. You can vote against it now but you cannot now have a large debate about whether you should or should not be, that should have been done earlier.

Senator P.F.C. Ozouf:

Just for clarification, should some of these measures not do, and maybe some Members do want to wreck the Budget, but that will have an issue on the Consolidated Fund in relation to revenue.

The Bailiff:

Yes, this legislation is designed to bring into effect what the Assembly has already agreed in the voting. Now, if these measures are not passed then in fact the Budget will not work because there will ... some revenue measures will not take effect.

Senator P.F.C. Ozouf:

Just to clarify, what would be the position if we lost such revenue that we would compromise the Consolidated Fund? Just so that Members understand.

The Bailiff:

Well, you would have to bring back another measure to raise additional revenue so there would not be a deficit on the Consolidated Fund. Now, has any Member got anything which is really relevant to this particular matter? **[Laughter]** Connétable of St. Peter, you feel you have?

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

Very briefly. I just wanted to remind Members of the cancer report which was delivered just a few weeks ago to this Chamber, which said we were the third highest in the United Kingdom for neck and throat cancers which are caused predominantly by the consumption of alcohol and tobacco. Any measure we do to reduce the suffering that those people go through in later life is one which I support. Therefore, I shall be supporting this Budget measure. Thank you.

2.3.8 Senator A.J.H. Maclean:

I of course always think I have something relevant to add. Others may disagree but I will be brief. After the Minister for Treasury and Resources liberally sprinkled praise around I just wanted to confirm, first of all, the good work that the airport management team have done with regard to the fuel market at the airport. That is going to make a significant change to the cost of fuel, drive more business, particularly in private aviation but more broadly, and I think that is to be welcome. What we need to see happening now is a similar approach with regard to the fuel farm. Islanders are paying far too much money for fuel. There is a disparity there and it is a matter that has got our attention and we will continue to work in order to drive those prices down to ensure that Islanders get a fair deal. The main point that I wanted to raise was in relation to comments from Deputy Power, emotive comments a little earlier on. In particular, he made the point and used the word “hypocrisy” in relation to duty-free at the airport, or the ports, but the airport specifically. I just would point out to the Deputy, and I am sure he is aware of that, as indeed will Members be, that if we were to take away duty-free from the airport there would of course be a significant impairment on revenues from the port. So whichever way you look at it, whether you are going to vote or whether we are going to put up duties impôts on alcohol and tobacco, if indeed that duty-free option is removed from the airport it will put up the cost of operation at the airport and consequently that will feed through ultimately to users of that particular facility. So it will be an indirect taxation. So there is no easy answer. It is of course, like all these matters, a question of balance. On that particular point, one final thing that I would mention is around the whole issue of impôts which comes up each year. We see, and have seen in recent years, fairly significant increases proposed, and in fact applied, for alcohol and tobacco. What I think is important is getting the balance right with regard to the impact on industries, important industries to the Island like tourism. Of course, our tourism industry does not these days survive, as it did several decades ago, on cheap booze and cheap fags.

[10:30]

It is far more sophisticated than that but nevertheless we cannot afford equally to be uncompetitive, and if our prices do become distorted by excessive increases of duty then that is a risk that needs to be taken very seriously indeed. What I think we need to do, and it is a difficulty for the Minister for Treasury and Resources, is to ensure there is a clear policy as to how we deal with impôts in the future. He struggles with ... or she, it may be in the future, with matters relating to revenue which, of course, is the primary aim of impôts, but also very clear issues articulated by the Minister for Health and Social and Services relating to health matters and the Minister for Home Affairs for law and order. All of these come into the debate and have to be considered or are considered by the Minister for Treasury and Resources, but I think there needs to be an absolutely clear policy as to what the objectives are with tax-raising measures like impôts in the future, otherwise we are going to get an inconsistent approach, which we have seen in the past.

2.3.9 Deputy J.G. Reed of St. Ouen:

Just to pick up an outstanding issue that, again, the Minister for Treasury and Resources has raised today, I think for many years we have heard the Minister for Treasury and Resources comment about the excessive price margins that are levied on alcohol and tobacco. Indeed, last year the Corporate Services Scrutiny Panel in its review of the draft 2014 Budget made a recommendation,

which was that the Minister for Treasury and Resources should resolve the differences with the industry in respect of price margins and comparisons and report back to this Assembly with the appropriate outcome. This was accepted, and yet it still seems to be the case that we have both sides suggesting that one side is doing something slightly different to the other. I really would implore whoever comes next as Minister for Treasury and Resources to get together with the industry and identify the real evidence that will support a proper strategy going forward.

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

It is very, very brief. I am not explaining why I am voting against the Budget. I made my comments yesterday. I believe it is a political budget and I cannot support it. However, I do want to make the point I do happen to agree with the Minister for Economic Development on one particular point, and that was regarding the abuse of market power by the fuel companies. That part I do support, even though I cannot support the rest of it for the reasons I stated yesterday.

The Bailiff:

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

2.3.11 Deputy E.J. Noel:

I would like to thank those Members for their comments and their questions. I am not going to address all of them. I think the Minister for Treasury and Resources addressed most of those matters that were raised. There are a number of items that I will clarify. Just to remind Members, we are putting nothing on the pint of normal strength beer and all other amounts, with the exception of cider, are going up by R.P.I. (Retail Price Index), 1.7 per cent. Senator Farnham asked why cider was being treated differently. It is basically cider duty rates have been traditionally low and we are bringing those up so they are identical to that of beer. If one goes for one's pint, it does not seem fair that if you are a beer drinker you pay one duty rate and if you are a cider drinker you have a different duty rate. It makes sense that they are aligned.

Senator A.J.H. Maclean:

Not if you are a cider drinker. [Laughter]

Deputy E.J. Noel:

I am a cider drinker, not a beer drinker, because of my celiac condition. We are increasing tobacco by R.P.I. plus 3 per cent. This is in line with the work that we have done with our Health colleagues. To move on to some of the points that Deputy Tadier made, he seemed to ask why we are not going down a prohibition route. I do not think that any of us here would want to go down such a route. Certainly, it is not something that I would support. But Health and other government agencies do provide programmes to help people stop smoking and to help people who may have other addictions to alcohol, et cetera, so we do put the programmes in place. There is the help there. With regards to duty free levels, I personally think they are correct, as the Minister has already said. I do believe they will come down. I think we will get down to a state similar to in Australia where the duty free allowance is 50 cigarettes, effectively 2 packets. They have 25 cigarettes in each packet. I believe that Europe will come down, probably not in the too distant future, from the 200 limit to a 40 limit. Deputy Tadier also mentioned why Government was not being joined up in this. As has already been mentioned only in the last few days, R.139/2014, the *Alcohol and Licensing Strategy for Jersey*, has just been published and that is proof that we are working on these issues in a joined-up way. Deputy Power mentioned the duty free anomaly at the airport and, to be fair to him, we share those concerns in Treasury and we have been talking with our colleagues at the Ports of Jersey to make sure that the amounts of, particularly, tobacco sold to individuals comply with their duty free allowances. I do not really have much else to say other than I am grateful for your intervention just to remind Members that we have already agreed these

measures and the time and place to bring changes to these would have been in the previous 8 weeks to lodge amendments to the budget. I maintain Articles 7 to 10.

The Bailiff:

Very well, is the appel called for? Yes, the appel is called for then in relation to Articles 7 to 10. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 33		CONTRE: 11		ABSTAIN: 0
Senator P.F.C. Ozouf		Senator A. Breckon		
Senator A.J.H. Maclean		Senator S.C. Ferguson		
Senator B.I. Le Marquand		Connétable of St. Clement		
Senator I.J. Gorst		Connétable of St. Ouen		
Senator L.J. Farnham		Connétable of St. Saviour		
Senator P.M. Bailhache		Deputy R.C. Duhamel (S)		
Connétable of Trinity		Deputy S.S.P.A. Power (B)		
Connétable of St. Peter		Deputy M. Tadier (B)		
Connétable of St. John		Deputy J.M. Maçon (S)		
Connétable of St. Brelade		Deputy G.C.L. Baudains (C)		
Connétable of St. Martin		Deputy S.Y. Mézec (H)		
Connétable of Grouville				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Bailiff:

Now, Assistant Minister, may I suggest you take next the matters dealing with stamp duty? Just to remind Members, there is a new Article 12 which has been circulated with renumbering thereafter. I am going to invite the Assistant Minister to propose Articles 11 to 14 using the renumbering.

2.4 Deputy E.J. Noel:

Article 11 reduces the amount of stamp duty and land transaction tax payable on mortgage debt provided that the property on which the debt is secured is a residential property and worth no more than £400,000. The reduced rates are zero on the first £300,000 of debt and 0.25 per cent on anything above that cap. The new Article 12, introduced following Deputy Young’s amendments as amended by the Minister for Treasury and Resources, relate to first-time buyer relief for stamp

duty and land transaction tax. It specifies the amount of stamp duty and land transaction tax that will be paid by first-time buyers purchasing property in the ranges of £400,000 to £450,000. The reduced amount is calculated by determining the amount of stamp duty payable, applying the standard non first-time buyer rates of stamp duty and then deducting the amount of the relief as calculated. As you have already intimated, due to the insertion of the new Article 12, the existing Articles have been renumbered. Article 13 increases the rate of stamp duty and the land transaction tax payable on properties worth more than £1 million with a top rate of 7 per cent applying to any consideration in excess of £3 million. It has been amended by the Minister for Treasury and Resources for such higher rates only to apply to domestic property transactions. What is now Article 14 addresses the opportunity within the Stamp Duty Law under which the amount of stamp duty payable on property devisees by a testator could be unfairly reduced. I propose Articles 11 to 14.

The Bailiff:

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

2.4.1 Deputy J.H. Young:

Just to place on record that the new Article 12 increases the amount of stamp duty for first-time buyers. Obviously, this is a very confusing piece of law drafting and so on, so I am going to have to vote for this amendment because if I voted against it, of course, it would revert to the higher rate. But I still want it recorded that we have ended up putting extra tax on first-time buyers as a result of this, but I am obviously going to have to support it because it is not as bad as what it could have been. It just shows you how we get into this mess of law drafting confusion on this.

The Bailiff:

Well, I think in deference to the Law Draftsman I must point out there is no confusion at all, Deputy Young. It is simply giving effect to the decision that this Assembly took earlier in the Budget. There is no confusion at all. **[Approbation]**

Deputy J.H. Young:

If I may just apologise, I think the point I was trying to make is that the situation we are in is that the law as it is now, before we pass this amendment, is that there is an exemption up to £450,000 ...

The Bailiff:

No, I understand the point. You wanted something else, but we are where we are. **[Laughter]** Members have to vote on what is before them. Does any other Member wish to speak on Articles 11 to 14? Do you wish to reply, Assistant Minister?

2.4.2 Deputy E.J. Noel:

Yes, please. Deputy Young is correct in that the overall net effect on first-time buyers increases the temporary measures that were brought in over the last 2 years, but they were temporary measures. It is, in fact, a decrease on the historic levels. Yes, he is right in terms of in the short term it is an increase, but if you look back prior to when we brought those temporary measures in, it is a decrease. I maintain Articles 11 to 14.

The Bailiff:

The appel is called for in relation to Articles 11 to 14.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of Trinity				
Connétable of St. Peter				
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 Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
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.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

The Bailiff:

So that leaves, using the renumbering, Assistant Minister, simply Articles 15 and 16. Would you like to propose them?

2.5 Deputy E.J. Noel:

What is now Article 15 is an administration matter that amends the G.S.T. Law to reduce the period within which a person may claim a refund of amounts incorrectly accounted for as an output tax from 6 years to 5 years. It also clarifies the date on which the 5-year period begins. To be consistent with the human rights advice, this measure will take effect from 1st July 2015 and not

1st January 2015 as the other Budget measures do. Finally, Article 16 provides the citation and confirms that this law will come into effect on 1st January 2015. I propose Articles 15 and 16.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on either of those Articles? All those in favour of adopting Articles 15 and 16 please show? Those against? They are adopted. Do you propose the Bill in Third Reading, Assistant Minister?

Deputy E.J. Noel:

I do.

The Bailiff:

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

POUR: 38		CONTRE: 6		ABSTAIN: 0
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy S.S.P.A. Power (B)		
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator A.J.H. Maclean		Deputy J.M. Maçon (S)		
Senator B.I. Le Marquand		Deputy G.C.L. Baudains (C)		
Senator I.J. Gorst		Deputy S.Y. Mézec (H)		
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Peter				
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 J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				

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

3. Draft Finance (2015 Budget) (Jersey) Law 201- (P.141/2014) - Acte Opérateur

The Bailiff:

Now, the next matter is the Acte Opérateur. In other words, Members will recall that as a special procedure with Budget measures the legislation can be given immediate effect prior to Her Majesty's sanction. That is invariably done so that the Bill can come into effect in time on 1st January. Greffier, has this been circulated, the Acte Opérateur? Hopefully Members have it and I will ask the Greffier to read the Act.

[10:45]

The Greffier of the States:

Act declaring the Finance (2015 Budget) (Jersey) Law shall have immediate effect. The States, in pursuance of Article 15 of the Public Finances (Jersey) Law 2005, have made the following Act.

The Bailiff:

Assistant Minister, are you proposing this Act?

3.1 Deputy E.J. Noel (Assistant Minister for Treasury and Resources - rapporteur):

As mentioned, this is a matter that we have to do every year on the Budget and I propose the law.

The Bailiff:

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

4. Draft Income Tax (Amendment No. 44) (Jersey) Law 201- (P.130/2014)

The Bailiff:

We come next to the Draft Income Tax (Amendment No. 44) (Jersey) Law, Projet 130/2014, also lodged by the Minister for Treasury and Resources. I invite the Greffier to read the citation.

The Greffier of the States:

Draft Income Tax (Amendment No. 44) (Jersey) Law, a law to amend further the Income Tax (Jersey) Law 1961. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

4.1 Deputy E.J. Noel (Assistant Minister for Treasury and Resources - rapporteur):

The Income Tax (Amendment No. 44) (Jersey) Law is the legislation necessary to implement the proposed changes to the tax rules relating to pensions and pension schemes. To assist Members, it is briefly worthwhile recalling why there are specific tax rules in this context. To encourage people to save for their retirement, pension savings are given a favourable tax treatment. Contributions to pension schemes are broadly tax deductible. Pension funds are allowed to grow free from income tax and pension schemes are permitted to pay a 30 per cent tax-free lump sum to their members. This tax treatment means that the rules are required to ensure that the pension schemes meet certain minimum standards and are not being abused. However, it has become clear that the rules applied in Jersey were increasingly out of touch with the modern world. For example, the rules which

apply to occupational pension schemes currently require individuals to make an all or nothing decision between working and retirement. With such a choice, the options of a flexible retirement where an individual mixes part-time work with some pension income is currently not available. In a world in which individuals stay in the workplace until late in life, this needs to be resolved. Furthermore, our rules are lagging behind those being applied in the U.K., Guernsey and the Isle of Man. Each of them to some extent has modernised their pension rules in recent years. Finally, the relevant legislation in part 19 of the Income Tax Law has been tweaked countless times and has become unnecessarily complicated. This needs to be addressed, so alongside last year's 2014 Budget a consultation was launched outlining the initial proposals for change. Importantly, the opportunity was taken to issue draft legislation as part of the consultation document. This gave the pension industry the chance to fully engage with the proposals and to check that this amendment is fit for purpose. There are 3 main aims: firstly, simplification, addressing the complexities mentioned earlier; secondly, modernisation, ensuring that the rules are more flexible and fit with the modern world; finally, ensuring consistency of tax treatment among the various forms of pension schemes. The Treasury has received a large number of detailed consultation responses and broadly these were supportive of the changes being proposed, particularly in the attempt to simplify the rules. But the respondents did want us to go further on the issues of flexibility. We listened and the final set of rules contained in this amendment reflects a number of their recommendations. Turning to the amendments themselves, the key changes are, firstly, to achieve simplification of the whole of part 19 of the Income Tax Law. This part of the law has been completely rewritten in a logical and clear manner. Secondly, it is proposed that the rules that prevent members of occupational pension schemes from entering into flexible retirement be removed entirely. Under the new rules, a pension scheme will be permitted to pay benefits to a member provided that they have reached the minimum age of 50. Whether they remain an employee or not is simply irrelevant. Thirdly, all pension schemes will be allowed much greater flexibility over the payment of the 30 per cent tax-free lump sum. Under the proposed rules, all Jersey pension schemes will have the flexibility to pay 30 per cent tax-free lump sum in an unlimited number of tranches from the age of 50 as opposed to the current maximum of 3 tranches. Allowing pension savers to draw their tax-free lump sums in this manner will give them the ability to plan their finances throughout their retirement. Next, under these proposals there will be a greater access to the flexibility of approved drawdown contracts. Approved drawdown contracts have been available for about 10 years now. They came in in 2003, I believe. That means that providing an individual can prove that they have the necessary level of guaranteed income for the remainder of their life, they can have unlimited access to their pension savings, paying income tax on whatever they draw down from the contract. Moving on, currently if an individual is unfortunately diagnosed with having less than 12 months to live, they are only able to access the whole of their pension fund in a lump sum payment if they have not already started receiving benefits from the scheme. If they have already started receiving benefits from the scheme, all they can receive is the annual pension. We propose to do away with this restriction. Individuals diagnosed as having less than one year to live will be able to receive a lump sum irrespective of whether they have already commenced benefits. This will help the individuals and their families in such difficult times with the associated costs. Other changes include non-residents who will now be allowed to establish trust-based personal pensions in the Island. The ability to transfer pensions both to and from the Island will be extended. This will potentially open up a new business opportunity for the Island's finance industry. At the same time, we have to be aware of opportunities for avoidance that pensions present, and hence a limited benefit in kind has been proposed to address issues of assessor employer contributions in the context of owner-managed businesses. Meanwhile, the Tax Office is in the process of updating its complimentary guidance notes which will sit alongside and support the rules. This redrafting exercise will ensure that the guidance notes are consistent with the move towards a modern, more flexible pension framework. In summary, if the changes are approved

today, on 1st January next year the Island will have a simplified set of tax rules for pensions and pension schemes which are appropriate for the modern world. I move the principles.

The Bailiff:

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

4.1.1 Senator I.J. Gorst:

I do not want to speak long but I do want to congratulate the Assistant Minister for this piece of important work. We all know that we are facing an ageing demographic and we equally know that we need to instil confidence into members of the public to save and to save in appropriate instruments. As the Assistant Minister said, the current legislation is old fashioned and is not encouraging that. These changes, I believe, will go a long way to ensuring that people can again have confidence in pension products and that they can use them more flexibly when they need to draw upon them. I congratulate the Assistant Minister. I congratulate Senator Ozouf as well and the work that they have done in their department. I hope that Members support this wholeheartedly because it is a positive change for the future.

The Bailiff:

Does any other Member wish to speak on the principles? Do you wish to reply, Assistant Minister?

4.1.2 Deputy E.J. Noel:

I am grateful for the Chief Minister's comments. I would just like to add my personal thanks to the officers concerned in modernising this legislation. They have done a tremendous piece of work, working closely with the Island providers of pensions. I maintain the principles.

The Bailiff:

All those in favour of adopting the principles kindly show? Those against? They are adopted. Assistant Minister, you have described the Articles in some detail. Do you wish to take them *en bloc* and simply take questions?

4.2 Deputy E.J. Noel:

If I may. I believe that the background has been explained and I am willing to answer any Members' questions if they so arise.

The Bailiff:

Are Articles 1 to 13 seconded? [**Seconded**] Does any Member wish to speak on any of the individual Articles? Very well, all those in favour of adopting ... was the appel asked for? No. Does any Member wish to speak? I am sorry, Deputy Le Hérissier, I did not see you.

4.2.1 Deputy R.G. Le Hérissier:

It is more of a general point, but buried within all these Articles, could the Assistant Minister or the rapporteur tell us whether we would see a similar situation to that in the U.K. where people can take their annuity and go and buy a Lamborghini, as the Chancellor, for example, or his critics ...

The Deputy Bailiff:

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

4.2.2 Deputy E.J. Noel:

I am grateful for Deputy Le Hérissier highlighting the point. We have had, as I said, since 2003 the ability to have approved drawdown contracts. We have the safeguard that the U.K. system does not

currently have. An individual can take their pension pot providing they can prove that they have sufficient to live on to a minimum amount for the rest of their lives. It does not stop individuals from going out and buying a Lamborghini if that is what they wish to do, but we are safeguarding to make sure they still have sufficient funds to see them through their retirement. I maintain the principles.

The Deputy Bailiff:

All Members in favour of adopting the Articles kindly show? Those against? The Articles are adopted. Do you move the law in Third Reading?

Deputy E.J. Noel:

I do.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All Members in favour of adopting the law ... the appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of St. Peter				
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 J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
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 A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				

Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

5. Draft Income Tax (Amendment No. 44) (Jersey) Law 201- (P.130/2014) - Acte Opérateur

The Deputy Bailiff:

We now come to the Acte Opérateur. I will ask the Greffier to read the Act.

The Greffier of the States:

Act declaring that the Income Tax (Amendment No. 44) (Jersey) Law shall have immediate effect. The States, in pursuance of Article 15 of the Public Finances (Jersey) Law 2005, have made the following Act.

5.1 Deputy E.J. Noel (Assistant Minister for Treasury and Resources - rapporteur):

As with the previous Act, I propose it for Members and duly wait for the vote.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak? All Members in favour of adopting the Acte Opérateur kindly show? Those against? The Acte Opérateur is adopted.

Senator P.F.C. Ozouf:

That I think draws the Budget 2015 to a close, so I may just seek your indulgence, please, if I may, to thank Members for staying the course from what has been a challenging period within the Budget. May I also, first of all, thank my Assistant Minister - who is probably just about to go and thank the officers - for his support in steering all the legislation? He has taken a lot of the burden of the legislation through and I think he dealt with all of them. You need to come to the Assembly prepared. Also, this is the last time I will have this opportunity of saying anything in relation to the Treasury staff. There is a huge cast of people that are involved in bringing a Budget to the States. The Treasury team: we have had the new Interim Treasurer that has had to get his feet under the desk straight away and advise in difficult circumstances. Can I personally thank him warmly for leading the Treasury team? Also to the Treasury team themselves who have spent hours beyond the call of duty, late at night, early morning, in advising Members in relation to figures. Also the Law Draftsman, the Customs and Immigration Department, the Income Tax Department, the Economics Unit, Chief Minister's Department, and not least of which the Greffe for their fast work, as always, in providing amendments and comments to Members as soon as possible. I thank everybody. It has been a difficult debate but we have now achieved it and I am grateful.

[Approbation]

The Deputy Bailiff:

The Bailiff advises me that he has allowed an urgent question from the Connétable of St. Helier and that it is to be taken at this stage.

QUESTIONS

6. Urgent Oral Question

6.1 The Connétable of St. Helier of the Minister for Planning and Environment regarding consideration of the application for development of the Jersey Gas site.

Thank you. I am grateful to you and to the Bailiff to allow me to ask the first urgent oral question I have asked in 18 years in the States Assembly. Would the Minister agree to defer consideration of the application for development of the Jersey Gas site, reference PP/2014/1125?

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

The question is couched in the future conditional, would the Minister agree, and I take that to assume that the Constable is asking whether or not there might be reasons for deferring consideration of an application that has been arranged to be done very soon. He is not asking me specifically to defer consideration; is that your reading of the question?

The Deputy Bailiff:

I think the practical effect of the question, Minister, is he is asking you to defer it.

[11:00]

Deputy R.C. Duhamel:

Okay. On that ruling, in that case I am advised by officers that there is no good reason for me to delay consideration of the item but, as I have discussed with the Constable, the Constable and, indeed, any other member of the public is entitled to present any objections to the consideration of this item at the meeting according to the process. Should any further information come to light which would require me to delay a determination or to defer a determination, then obviously on the presentation of that material a judgment will be made. Specifically, though, the Constable is asking me to not consider and to not determine and that is something that I think I am not able to do.

6.1.1 The Connétable of St. Helier:

A supplementary, please. How can the Minister maintain his refusal to determine this major planning application himself just 8 weeks after its first advertisement, which, of course, is less time than most people get for their conservatories, less than 3 weeks before a general election, and in spite of the fact that the application is not consistent with the Island Plan and a petition has been collected in respect of it?

Deputy R.C. Duhamel:

The protocols under which I operate are quite clear and I have asked for advice as to whether or not it would be right for me to defer consideration as, indeed, the Constable is asking for. That advice has suggested that I am entitled to do what I am going to, but I must stress again that the Constable is entitled to turn up to the meeting. Indeed, in a number of emails that were circulated to me - not addressed to me but circulated to me - he cites 2 issues for which he thinks I should defer consideration. One of them was to do with business that he has involvement with and that was in relation to objections that had been put forward by the Roads Committee of St. Helier. They have been properly tabled and, indeed, will be properly considered. If further items arise as to those parking considerations generally, they will be weighed up. Secondly, he refers to a petition that has just been placed on our desks and the prayer of this petition - that I have only just seen - requests the Minister for Planning and Environment, myself, not to approve any planning applications for development on the gas company site and adjacent areas other than a possible extension to the Millennium Town Park with underground parking if appropriate. This raises new issues which I am happy to consider and, indeed, if deemed to be material to the application will be taken into account as my job remit entails. I think it is right that consideration is undertaken, but with the consideration that if issues are raised, as they may well be, that are material that are not sufficiently

covered in the bundle of papers that are placed on my desk, then the determination may follow at a later stage.

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

In my 12 years in the Assembly, I have never known a planning application of this magnitude to be up for consideration within 8 weeks of it being lodged and within 2 weeks and 6 days of the elections. It just cannot be right. Can the Minister tell Members how many meetings he has had with the directors of Jersey Gas?

Deputy R.C. Duhamel:

The Minister has not had meetings with the directors of the gas work site. That is, indeed, the officers' job. The identification of the Jersey Gas site as a major regeneration opportunity for St. Helier was captured in the States-approved revised North of St. Helier Masterplan in June 2011 and I believe the Deputy voted for it. Following the publication of the masterplan, I produced a development brief, as I am want to do, for the specific site in 2013 ...

The Deputy Bailiff:

Minister, you were asked a direct question about how many meetings you had with the directors of Jersey Gas and your answer was none?

Deputy R.C. Duhamel:

That is correct.

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

The Minister may not have had any meetings but behind the scenes for at least 18 months the officers have been meeting. It is the point that the residents were only informed a few weeks ago. This is why we are asking the Minister for Planning and Environment to defer the decision on this. My main question, though, on again reading the plans is the whole site or whatever is going to be put there is either a refurbishment of the gas site unless it can move to La Collette with the gas bottle hazardous ... from St. John. Who said La Collette can take Jersey Gas and the gas bottle? Because I thought it was in the explosion zone or it could be an explosion zone if we move Jersey Gas. So my question is there is much more to be asked of people concerned and the Minister is determined to determine this tomorrow. I really wish he would reconsider. It is not fair on us. It is not fair on the residents. It might be fair to Jersey Gas and his officers who have been beavering away behind the scenes ...

The Deputy Bailiff:

Your question to the Minister is?

Deputy J.A. Martin:

Again, I urge him to defer this. So many questions, it does not meet the parking of north of town either, 138 spaces for long-term non-residents are not included in this plan.

Deputy R.C. Duhamel:

I repeat: the consideration of the item should go ahead because that is the protocol that we follow. At that meeting if new issues - and it sounds as if there are new issues - are to be brought that need to be considered to an extent that no determination can be made, and I think the evidence that is mounting at the moment perhaps suggests that that will be the case, then all I can offer without moving into a pre-determination or discussion on the floor of this House of a private application to the Planning Department is that way forward. It is fundamentally wrong that an expectation for

consideration having been given that at the last moment Members of this House seek to stop, if you like, the Minister for Planning and Environment and department from making those arrangements.

6.1.4 Deputy E.J. Noel:

Why has the Minister decided, almost like an Emperor Caesar fashion, to determine this application and not use the Planning Application Panel? **[Approbation]**

Deputy R.C. Duhamel:

When I took on the ministerial function, there were a number of issues that I agreed and vouched that I would continue to involve myself in. One was the long-term regeneration of St. Helier and, indeed, this is an application that is in line with those statements. I have, as Members know, made arrangements to change the way the ministerial function operates ...

The Deputy Bailiff:

That is outside the question. You were asked why and you have answered it. Deputy Southern.

6.1.5 Deputy G.P. Southern:

He is filibustering again so he will get fewer questions. The Minister said he was entitled to consider it on Thursday morning. Is he also entitled to defer that consideration and, if so, will he do so now?

Deputy R.C. Duhamel:

The Minister is entitled to come to a decision and not to be over-lobbied, in my view, by individuals in this Assembly.

Deputy G.P. Southern:

The word was is he entitled to defer that decision. Does he have the power to and, if so, will he do so?

Deputy R.C. Duhamel:

The Minister does have the power to make a decision and to not make a decision equally.

6.1.6 Deputy J.H. Young:

A question on a similar theme: would the Minister not agree that it is highly unsatisfactory that where he does have the legal powers to decide on the procedures for dealing with planning applications in the law, powers that this House has given him, that he then is advised by his advisers that there is no reason for him to do that deferral? Does he not routinely do it in many lesser cases? Surely this is a case for deferral without a doubt.

Deputy R.C. Duhamel:

I think there is a point of principle here. Members can groan, but there is a principle of holding a meeting at which consideration of a deferral will be given to cancelling a meeting at which that consideration can be given. The 2 things in my mind are completely separate and different.

6.1.7 Senator P.F.C. Ozouf:

I wish to ask the Solicitor General and not use up any of the time with a question. Can I ask a legal question?

The Deputy Bailiff:

I am afraid not. It is question time to ...

Senator P.F.C. Ozouf:

Yes, but I wish to ask a point of clarification on the law and then in order to be able to ...

The Deputy Bailiff:

I am sorry, Senator, the Solicitor General is not being questioned at the moment. It is the Minister.

Senator P.F.C. Ozouf:

Well, I wish to ask whether or not the legal position is, in relation to the ability of the Minister not to consider the application, he is able ... I want him to confirm has he taken legal advice that he is capable of not making the decision and he can defer it and, secondly, that he should have passed it to the planning panel. Will he confirm that he has the power to defer it and/or pass it to the panel?

The Deputy Bailiff:

He has already said he has that power. Yes, Minister.

Deputy R.C. Duhamel:

Are you saying that I do not need to answer because I have answered?

The Deputy Bailiff:

No, I think the other part of the question was why you are not using it.

Deputy R.C. Duhamel:

It is a judgment call.

6.1.8 Senator L.J. Farnham:

Would the Minister not, therefore, agree that, given the mood of the Assembly, to go ahead and consider the application would be a grave error of judgment?

Deputy R.C. Duhamel:

That may well be the case, but what I am saying is that the decision-making power has been granted to this Minister and I think that the Minister as far as possible should be allowed to exercise it without having this House predetermine in some capacity as to what the outcome of that decision-making process might be.

The Deputy Bailiff:

There are numbers of Members showing they wish to ask further questions. This is not going to be a debate. It is an urgent question. I am going to allow 3 more questions and then a final supplementary. Senator Bailhache.

6.1.9 Senator P.M. Bailhache:

I think all Members would acknowledge that the Minister has the power to determine the matter when he sees fit, but I wonder if he would find it helpful to know that a number of Ministers as well as Back-Benchers in this Assembly would think it wise for him to take time to consider what is clearly a very important decision. **[Approbation]**

Deputy R.C. Duhamel:

I think that is very wise counsel from the legal Member in the House and, indeed, that is what I would propose to do. But there is a subtle difference between the Minister deciding what he wishes to do and being told what to do by this House.

6.1.10 The Connétable of St. John:

Does the Minister consider he is being bullied by Members of the Chamber and he will do what is right by the Island?

Deputy R.C. Duhamel:

Absolutely, and I made a passing reference to the email chain that was sent to me. The Constable of St. Helier was threatening if I did not fall on my sword and not determine or defer consideration of this application he was suggesting that a vote of no confidence be taken. I think that does suggest that there is an element of bullying.

Senator A.J.H. Maclean:

Senator Bailhache asked the question that I was going to ask.

The Deputy Bailiff:

Very well, the final supplementary, Connétable.

6.1.11 The Connétable of St. Helier:

I strongly object to being accused of bullying by the Minister when I am merely fighting the Parish corner. **[Approbation]** I would point out to him that the Parish contributed both to the development brief and to the application, although it has been fast tracked through, and on both occasions the Parish has been adamant that both in terms of parking and open space requirements this does not meet the requirements of the Island Plan. I ask the Minister again: why is he going forward with an application marked for approval by his officers which is at variance with the Island Plan?

Deputy R.C. Duhamel:

I think I am not at liberty to discuss the details of the application. All I can say is that the ministerial function in this particular case is to make a judgment as to whether or not there are sufficient reasons to consider the application or not on a particular day. That is, indeed, what I intend to do.

[11:15]

Senator P.F.C. Ozouf:

May I raise a point of order or a point of clarification for your ruling? You have called questions to a halt on this after 17 minutes. There are a number of Members who wish to ask further questions. This is an urgent question. Clearly, there are a number of other Members that wish to ask questions. Why have you drawn this matter to a conclusion when clearly there are Members wanting to continue to question the Minister on what is a matter of enormous public interest?

The Deputy Bailiff:

Because, Senator, it is still question time and it is not a debate and that is why. All the Members who have indicated that they had further questions they wanted to ask have already asked questions.

Senator P.F.C. Ozouf:

Yes, but we have further questions. Can I ask you to reconsider your ruling?

The Deputy Bailiff:

It is not a debate, Senator.

Senator P.F.C. Ozouf:

No, it is not a debate, it is question time, but why are we not able to ask questions?

The Deputy Bailiff:

I have made the ruling.

Senator P.F.C. Ozouf:

So what is your ruling?

The Deputy Bailiff:

The ruling is for bringing question time on this urgent question to an end because we have had, as you say, 17 minutes on it and that is why it has come to an end.

Senator P.F.C. Ozouf:

Are you ruling against the fact that Members wish to ask further questions, not have a debate on an urgent question?

The Deputy Bailiff:

Senator, I am ruling that we get on with the parliamentary business which is down in the agenda. **[Approbation]** We now come to a statement which the Minister for Economic Development wishes to make.

STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY

7. The Minister for Economic Development will make a statement regarding the incorporation of the Ports of Jersey

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

In October 2012, the Assembly approved Projet P.70/2012 which proposed the Ports of Jersey be incorporated into a single limited entity, the Ports of Jersey Limited, to be wholly owned by the States of Jersey. This followed on from the successful integration of the former Jersey Harbours and Jersey Airport into the Ports of Jersey within Government. The primary objective of this incorporation is to enable the ports to continue to provide essential public services to the Island in a sustainable manner in the face of historic declining business volumes and costs that are rising faster than revenue. The core business of the Ports of Jersey is the management and maintenance of our vital transport assets. This means that when facing a structural deficit it cannot simply offer reduced services to lower costs, nor can it charge the public higher prices to increase revenue. Either outcome would have unwelcome effects on individuals and on the economy. Conversely, the States cannot passively accept the significant cash shortfall that unless the situation changes is likely to occur. Independently verified analysis has indicated that by 2038 this shortfall is likely to be in the region of £90 million and could be as high as £193 million. To meet this cost from government revenues would mean finding the money through some additional taxation or making further cuts in other areas of government spending. At the time of the States debate in 2012, it was assumed that incorporation would be the best option to meet this challenge. Now, 18 months later, the work towards incorporation has been completed and that assumption has been borne out. A detailed examination of the case for incorporation, together with details of the work undertaken and the legal framework surrounding the incorporation, was published for consultation on 29th May 2014. Of all the responses received, only 2 received from the unions Prospect and Unite were inherently against incorporation. These and other responses are addressed in full in my summary of the consultation which will be published later this week. This significant work towards incorporation is, therefore, completed subject to some minor polishing of the legislation to be done by officers to address minor points. In my opinion and in those of the vast majority of respondents to the consultation, the case for incorporation has been made. Initially, I had hoped to bring the legislation forward for consideration for this Assembly, but after consultation with my fellow

Ministers and the Economic Affairs Scrutiny Panel earlier this year I decided, given the need for wider public consultation on the matter and to ensure that the appropriate time is provided for a full scrutiny review, I would instead complete the public consultation and commend the matter to the next Minister for Economic Development with, I should add, the recommendation that they bring the legislation and associated work to Scrutiny for consideration as a matter of priority. I expect that given the level and transparency of work conducted so far, scrutiny will be able to conduct its review quite rapidly and I am certain that officers of Economic Development and the new Minister will offer any assistance they can to the panel in doing so. I am confident that with continued hard work and goodwill the incorporation of the Ports of Jersey will take place by the target date of 1st July 2015.

The Deputy Bailiff:

Following the making of that statement, there are 15 minutes allowed for questions. I call on Senator Farnham.

7.1.1 Senator L.J. Farnham:

I just wanted to say that given the huge importance of this move to the future of the Island, I think the Minister's decision to do this is sensible and I fully support it.

The Deputy Bailiff:

It is question time. Deputy Le Hérisssier.

7.1.2 Deputy R.G. Le Hérisssier:

I congratulate the Minister, but could the Minister indicate whether the process of consultation has indicated whether the time taken to replace the café at the Elizabeth Terminal would be much less under incorporation than it has been under the current system?

The Deputy Bailiff:

Minister, you are being questioned on your statement.

Senator A.J.H. Maclean:

Yes, I was not sure it was a serious question, but I am happy to answer the Deputy. Clearly, he is talking about a very minor issue. I would say to him that the Ports of Jersey are a substantial business. They turn over £43 million a year. There are 246 staff; 2.2 million passengers go through both the ports. As such, I have absolutely no doubt, looking at the models that have been put together through to 2038, that the operation of the ports will be far more efficient in the future under an incorporated model and that the Island will, therefore, be in a far better position than it would be if incorporation does not go ahead. From a fiscal point of view, the case is absolutely clear. As I mentioned in my opening remarks, there are projected shortfalls of £93 million to 2038 in the absence of incorporation.

7.1.3 Deputy R.G. Le Hérisssier:

Can I ask a supplementary? Would the Minister not concede it is not minor in the sense that the major passenger gateway to the Island has been and will be without a café for 18 months? A prime commercial spot and opportunity has been lost.

Senator A.J.H. Maclean:

I think we need to be clear on this point. That particular café, sadly the previous tenant's business failed. We were in a position where we had to deal with the Viscount to get possession back of the premises. The premises were not in good condition. The ports team have worked to go through a tender process to find a replacement. It is a local business. I have seen the details of the facility

that is going in down there. The Island will be well served by the new facility at the harbour and I think we will be in a far better position. In the meantime, there has been a temporary facility. It is not as good as we would have liked to have seen, but passengers have had the ability to be able to get food and drink while passing through the harbour. In the long run, we will be much better off than we were previously.

7.1.4 Deputy G.P. Southern:

I wish to address paragraph 5. Whereas it says the responses from Prospect and Unite have been addressed, my question is: have these concerns expressed by Prospect and Unite been resolved or are there matters still to resolve? Is there potential for a dispute here?

Senator A.J.H. Maclean:

There has been an enormous amount of dialogue between the ports management and the unions, which has been extremely constructive. As I mentioned in my opening remarks, there were out of the consultation responses received only 2 that were opposed to incorporation, both from the unions, Unite and Prospect, and there are still, therefore, matters which do need to be resolved. Those will be the subject of ongoing dialogue, quite rightly, between the employer, the unions and staff to find a satisfactory solution.

7.1.5 Deputy G.P. Southern:

The question was: is there potential for a dispute here, in particular over the absence of T.U.P.E. (Transfer of Undertakings (Protection of Employment)) Regulations and the inadequate best practice that is proposed in this incorporation?

Senator A.J.H. Maclean:

The issues of dispute here are not specifically around T.U.P.E. legislation at all. It is about the return in relation to T.O.P.S.E. (Terms of Personal Services Engagement) and what happens after the incorporation period. That is one of the matters that is being dealt with, but what I can say to the Deputy is that all the details of both the responses from the union and the response from the ports to those concerns are being published and, of course, will be in the public domain for Members to consider.

7.1.6 Senator L.J. Farnham:

I do apologise, I was so carried away with congratulating the Minister after the previous question for being sensible I forgot to ask my question, which was given that the significant work towards incorporation has been completed, subject to some minor legislative changes, I believe - because this is important to the timescale - could the Minister just remind the Assembly of what legislation needs polishing, as he puts it, in the report?

Senator A.J.H. Maclean:

There are some minor points within the legislation that I am happy to supply the Senator with details of, but it is nothing substantive at all.

7.1.7 Senator S.C. Ferguson:

I trust the Minister will confirm that we will have a business plan and an operating revenue plan when this commences. We do need to know what we are going to be in for in terms of money or lack of money or how it is going to run.

Senator A.J.H. Maclean:

Absolutely. When the legislation comes forward to the Assembly, clearly it will have been through a further process, as I alluded to, with I am sure a full review by Scrutiny, who will be provided

with all the details. There have been extensive reviews of the financial model, the business plan and so on and, of course, ultimately when the legislation comes before the States all the necessary details will be available to Members. Of course, there will be pre-briefings before that. I am sure the Senator will be extremely satisfied should she be fortunate enough to be here to consider it.

7.1.8 Deputy T.A. Vallois:

Could the Minister explain what the original timeline was for the incorporation of the ports and exactly what stage scrutiny was factored in for legislative scrutiny?

Senator A.J.H. Maclean:

If I could ask the Deputy to repeat her question, I was having something said to me by the Senator on my right and I could not hear what she said.

The Deputy Bailiff:

Because you goaded her, Senator. [Laughter]

Senator A.J.H. Maclean:

With the greatest respect, that is not difficult these days. [Laughter]

Deputy T.A. Vallois:

I am happy to repeat. Could the Minister explain what the original timeline was for the incorporation of the ports and at what stage in that timeline scrutiny was factored in for legislative scrutiny?

Senator A.J.H. Maclean:

Originally, the intent had been for January 2015, so we have lost, in effect, a 6-month period. But, of course, the issues over the election and the need for the consultation period ... on consideration, there was extensive consultation undertaken with specific associations and clubs and specific groups, but a broader consultation was needed. With the election in the way and the summer period, it was deemed there was not enough time for scrutiny, having had dialogue with Scrutiny, to do a full review prior to the summer period that would have otherwise taken them over summer, which would have been very unsatisfactory. So we have lost effectively 6 months.

Deputy T.A. Vallois:

Sorry, can I just get an answer from the Minister? Was scrutiny factored into the original timeline to scrutinise the legislation?

Senator A.J.H. Maclean:

Yes.

7.1.9 Deputy S. Power:

Would the Minister agree that the key paragraph really is the third paragraph and that in the approach towards port incorporation at some stage ... can he confirm to the Assembly at some stage that the strategic nature of the Ports of Jersey is it is an essential asset, such as a prison, such as another power station and so on, and parts of this cannot always be made to financially “wash its face” and that the strategic nature of the port and the airport will have to be factored in in the final evaluation and cash flow shortfall?

Senator A.J.H. Maclean:

Yes, I can and, in fact, I can demonstrate for the Deputy a good example of that. That relates to the historic harbours and, indeed, the Coastguard, both of which are currently funded by the Ports of

Jersey at the moment. After incorporation, the ports are continuing their responsibility for both the historic harbours and the Coastguard. That particular cost has been estimated at £49 million, so there is a significant cost that the ports incorporated body will have to undertake as a public service obligation and that demonstrates in part. The Deputy also refers to the term “strategic assets.” Of course they are and the broader interests of the Island - and, therefore, represented through the shareholder - involvement needs to be carefully considered as part of that and, indeed, I can assure the Deputy, will be.

[11:30]

7.1.10 The Connétable of St. John:

In response to the Minister’s recent reply, can it be right that we are setting up a new company to run our Island ports and they are immediately lumbered with the £48 million costs of looking after the historic ports? Should we not be setting up a company free of all these encumbrances in the benefit of the Island to keep the costs down overall?

Senator A.J.H. Maclean:

As usual, the Connétable gets right to the heart of the issue. He is right and, in fact, that was the starting position that I took. I would in an ideal world have liked to have started with the new incorporated body not being lumbered with those costs. It makes perfect sense. But at the end of the day, it is one purse, the public purse, that has to ultimately fund this. So if we take the historic harbours out and we take the Coastguard out ... and I might point out that most other jurisdictions do not fund the Coastguard through their ports, they fund them through general tax revenues. But, of course, it does have to be funded one way or the other. Having run the model through to 2038, this proposal can afford what is being proposed and it can do it in a long-term sustainable way. I think on that basis it is the course to take.

The Deputy Bailiff:

No other questions for the Minister?

PUBLIC BUSINESS - resumption

8. Freedom For Life Ministries: grant from Criminal Offences Confiscation Fund (P.123/2014)

The Deputy Bailiff:

Very well, we now come on to P.123 Freedom For Life Ministries: grant from Criminal Offences Confiscation Fund lodged by Deputy Higgins and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Treasury and Resources, following consultation, as required, with the Attorney General and other persons or bodies (including other Ministers) as he considers appropriate, to make a grant of £200,000 from the Criminal Offences Confiscation Fund to the Freedom For Life Ministries to cover the one-off cost of refurbishing their Life Centre drop-in facility (formerly Nelson Hall, Nelson Street, St. Helier) for ex-prisoners and other ex-offenders.

Senator I.J. Gorst:

Before we start this, could I just confirm a declaration of conflict? The person that runs this particular charity is a friend of mine. I will have no personal interest or financial interest so I will not be withdrawing, but it is just right that I put that on the record.

The Deputy Bailiff:

You have declared your interest on the record. Thank you, Chief Minister. Deputy Higgins.

8.1 Deputy M.R. Higgins:

I do not think that this proposition should take us very long to deal with as it relates to what I consider to be a non-political matter that I believe could and should be supported by all shades of political opinion in this House. It concerns assistance for an organisation that helps people turn around their lives, not only to the advantage of the individuals concerned but also to society as a whole. The assistance being given will be in the form of a one-off grant from the Criminal Offences Confiscation Fund to refurbish a drop-in centre for former offenders and their families and it meets the criteria for funding from the Criminal Offences Confiscation Fund like a hand in a glove. I bring this proposition because society can be very unforgiving of those who have committed offences. If we do not delve into the circumstances that led to them offending in the first place or the difficulties we put in their way to prevent them from reintegrating back into society following completion of their sentences, then a situation will continue. Now these people are often treated as outcasts, lepers and pariahs and are subject to all forms of discrimination, not least when it comes to getting accommodation, employment and insurance. Often this discrimination lasts for the rest of their lives and we should not be surprised therefore to learn that many ex-prisoners return to their old ways and end up back in prison within 2 years of their release. Our failure to deal with these issues condemns many ex-offenders and us to a never-ending cycle of crime, punishment and re-offending. I believe it is time that we try to break this cycle by helping organisations like the Freedom For Life Ministries with their excellent work in helping ex-offenders leave their criminal past and reintegrate back into society. I would like to thank the Minister for Home Affairs for his support of this proposition and for the facts in his comments paper which illustrate the importance of this type of assistance as part of a holistic package to reduce offending and re-offending. If you have looked at the comments paper by the Minister he mentions the U.K. experience and the available evidence that suggests that re-settlement is an important part of the holistic package to help reduce offending and re-offending. In that paper he mentions that not having a suitable place to live after release from custody is a significant risk factor in re-offending. Surveys indicate that 30 per cent of people released from prison will have nowhere to live and this is despite the fact that stable accommodation can reduce re-offending by over 20 per cent. It also gives other examples about the Revolving Doors Agency. It found that 49 per cent of prisoners with mental health problems had no fixed address on leaving prison and of those who had secured a tenancy before going to prison, 40 per cent lost it on release. A lack of accommodation could also severely hinder former prisoners' chances of finding employment. Unemployment is another significant risk factor in re-offending and almost a quarter of employers would not consider employing a homeless person. So stable housing is one aspect to it but the assistance and support to help these people through their problems, to try and help them get accommodation and also to help them get employment is a valuable thing and I therefore feel it is worthy of support. If I can just start by saying what the Freedom For Life Ministries is and what it does; I will make a declaration here. I am not a member of this particular Christian organisation. I consider myself a Christian but I am not a part of any of the recognised churches but I do recognise the work that they do. Freedom For Life Ministries is a local charity established in 2008 that works primarily with prisoners and ex-prisoners of Her Majesty's Prison La Moye in order to help them break free of their criminal past and help them to reintegrate back into society. Its founder, Kevin Houiellebecq, is a registered social worker and former probation officer. Although the charity operates on Christian values and principles it does not require those who avail the use of its services to follow the Christian faith. Its services are available to all regardless of background or belief. It currently employs 2 workers who, despite having a contracted 27 and 32 hours respectively per week, are doing full-time hours above those part-time hours. They are funded, with the exception

of a one-off States grant which the Minister also mentions at one point in his comments paper for £20,000, by donations generated by their own fundraising efforts. One of the things I like about this particular organisation is the fact that they do not minimise the seriousness of a person's past actions. What they do believe, however, is that each person's life has value and it operates in a non-judgmental future focused way, mentoring and befriending ex-prisoners and helping them deal with their practical and emotional issues and their other day-to-day problems. It treats people with respect and without prejudice, listening to their stories and trying to understand their issues and building up a trusting and honest relationship with them. It also works very, very closely with various States agencies such as the police, prison, Probation Service and Social Security and receives referrals from these organisations in addition to self-referrals and referrals from family members. In fact, the organisation is thought of so highly that the 2 key people involved are key holders at La Moye and have access to most parts of the prison. The organisation works both inside the prison, providing all sorts of courses for youth, women and adult male offenders, but it also works outside and in the past has been operating from various coffee shops around St. Helier which is not the best place to carry out these activities, with conversations being overheard and problems being discussed. Therefore, I am very supportive of the idea of having a drop-in centre and the purpose of the money is to help them refurbish it. The organisation has raised some money themselves from private sources and a lot of their running costs, as I say, are also raised from private sources. What I want here is for the States to give them assistance to establish the facility for a drop-in centre where people do not have to go to a pub or to a coffee shop or anywhere else and they can meet and deal with the problems that they face. There are maybe some Members, and I hope not, who do not believe that we should be helping ex-offenders. What I would like to do is just point out the economic argument for doing this. If nothing else, whether you believe in helping offenders or not, the economic argument is overwhelming. It currently costs £79,000 a year to keep someone at La Moye Prison. In addition to that there is the cost of catching offenders, prosecuting them and then the cost of going to court. £200,000 could be utilised just to deal with one person so every person that they stop from re-offending and going back into prison is an economic saving to the Island and from a social point of view is something that we should all support. I am not going to spend time going through all the points about the organisation itself. They were all contained in the proposition; the good words that are spoken by including Her Majesty's Inspectorate of Prisons and their surprise at the fact that they were funded by charitable and not States funds. As far as the Criminal Offences Confiscation Fund is concerned, I have checked with the Attorney General and I know from my own research as well it meets all the criteria. Therefore, this is what the fund was set up to do: to prevent, suppress or otherwise deal with criminal conduct and I cannot think of a better scheme to enable us to do that. I will ask Members to support this proposition.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** I open it to Members to speak. The Connétable of St. John.

8.1.1 The Connétable of St. John:

In seconding this proposition it is one of the things that takes me back an awful long way to the 1970s and 1980s when I was a Centenier in St. Helier and then St. John. This is a breath of fresh air that we are bringing this to the Chamber. I know it has been accepted by the Minister but it is so important that we put these types of places together. I can recall having meetings in the early 1970s with the Probation Service when we put in place the voluntary probations for young offenders to keep the youngsters out of the courts. Anything that will help keep these people on the, for want of a better word, straight and narrow and out into our community and have the help must be right. I am not going to say much more knowing it has been accepted but I thank the Deputy for bringing this forward.

8.1.2 Senator P.M. Bailhache:

As someone who has played a part in the past in sending many hundreds of men and women to serve terms of imprisonment I rise to give this my unqualified support. I agree with everything that Deputy Higgins has said and I think that this is a very appropriate use of funds from the Criminal Offences Confiscation Fund, perhaps the most appropriate allocation of funds that we have seen. Some offenders are of course recidivists but many have just made serious mistakes or allowed their lives to go off the rails for one reason or another and they can be helped to reorder their lives and to become useful members of the community. The proposal put forward to help this very worthy organisation is very obviously in the interests of the community and, as the Constable of St. John has said, a breath of very fresh air indeed.

8.1.3 Senator B.I. Le Marquand:

I am very grateful to Deputy Higgins for bringing this proposition which I am very pleased to support. When I received the information on this project earlier this year I unfortunately did not think about the C.O.C.F. although this clearly falls squarely within its remit. I thought instead about a fiscal stimulus project and referred Mr. Houiellebecq on to the Treasury. However, I got my department to evaluate Freedom For Life Ministries with a view to making a revenue grant for the first time. The outcome of that review was very positive. Freedom For Life Ministries are very highly regarded by all the secular agencies with which they have contact and that is clear from the proposition and the report. I have to be particularly cautious in this area personally because the theology underlying Freedom For Life Ministries is very similar to my own although their ecclesiology is different and for that reason it was important that I get a proper secular evaluation which I did. Since 2008 provision within the prison in terms of training and education, in terms of work experience towards the end of sentence and rehabilitation generally have massively improved and indeed there are plans while prisoners are still there towards their release and towards their getting employment and so on. But the provision after release has not significantly improved. That provision in terms of the States is through the after-care part of the probation and after-care service.

[11:45]

Freedom For Life Ministries have in a sense stepped into that gap and made an excellent additional provision. They have purchased a building but still over £50,000 on that and what they are proposing is a 3-stage programme of conversion of that building. The first stage is to develop the ground floor drop-in centre with storage above. The approximate cost of that is slightly lower than the £200,000 proposed but I always think it is good to have a margin, particularly as this is an old building and it has experienced some dry rot attacks in the past. The proposition enables this Assembly to express its support for an improvement in the provision for ex-prisoners, improvements which will assist them in re-establishing themselves in the community thus reducing the risk of them re-offending. I need to flag up the fact that Home Affairs may need to continue to fund some revenue costs in the future. We gave a £20,000 one-off grant; it will be a matter for my successor and for officers to see how we can continue to do that but it is likely that there will be some additional ongoing revenue costs as a result of the project. Finally, I repeat the need for items like this to have first call on the C.O.C.F. As I said yesterday, I was happy to agree to the budgetary proposals on the basis that items like this would have such a first call. There may need to be a slight delay in funding depending upon the finances but nevertheless the principle is absolutely right and I am totally supporting of it.

The Deputy Bailiff:

Does any other Member wish to speak? Then I call on Deputy Higgins to reply.

8.1.4 Deputy M.R. Higgins:

I would like to thank the Constable of St. John, Senator Bailhache and the Minister for Home Affairs for their comments. I would also like to thank the Minister for Home Affairs for giving some additional information. I would also like to thank the BBC, believe it or not. I first became aware of the need for this centre after hearing an interview on BBC Radio Jersey and I happened to be reading at the time the Criminal Offences Confiscation Fund. When I heard the discussion that was going on I thought: "This is a scheme that is worthy of that funding." So, again, from the point of view of raising matters like that, I would like to thank all for their views and hope that all Members will support this. I call for the appel. Thank you.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. The vote is on P.123 and I ask the Greffier to open the voting.

POUR: 35		CONTRE: 0		ABSTAIN: 0
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. John				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
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 S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

9. Draft Road Traffic (No. 61) (Jersey) Regulations 201- (P.140/2014)

The Deputy Bailiff:

We now come to the Draft Road Traffic (No. 61) (Jersey) Regulations 201- lodged by the Minister for Transport and Technical Services P.140/2014 and I ask the Greffier to read the citation for the draft.

The Greffier of the States:

Draft Road Traffic (No. 61) (Jersey) Regulations 201-. The States, in pursuance of Order in Council of 26th December 1851 and Article 92 of the Road Traffic (Jersey) Law 1956, have made the following Regulations.

The Deputy Bailiff:

Minister, do you wish to propose the principles?

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

These Regulations are being presented today because of a problem highlighted by the Deputy and Constable of St. Martin. A motor trader has been storing a large number of vehicles free of charge in public parking areas, both in car parks and on street, while they were being advertised for sale on the internet. As the advertising occurs on the internet rather than in the car park, the practice is not strictly prohibited by the current law although it is entirely against the spirit and intention. As a consequence of this there has been serious reduction in the spaces for the public to use for whom the parking is intended. This has caused a great deal of inconvenience for residents and visitors alike, as well as causing difficulties for a local business whose customers use the parking. As Members may be aware, the matter has been widely reported upon. As a result of this publicity the extent of the problem throughout the Island has been highlighted with other Parishes also suffering from similar practices. Adopting this proposition will prevent this misuse of an important public facility and ensure the car parks are available to the public and local businesses to use as intended. The amendment to the Road Traffic Law closes the loophole which allows unscrupulous traders to store vehicles at no cost. It also makes provision for the enforcement by the authorities and the level of fine provides a proportionate deterrent to any trader who might consider misusing public parking in the future. I make the proposition and ask Members to approve the Regulations.

The Deputy Bailiff:

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

9.1.1 Deputy M. Tadier:

I understand that this is a problem and we get those problems our way as well so I am glad that the Minister is taking action. But I did want to ask a question about how far this Regulation will go and if the Minister can clarify. It seems to me entirely desirable to shut down people who are running businesses and storing their cars in public spaces but will it be possible for somebody who is selling their own car but still uses that car every day to go to and from work to have a sign in the window saying: "This car is for sale"? It seems overly-draconian if that is not the case because, for example, one parks a car in a public car park, paying for that anyway, and it is not as if that person is carrying out a business. It is simply trying to sell that car because they need to move on perhaps to an electric bike, whatever. Can the Minister just clarify whether they will be being penalised and in fact how the current law stands on that anyway?

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

Without wanting to steal the Minister's thunder, I would point Deputy Tadier to the report. It is a very short report, one page, two-thirds of the way down it says: "We are referring here to vehicles for sale in the course of a motor trading business." I myself have been contacted by a number of members of the public about their own ability to sell their own vehicle. They are not affected and I

am sure the Minister will be clarifying that when he sums up. I will not speak for long. I would like to just back up everything the Minister has said. This was initiated by myself and the Constable of my Parish in response to complaints that we had had from a number of parishioners about vehicles parked in many areas around St. Martin. It is only when we investigated the situation in any sort of depth it became apparent how large a problem it was. One time recently during the summer we had 34 vehicles parked in one small quarry. It is only when you see those vehicles parked side-by-side you realise the enormity of the problem we had to face. The owner of these vehicles was legally within his rights to do what he was doing but it is the morals here that I object to. Why should the ratepayers of St. Martin and the taxpayers of the Island be paying to maintain these spaces, spaces that are there for parishioners, for Islanders, and in many cases, in St. Martin's case, tourists to access our wonderful coastline that we have in our Parish and others around the Island? It is time to stop this practice, it is time to close the loophole. I would like to thank the Minister on behalf of myself for bringing this to the Assembly and I hope Members will support it.

9.1.3 The Connétable of St. John:

I am supporting this but one word of warning. We have a number of hotels around the Island, we have private car parks at, shall we say, recreation centres and the like, I sincerely hope that something will be added within, or the Minister will give consideration to assisting. Because what will happen we will see, as happens now, we have had to move in St. John somebody who parks vehicles on the roads continually. We have taken steps but we finish up that they go and park in other areas which are owned by private individuals and the private individuals have great difficulty in the course of having to get these vehicles removed. Will the Minister when he is summing up give some thought to how, by pushing these problems away from his department and from the Parish's department, he is going to help the individuals who find vehicles on their land for extended periods of time? I think that needs to be taken into account. Thank you.

9.1.4 Deputy T.A. Vallois:

I find it sad really in this day and age that it is still seen appropriate for minorities to ruin it for a majority of people and that we have to bring in such regulations and that there is no consideration of respect for others and the ability for the public to use these kinds of spaces. But my concern lies with regards to this Regulation of the enforcement regime that will be in place to allow this to happen. I understand the reasons for bringing it forward but we have plenty of road traffic regulations that stop people from parking on pavements, for example, or various other issues but yet the enforcement is minimal. So I would like some reassurance, whether it be from the Minister for Home Affairs or whether it be from Comité des Connétables or whether it is from the Minister for Transport and Technical Services himself, about how do we ensure appropriate enforcement and will it cost us more in the long term?

9.1.5 Deputy J.H. Young:

Car parking obviously is a scarce commodity and it is a vital asset for tourism and the public for businesses to work so there clearly is an important purpose behind this. In response to the Constable of St. John it is likely that some of these uses will be displaced on to private land but of course there I think we rely on our Minister for Planning and Environment using the powers in the Planning Law to deal with where that use changes for commercial purposes where my belief is that the law would pick that up. But no doubt about it, that will result in an additional enforcement task for the Planning Enforcement Team as well. But I think of the 2 alternatives: doing nothing about it and tourists and locals finding they cannot go about their legitimate business because of this, in other words, allowing that to carry on and do nothing does not seem to be a sensible thing. After all, people or businesses wanting to sell vehicles do have access to the internet and so on. It is very

easy to do so and I think what they clearly do need is somewhere legitimately where vehicles can be stored. I think that is what the planning system purports to do to make sure these things take place in the right place.

9.1.6 Deputy R.G. Le Hérisssier:

Partly covered, but I wonder if I could ask the Minister whether a motor business is an individual because when Victoria Avenue was a very active spot it was largely individuals who were selling their vehicles. Secondly, am I right in thinking, as I was informed by one of the good vergers of St. Martin fairly recently, that these companies are indeed prepared to park on yellow lines and pay the fines as part of a necessary business cost? Thank you.

9.1.7 Connétable M.P.S. Le Troquer of St. Martin:

I will only speak briefly; I think other Members have pressing issues. I did not know whether to speak or not today but there have been some queries raised. I would like to start with thanking the Minister and his officers for dealing with this matter so quickly and for bringing this proposition to this Assembly before the end of term. I am sure the Minister will tell us in the summing-up, it is not about creating red tape for businesses and more bureaucracy and it is not about criminalising anyone either. It is being fair to the law-abiding citizens and for the businesses that work hard to comply with all the legislation. If this amendment to the Road Traffic (Jersey) Law is approved today it will be a tool intended to prevent people using what in effect at the moment is a loophole, in particular to on-street parking. It is just for prevention. The Public Parking Places legislation has got some legislation that prevents trading in the car park but that is quite weak and the controls for the on-street are absent altogether. Only 6 days ago I was at the Planning Applications Panel when an application was made for a restaurant in the Gorey area, and the main objection was to the parking. It just seems that St. Martin has come out of this but I know that the Deputy of St. Martin went public early in the year and unfortunately discovered that there were similar problems throughout the Island. He was the one who got all the phone calls from everyone in Jersey but I thank him for bringing it. St. Martin is the one that has been highlighted by the Minister today. When the Deputy first had his complaints about parking in St. Martin we were already dealing with a problem. He went, as I said, to the public but the Honorary Police were trying to deal with it with the legal advisers, Crown legal advisers, and we were discouraged from bringing prosecutions because of the perceived weakness in the legislation.

[12:00]

I sought advice from the Economic Development Department to ascertain if we could have licences similar to those that existed in the 1964 Hire Car Law. They were issued by the Defence Committee at the time and you had to have sufficient spaces for your fleet and there was an Article in that law that prevented you from having cars parked on the street if they were not on hire. No success there, it was forwarded on to the Population Office and still no success. We went direct to the Minister, we met with the Minister, and here we are today. If this was defeated today, and I do not think it will be by the tone of the Assembly, anybody who is running a business could suddenly decide they could sell their garage or rent it out to somebody else and put their cars in parking areas on the street. What message is it to the tourists who are coming to the Island who are trying to park, who want to go on the beach or want to go to a restaurant? They cannot park. What message to the fishermen at Gorey, what message to those people who live there? They do not have any parking. I know people in St. Helier will say there is no parking. They have to go into a car park; there are no car parks at Gorey. I thank the Minister and if this was to fail he would probably have to look at reduced parking times in the Gorey area and also the use of pay cards and that would put paid to the whole thing. Finally, members of the public will be frustrated, certainly the parishioners of St. Martin are probably frustrated thinking this is taking a long time to come forward. It has not,

not at all. This has come through very quickly and we thank the Minister and all his officers for working so quickly and for doing that. We have worked with the Minister. I think this is an example of Back-Benchers working with the department. We have managed to achieve many things in the last 3 years with the Minister's department and we have got large ones on the go at the moment which we will be bringing forward in due course. Thank you.

9.1.8 Senator L.J. Farnham:

From a policing point of view I think the point to stress is that the loophole will be closed. So when officers, honorary or otherwise, come across this incident they will have some legislation to act upon. I cannot see a task force being sent out to deal with it. Congratulations to all involved for closing down this loophole. I am sure many *bona fide* motorists will benefit and I am pleased this unacceptable way of selling vehicles is being stopped. Could I just mention, I have a 7 year-old Audi A6 with one very careful owner? If any Members are interested, perhaps they give me a call. **[Laughter]**

The Deputy Bailiff:

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

9.1.9 Deputy K.C. Lewis:

I thank all Members who have spoken. In answer to Deputy Tadier, it is not the legitimate traders we are after or indeed individuals; it is unscrupulous traders who use our car parks to sell their vehicles. It is completely unfair to visitors, to locals, to people carrying on a legitimate trade, running a cafeteria near a beachside, et cetera, to find the car park completely full of these cars that are for sale on the internet. The Deputy of St. Martin, I agree wholeheartedly with what he says, it is completely unfair. The Constable of St. John mentioned individuals using private land. Outside of my jurisdiction but it is a Planning matter and hopefully that will be looked into by them. Deputy Vallois mentioned enforcements and whether this would be enforced or not. I think the good Constable of St. Martin has answered that; it certainly will be enforced. Deputy Young also mentioned the Planning Law. Deputy Le Hérisser mentioned the lay-bys; that was some time ago. The advertising of vehicles for sale in the lay-bys on the front was banned. If this is approved, which hopefully it will be, there will be a level 2 fine for anybody caught doing so, advertising a car on the internet or businesses, of up to £500, a level 2, which is going to be a good deterrent. I would like to thank all Members who have spoken and I make the Regulations.

The Deputy Bailiff:

All Members in favour of adopting the principles, kindly show? **[Interruption]** The appel is called for. I invite Members to return to their seats. The vote is on the principles of P.140 and I ask the Greffier to open the voting.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				

Connétable of St. Peter				
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 Hérisssier (S)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy 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.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

The Deputy Bailiff:

Deputy Young, does your panel wish to scrutinise these Regulations?

Deputy J.H. Young (Chairman, Environment Scrutiny Panel):

No, thank you, Sir.

The Deputy Bailiff:

Minister, you are proposing these 2 Regulations, *en bloc*?

Deputy K.C. Lewis:

Indeed, Sir.

The Deputy Bailiff:

Do you wish to add anything else in proposing them? No?

Deputy K.C. Lewis:

No, I would just like to thank everyone that has spoken.

The Deputy Bailiff:

We have not got to that point yet. **[Laughter]** Is the proposition seconded? **[Seconded]** Does any Member wish to speak upon the Articles? All those in favour of adopting them, kindly show?

Those against? The Articles are adopted. Do you wish to propose the Regulations in Third Reading, Minister?

Deputy K.C. Lewis:

Yes, Sir.

The Deputy Bailiff:

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

10. Draft Freedom of Information (Miscellaneous Provisions) (Jersey) Regulations 201-P.143/2014)

The Deputy Bailiff:

We now come to the Freedom of Information (Miscellaneous Provisions) (Jersey) Regulations 201-P.143/2014 lodged by the Chief Minister and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Freedom of Information (Miscellaneous Provisions) (Jersey) Regulations 201-. The States, in pursuance of Articles 13, 44 and 53 of the Freedom of Information (Jersey) Law 2011, have made the following Regulations.

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

These are 2 straightforward changes and I will speak to them now rather than in Regulation. The first one allows for extra time to answer the question. It was thought that what had not been considered was that, for example, if the information was regarding information which was held by a school, the school could be closed during the summer holiday and therefore they would not meet the current 20 days. So in exceptional circumstances there will be allowed for 65 days to deal with that such issue. The second change is allowing for a Code of Practice to be issued by the Information Commissioner and that again is to help the authorities to comply, know how they should be complying with the Freedom of Information Law and it also allows the Information Commissioner to publish any recommendations that they might make in regard to compliance or not together with the name of the authority in question. Thank you.

The Deputy Bailiff:

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

10.1.1 Deputy M.R. Higgins:

Obviously we have all been waiting for the Freedom of Information Law to come into being. Could the Chief Minister tell us why an exemption for the schools for 65 days was not just put into the law because of the most obvious example? Because I fear that this could be used by all departments to delay providing information from 20 to 65 days. I know it is to be determined by the commissioner whether it is reasonable or not but under the Data Collection Law, if I remember correctly, all requests have to be done within 40 days. Could the Minister please explain why he has said 65 days applying basically to everyone, 20 to 65, when an exemption could have been just made for the schools? Thank you.

The Deputy Bailiff:

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

10.1.2 Senator I.J. Gorst:

Sixty-five days was seen to be reasonable for the reasons that I have outlined: for the length of time that the summer holiday might run. Of course there are occasions when it might require several departments to work together to collate information. But as the Deputy said, the Information Commissioner will be able to determine if it is that exceptional case or not. There are other ways that it could have been done but this way seemed reasonable. I hope that Members will approve this in principle.

The Deputy Bailiff:

Members in favour of adopting the principles, kindly show. Those against. The principles are adopted. Senator Ferguson, does your panel wish to scrutinise these Regulations?

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

No, thank you, Sir.

The Deputy Bailiff:

Very well. Chief Minister, you propose them *en bloc*?

Senator I.J. Gorst:

I do, Sir. I have just explained them so nothing further at this point, thank you.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on these Regulations? All Members in favour of adopting the Regulations, kindly show? Those against? The Regulations are adopted. Do you propose them in Third Reading, Minister?

Senator I.J. Gorst:

If I may, Sir, thank you.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak? All Members in favour of adopting the Regulations ... **[Interruption]**. The appel is called for. Members are invited to return to their seats. The vote is on adopting the Freedom of Information (Miscellaneous Provisions) (Jersey) Regulations in Third Reading and I ask the Greffier to open the voting.

POUR: 43		CONTRE: 1		ABSTAIN: 0
Senator P.F. Routier		Connétable of St. John		
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator I.J. Gorst				
Senator L.J. Farnham				
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. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
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 S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

11. Draft Social Security (Amendment No. 22) (Jersey) Law 201- (P.144/2014)

The Deputy Bailiff:

We now come to the Draft Social Security (Amendment No. 22) (Jersey) Law 201- P.144/2014 lodged by the Minister for Social Security and I ask the Greffier to read the citation of the draft.

The Greffier of the States:

Draft Social Security (Amendment No. 22) (Jersey) Law 201-. A law to amend further the Social Security (Jersey) Law 1974. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

Senator I.J. Gorst:

I have the pleasure of acting as the Minister for Social Security this morning but in that capacity I would like to ask my Assistant Minister to act as rapporteur, please. Thank you.

11.1 Deputy S. Pinel of St. Clement (Assistant Minister for Social Security - rapporteur):

I am pleased to propose this amendment to the Social Security Law that will see the change in the format of the Social Security Medical Appeal Tribunal to include a legally-qualified chair. The Social Security Medical Appeal Tribunal deals with appeals regarding the award of long-term incapacity allowance under the Social Security Law. The test for eligibility for long-term incapacity allowance is the extent of a loss of faculty which requires assessment by a doctor. The tribunal panel is currently made up of 3 doctors. However, 2 practical problems have become apparent with this format indicating the need to make this amendment now. It is increasingly difficult to get 3 doctors who can take part in the hearings, especially as they cannot have been

involved in the previous care or treatment of the appellant and the lack of a legal representative can make it difficult for decisions to be taken regarding due process, for example, whether a tribunal should be heard in private. The value of having a legal chair is evident in other tribunals such as the Income Support Medical Appeal Tribunal. The format of the Social Security Medical Appeal Tribunal proposed is a legal chair and 2 doctors. This revised format ensures that the tribunal is in a better position to make decisions made on legal process and still has the competence to make the medical decisions required to assess eligibility for long-term incapacity allowance. This amendment will also allow future changes to be made by the Minister in line with the constitution of other Social Security tribunals. I propose the principles of this amendment.

The Deputy Bailiff:

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

11.1.1 Deputy M. Tadier:

I would like to ask the Assistant Minister because she did touch on the fact that there are issues that arise about whether hearings should be held in private. I have had correspondence with the board themselves because I tried to attend one of the hearings which are supposed to be held in public. These processes, of course, in order to be human rights compliant, there is a presumption that they are held in private when there are appeals so that not only can the individual have their grievances heard but that it may be done and subject to public scrutiny so that justice may be not only done but seen to be done. But there has been an issue constantly with these hearings, they are set up, a time is put out there, let us say it is 12.00 p.m. on a Wednesday, members of the public attend, and then they are told: "We would like to have this hearing in private because sensitive information is being discussed about the patient and therefore we are going to have to have it in private." I am not going to say that it is right or wrong to do that. My personal opinion is that these things should always be held in public unless there is overriding specifics that require it to be held in private but the practice has been that they will always be held in private. What I do not understand is by simply changing one of those 3 doctors to a legal adviser still gives a majority on that board who are doctors. The doctors, when asked, go outside the room and consult, they say: "We believe that it is in the patient's interest, because we are discussing private information about them, to have these processes held in private." So the majority will still be doctors, the current ones have not changed, and the default is that they will always hold the hearings in private, so that needs to change. I do not see how this change of one person on the board is going to help that.

[12:15]

The second thing is it is completely unsatisfactory for members of the public who do want to attend, who may be professionals themselves, to give up time, maybe having to take an hour or 2 off work to go down to a hearing which is supposed to be public, only to be told that they have to go back because it is now being held in private. It is also very distressing for the individuals themselves who are attending those appeals. It is not a satisfactory process and I would like the Assistant Minister to say what is being done in this process and whether the panel are aware of it and are they taking steps to resolve this?

11.1.2 Deputy R.G. Le Hérissier:

Just to build on what Deputy Tadier has said, there has been a very torturous process in England which involves the opening up of the Family Courts which deal of course with highly-sensitive issues about the custody of children and the fall-out from divorces. One of the solutions has been that the proceedings will be open, or they will be open to journalists. It may not be the solution to the Jersey situation but it is a way forward as opposed to the very black and white approach which is if, I understand, an appellant asks that it be private, it is made private in order to preserve their

confidentiality. Whereas another way forward might be to invite journalists in or it might be to retain the confidentiality of the appellant but allow the press and allow the individuals who are attending to hear about the general issues that are at play in the case. They need to know what are the general issues and what precedents are being built up because often a lot of these decisions - admittedly, there are not many at the moment - have enormous implications for other people who might be considering appeals or who are using the system. Thank you, Sir.

The Deputy Bailiff:

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

11.1.3 Deputy S. Pinel:

Thank you for the 2 people who have spoken. In response to Deputy Tadier, I am quite aware that there has been some controversy over the hearings being initially in public. They are not determined in private until somebody requests that they should be. We are talking here about people's medical conditions and it is quite reasonable that they should be in private for their confidentiality reasons. Hence the reason for requiring a lawyer to chair the panel because the lawyer can then decide due process as to whether the tribunal should continue in public or whether it should be in private due to confidentiality matters. I think that refers to Deputy Le Hérisier's question as well; should it be open to journalists? Again, it is a point of confidentiality and hence the requirement for a legal Chair who could decide whether or not that is appropriate. Thank you.

Deputy R.G. Le Hérisier:

Can I ask, on a point of clarification, my point was is it possible to report and sometimes indeed attend proceedings to disguise the identity of the appellant but to report on them in such a fashion that the issues discussed are made public?

Deputy S. Pinel:

I am sure that is something that could be looked into in the future. At the moment, it is not. Thank you.

The Deputy Bailiff:

All Members in favour of adopting the principles, kindly show? Those against? The principles are adopted. Chairman, do you wish to scrutinise these Regulations?

Deputy K.L. Moore of St. Peter (Chairman, Health, Social Security and Housing Scrutiny Panel):

No, thank you.

The Deputy Bailiff:

Assistant Minister, do you move the regulations *en bloc*?

Deputy S. Pinel:

Yes, Sir, please.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the Regulations? Those in favour ... Senator Le Marquand.

Senator B.I. Le Marquand:

It is a law, Sir.

The Deputy Bailiff:

I am sorry?

Senator B.I. Le Marquand:

It is a law.

The Deputy Bailiff:

I am so sorry. Thank you. Do you wish to speak on it? Does any Member wish to speak? Then all Members in favour of adopting the Articles, kindly show? Those against? The Articles are adopted. Assistant Minister, do you wish to propose the law in Third Reading?

11.1.4 Deputy S. Pinel:

Yes, Sir. May I also take this opportunity - although the Minister is absent on a prior engagement - as Assistant Minister and I suspect on behalf of the whole Assembly to thank the outgoing Minister for Social Security, Senator Francis Le Gresley, **[Approbation]** and acknowledge the enormous contribution he has unstintingly given to me as his Assistant Minister, the department, this Government and to Jersey. Senator Le Gresley is highly respected by staff, colleagues and the public alike for his hard work, knowledge of his subject, integrity, commitment and honesty. He will be sorely missed from Social Security and from the States of Jersey. Thank you, Sir. **[Approbation]**

The Deputy Bailiff:

I have now forgotten where I am but does any Member wish to speak in Third Reading? All Members in favour of adopting in Third Reading, kindly show? Those against? The law is adopted in Third Reading.

12. Jersey Appointments Commission: appointment of Chairman (P.147/2014)

The Deputy Bailiff:

We now come to P.147/2014 Jersey Appointments Commission: appointment of Chairman lodged by the Chief Minister and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion in accordance with Article 81(1) of the Employment of States of Jersey Employees (Jersey) Law 2005, which is concerned with the appointment of Commissioners to the Jersey Appointments Commission, to appoint the Right Honourable Dame Janet Paraskeva as chairman of the Jersey Appointments Commission for a period of 4 years.

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

I was just going to ask the Minister for Housing to act as rapporteur but I think that is probably out of order so I will carry on and, hopefully, he will speak. It gives me great pleasure to recommend to the Assembly the appointment of the Right Honourable Dame Janet Paraskeva as chairman of the Jersey Appointments Commission for the next 4 years. I hope that Members have taken the opportunity to look at the C.V. (curriculum vitae) attached and the vast experience that she has and I particularly hope that Deputy Le Hérissier feels that we have not just - to use his words - brought out the same old suspects and that this is an excellent appointment and that Members can give it their full support. Thank you.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak? Deputy Le Hérissier.

12.1.1 Deputy R.G. Le Hérisier:

It is the same old suspect speaking as well. I would like to congratulate the Chief Minister. Irrespective of the excellent work done by her predecessors, I look forward to her re-energising the Appointments Commission but what I also really look forward to - and the Chief Minister and I have spoken about it many times and I have still have one or 2 cases rumbling on - is the Appointments Commission analysing what it does and making sure policies like succession planning really mean what they say on paper. This has been a sore point to so many people in and out of the Civil Service and given the prospective Chairman's background, I am sure she will be able to drive reform in that area. But we have an awful lot to do and we have made over the years, quite frankly, so many false promises to people that it is excellent we have somebody who appears capable or really driving policies like that.

12.1.2 Senator S.C. Ferguson:

I am concerned that, once again, we are going outside. We are told that it is only going to cost the same as it is costing already. Well, perhaps the Minister would like to tell us or confirm, and I really feel that the attempts that we have seen over the last year to change the legislation and to muzzle the commission and remove their independence making them subject to control by S.E.B. (States Employment Board) was not in the best interests of the Island and has no doubt put off applications by local residents to take up this position. Yes, the lady is obviously highly intelligent and highly qualified but the C.V. does not say how many interests she currently holds. The Institute of Directors do not recommend non-execs to hold more than 3 or 4 non-executive directorships. How many other positions does this lady hold? Did anybody Google her before appointment? I really am rather concerned about this because we seem to be collecting, with the greatest respect, a number of off Island appointments of the left-wing persuasion. **[Members: Oh!]** This does worry me, given the attitude of the Labour Party to offshore finance centres and, therefore, I will ask the question.

12.1.3 Senator P.F.C. Ozouf:

Politics works well when you have the right people in a parliamentary institution such as this and this may well be the last time that some Members can speak in that privileged position but also politics works when you have and are advised by the best possible calibre of chief executives, law officers and other leaders of organisations. I am afraid in 15 years in politics, I have to say that too many appointments have been made on, frankly, Google research only and a performance at an interview rather than identifying, headhunting, getting the job description right and matching and encouraging a wide group of candidates to a position. Politicians should not be the individuals in the vast majority of the cases that make such appointments or certainly if a politician is involved, it must be just as one of a number. The role of the Appointments Commission and the chair of the Appointments Commission has an enormous burden of responsibility to ensure that we get excellence, that we get substance and we do not just get good performers and that we do not simply get individuals that are almost the sleeping dead men's shoes or whatever it is. Appointments must be made independently, properly and with vigour. I have to say that many appointments that I have seen over the years, while we have got a lot of really excellent people, I have seen the flaws in terms of some of the appointment processes and even some in the recent past. I think Senator Ferguson's comments are a matter of deep regret when she attempts to politicise people that come forward for office. **[Approbation]** I can imagine who she is referring to because of course we oversaw one very sad episode of an appointment with a Labour peer in relation to S.o.J.D.C. (States of Jersey Development Company) and in relation to ... I think she must be referring to another chairman of an organisation who now is non-partisan but served as a highly respected member of the Labour bench in the House of Lords in the U.K. I do not think that politics left or right comes into this. The candidate that we are holding no doubt has been through a rigorous assessment, that

understands excellence and that is independent. Sometimes we do need independence. It is better, frankly, for somebody outside of the Island, if I may say, who does sit as chairman of the Appointments Panel because they are not in any way encumbered. They are not lumbered, they do not come with any preconceptions, with any friendships, with any knowledge of people in high places and that is I think a matter to be warmly welcomed. I congratulate warmly the panel on having done, clearly, an excellent recruitment job for this recruitment position and I will be warmly supporting it and I wish the candidate and the future chairman, if Members agree, the very best in terms of raising the standards of the appointments processes that we make and raising the standards that we need in terms of excellence and impartiality in terms of leading our government departments, our law departments and our other agencies that serve and contribute to Jersey.

12.1.4 Deputy T.A. Vallois:

I believe the background that is being placed on to the report of the proposition is well commended for having an individual such as this as a chair for the Appointments Commission. My comments are going to be more along the line of asking the Chief Minister exactly what involvement this chair will have in terms of the possible changes coming forward under P.97. I was a member that attended upon the States Employment Board with concerns with regard to that particular proposition and I do not feel it is exactly fit for purpose as it stands at the present time. But also I would like some reassurance from the Chief Minister in terms of what has been put in place going forward because I feel that this Assembly placed way too much determination for the Appointments Commission in terms of having to carry out all the roles and the functions of some of those areas which should be the States Employment Board which I do not feel have lived up to the expectations that most of us would expect and also the H.R. (Human Resources) Department in terms of their H.R. policies and the way that we drive forward best practice for the public sector.

[12:30]

So I would appreciate if the Chief Minister could reassure how this candidate would be involved in the forthcoming P.97 proposition and whether possible changes will be coming forward. Thank you.

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

Accepting what the Minister for Treasury and Resources said that political involvement should be as little as possible. I sat on this appointments board and I knew there would be a matter of discussion and debate throughout this Assembly and so before we even started the appointment process, we went into the process of appointing an independent assessor Sir Jon Shortridge. He is a man of I think incredible standing and independence. He was very, very senior in the Civil Service before and he had no connection with any of the candidates, be they local or be they from the U.K. We also had Mrs. Beverley Shears who is the non-executive adviser, if you like, to the States Employment Board, again, another independent. The board consisted then of myself, the Chief Executive and the Human Resources Director. We went through a rigorous - and I mean rigorous - approach, in the end interviewing 3 candidates in London and there was no doubt that the candidate that we selected is the person to do this job. She was the first Civil Service Commissioner in the U.K. so she knows the role of an Audit Commission, she knows what it has got to do and she has considerable experience. We were asked whether this person had the time to do the job. It might surprise Members that that is probably one of the first questions we asked. "What are your commitments? Can you give us the time that we need? There might be more time initially in setting it up." Of course we did that research and we did far more than Google. We got proper references and proper information coming back, proper searches done, first of all, before we even shortlisted and then more deeply once we made the appointment. This is an outstanding appointment. I am normally one that wants to appoint people from outside the Island and I am not

impressed by titles but this lady has all the skills we need to move this Appointments Commission forward and it is going to be so important as we start to look at our employment policies in the States. I just wish that sometimes we could put people off applying when we are so negative about the employment process and about the skills of the people available. I hope that the Assembly will get 100 per cent behind this appointment and allow her to do the work.

The Deputy Bailiff:

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

12.1.6 Senator I.J. Gorst:

Perhaps I could deal with Senator Ferguson and Deputy Vallois together because I think they raised similar points. I cannot recall the P number but I did defer it until after the election; 97 I think Deputy Vallois is suggesting it is. I have already brought forward an amendment listening to what Members and the Appointments Commission wanted because they were concerned about the States decision which said appointments like that should not be coming back to the States. So I have had to put an amendment in so the States can decide whether they wish to re-confirm their decision that such appointments should not come back here or whether they wish to change their decision in regard to the Jersey Appointments Commission and that will be for the States to decide in due course. Deputy Vallois challenged us about H.R. policies, best practice, making sure we are following those in the public sector and that is one of the reasons that led the States Employment Board to look at changing the States Employment Law and delivering codes of practice so that we could try and make sure that we had best practice all the way down. Now I am not sure that we are quite where we need to be and I took the view, and the States Employment Board when I consulted with them about it, took the view that we should appoint the chairman which is what we are going to do today and then she with the Jersey Appointments Commission members and with the States Employment Board would be able to review P.97 and see if there are other changes that she wishes to make. That is one of the benefits of having somebody with such a vast experience of working in these particularly difficult areas. So I think the process now is better. We can appoint Dame Janet and then the next States Employment Board can look at P.97 and see if there are other changes and improvements that it wishes to make. Deputy Green, I am grateful to for his comments because he has outlined the process and the thoroughness of that process which has been gone through and of course I am very grateful to Senator Ozouf for his comments. He is absolutely right. Getting the right people into the right place is one of the most important jobs that Ministers do. This is I think probably the last proposition now of this States term and, therefore, I cannot often say this but I was absolutely delighted to hear Deputy Le Hérissier's comments and that he is going to be able to finish I hope perhaps like the Connétable of St. John, on a high note, and vote pour for somebody being appointed to the Appointments Commission **[Laughter]** because I think it is probably a number of years since he has felt himself able to do so. We have listened to his, how can I say it politely, **[Laughter]** considered observations over the years about appointments such as these and I hope that he feels that he has been listened to and that we acted upon his advice. I think we should be proud that we can attract people of such calibre to come and support the public service and the work that we do in the community and, therefore, I am delighted to put before the Assembly Dame Janet's appointment to the chairman and I hope in this last vote of this Assembly that even the Deputy of St. John might be able to find it in his heart to ... Constable, sorry. I am 3 years out of date. He might even be able to find it in his heart to vote for the final proposition of this session. Thank you.

The Deputy Bailiff:

All Members in favour of ... the appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

POUR: 42		CONTRE: 1		ABSTAIN: 1
Senator P.F. Routier		Connétable of St. John		Senator S.C. Ferguson
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator I.J. Gorst				
Senator L.J. Farnham				
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. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
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 of St. John				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				

The Deputy Bailiff:

Chairman, do you wish to propose the arrangements for Public Business?

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

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

I will try and keep this brief. All matters that have been lodged on the supplementary paper all have already been set out for items of business on 25th November after the elections whether some of us will be here and some of us will not. Thank you.

The Deputy Bailiff:

Very well, then before drawing business to a close, can I just note that we are aware of at least 9 Members who will be not returning at the next session and we are likely to face other Members who are not returning but we do not know which ones those are. **[Laughter]** But I could perhaps mention Senator Breckon who has been a Member of this Assembly since 1993, Senator Le Marquand since 2008, Senator Le Gresley since 2010, the Connétable of Trinity since 2002, the Connétable of St. John since 1994 with a rest between 2005 and 2008, Deputy Le Hérissier since 1999, the Deputy of St. Ouen since 2002, the Deputy of St. John since 2002 with a gap between 2008 and 2011 and Deputy Baker since 2011. It is obvious to all of us I think that these Members represent a wide spread of political opinion almost across the spectrum. Some have served as Ministers, Assistant Ministers, committee presidents or vice-presidents, head of panels and Scrutiny Panels. The important thing is that all have genuinely contributed to political debate in this Assembly and in committees and on panels and I am sure that all Members who are not retiring or not yet aware that they are retiring **[Laughter]** would like me to thank the retiring Members considerably for all of their contributions. **[Approbation]** Of course there is an event which Members will be given notice of in due course when more formal thanks can be paid by the Bailiff. The new States will be convening after the Members have been sworn in which will take place at 9.30 a.m. on 3rd November and after the church service that follows that at 10.30 a.m. so the time of the meeting of the new sitting of the States will be notified through the Greffe in the usual way and perhaps from the Chair, if I can simply say to those who are standing again, enjoy your hustings and your election time.

ADJOURNMENT

[12:41]