

# STATES OF JERSEY

## OFFICIAL REPORT

THURSDAY, 14th DECEMBER 2017

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[9:30]

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

**PUBLIC BUSINESS - resumption**

**1. Jersey Infrastructure Levy: approval in principle (P.100/2017) - amendment (P.100/2017 Amd.)**

**The Bailiff:**

We return to the Order Paper and are dealing with the Jersey Infrastructure Levy and we come to the amendment of Deputy Le Fondré and I ask the Greffier to read the amendment.

**The Greffier of the States:**

1 Page 2, paragraph (a) – After the word “Jersey,” insert the words “which will incentivise sustainable development predominantly on brown field sites and discourage the development of green field sites”. 2 Page 2, new paragraph – In paragraph (a), after the words “in principle,” insert the words “and subject to the provisions of paragraph (c),” and after paragraph (b) insert the following new paragraph – “paragraphs (a) and (b) shall be void and have no effect until the Minister for the Environment and the Minister for Treasury and Resources have conducted and published an appraisal of the net funds estimated to be raised annually by the introduction of the Infrastructure Levy and the net funds estimated to be raised annually by the introduction of a Stamp Duty anti-avoidance provision and proposals on Stamp Duty – enveloped property, as set out on pages 12 and 31 of the Draft Budget Statement 2018 (P.90/2017), in the same time period, and that appraisal has shown that the proposed Infrastructure Levy is estimated to yield at least 10 per cent more revenue than the proposals to reform Stamp Duty”.

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

Before the debate starts, I wish to declare an interest and I just seek your guidance. The infrastructure levy will, even though this is a matter of in principle, incur a cost to landowners. I do not think I am alone in being a landowner that has property in my family which falls within the class of properties that would be affected by such a levy. Therefore, I declare that interest and while it is not shared by a wide class of individuals, in my case is definitely a conflict. I feel that it is best that I declare an interest and withdraw, but I will seek your guidance as to the extent to which you think that Members should be ... well, first of all, will try to declare it, but, secondly, where it is going to affect, as the Minister quite rightly says, land values.

**The Bailiff:**

Senator, I think you are right to declare it. I do not think you are obliged to withdraw for 2 reasons: first of all, this is only an in principle debate and, secondly, the law will be, perhaps I should not say this, but it will be like a tax, so it would be of general application to a class of people of whom you would be only one and, therefore, I do not think that you are disqualified under Standing Orders from remaining, participating and voting.

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

But if I wish to withdraw, because I do not wish to disclose the exact issue ...

**The Bailiff:**

That is entirely a matter for you.

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

Fine, I wish to disclose and withdraw.

**The Bailiff:**

Very well, then please do that.

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

Could you point out the Standing Order to us just to refresh our memory?

**The Bailiff:**

106. Deputy, just while you are flicking through it, it is not a very comfortably-worded Standing Order but the interpretation which I have just given is, I think, consistent with the approach which the Chair has taken in the past.

**Deputy M. Tadier:**

Can I just ask about 106(1)(b) which I know the Senator did refer to: "A financial interest which is general, indirect or shared with a large class of persons." I suppose one of the tests is whether or not the Senator is likely to develop the land; that is one question. Another question is that I do not think it can be seen as a general interest. The number of people who are affected by this potentially is a very elite section of Jersey society and are not by any means in the majority or even a large minority.

**The Bailiff:**

Well, Deputy, first of all, this Standing Order, as I have said, is not very comfortably drafted and the interpretation which I have given just now is consistent with the interpretation which the Chair has regularly given in the past. I think the position is that if you wish to take the matter further you will have to do so with either Privileges and Procedures Committee or with a separate proposition of your own at some future date. I think that is your remedy, if I may say so.

**Connétable J.E. Le Maistre of Grouville:**

Could you just confirm if you own property, does that mean you should declare it because it possibly might be developed in the future?

**The Bailiff:**

If you own property and you think it might be developed in the future, it would be sensible to declare that.

**The Connétable of Grouville:**

Well I declare that it is possible, but unlikely.

**Connétable S.A. Le Sueur-Rennard of St. Saviour:**

I declare as well.

**Connétable C.H. Taylor of St. John:**

I own greenfields, but not brown ones.

**The Bailiff:**

If I may say so, the intervention of the Connétable of St. John shows exactly why an in principle debate of this kind does not bring Members within the scope of this particular Standing Order, because until you see the final legislation, one simply does not know exactly what is going to be covered and what is not.

**Deputy T.A. Vallois of St. John:**

May I just raise a point of order or ask for some direction, please? I just want to raise this now before we get any further into the debate, but with regards to an in principle debate my understanding is, because there is no detail around this, nothing will happen before the elections and we cannot tie over the next Assembly in terms of what may happen, even if it is an in principle debate by this Assembly. I just need some direction in regard to what is being asked.

**The Bailiff:**

It is an in principle debate. If the States were to adopt this, that would give the green light to instructions to the law draftsman to prepare the necessary legislation which will come back to the States for consideration. I do not know whether the Minister can help on this, but my assumption is that probably the law draftsman has not started work yet; therefore, it may not come back before the elections, in which case of course it would be a matter for the next Assembly.

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

Thank you for the opportunity. All I would say to Members is that, yes, during my speech yesterday afternoon, I did point out, yes, this is an in principle debate. But what we have attempted to do is to put as much detail into the proposition as we possibly can, except for the legal niceties from the law draftsman that would need to be gone through. We do not need to do all that work until we have got the principles agreed, but there is a lot of detail that will not change if the in principle decision is taken forward. So I do not think it is correct to say there is little detail. We can see what we want to do, it is just the law drafting that we have not done, and I did not see any point in doing that until the principles have been accepted.

**The Bailiff:**

If I may say with respect to the Minister, it will be a matter for the new Assembly as to whether it wishes to continue with it or not, so the adoption of the in principle resolution today may or may not be of consequence to the next Assembly. It cannot bind the next Assembly.

[9:45]

**The Bailiff:**

I think the exchange is finished, Deputy of St. John; I think it is.

**The Deputy of St. John:**

No, that is fine. The Minister stated with regards to there is enough detail, but we are not being asked to agree the detail but ...

**The Bailiff:**

No, you are not. You are only being asked to agree the in principle what is in the proposition itself. Deputy Le Fondré.

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

I am glad to see everybody here this morning after what has been quite a long week. What we have got in this instance, there may be some comments to make about the wider proposition; I would say they are relevant to what I am proposing. I am proposing 2 amendments to the Jersey Infrastructure Levy that is being proposed. As we have heard, there is detail attached to the Jersey Infrastructure Levy, but the actual proposition does say this is in principle, so I am trying to suggest that perhaps we could sign up to 2 extra principles before this comes back in any detail. I would like to start by saying, firstly, I do support the idea of having some monies put aside for some form of improvement of the public realm and infrastructure; that sounds fine. The issue for me is where we get the money from and where the impact falls. Just for the record, and I am sure we will come back to it, I do have a concern that the unintended consequence of this will be to push up house

prices. It will not do it next year, and I will talk about evidence at some point or other, because I am disappointed in the comments that the Minister has made on my amendments. Because elsewhere he has talked about contradictions and I would say he has contradicted himself. So certainly for the sake of argument I do not believe there is any compelling evidence that supports the Minister's argument that land prices, or rephrase that, ultimately house prices will not go up. I am not talking about in the first year, I am talking about over time as things get absorbed, and that will impact on everyone. But in an attempt to possibly make some improvements on this in principle debate, I am making 2 suggestions and they are both separate votes. The first suggestion is aligned with the principles that the Minister started off with which is saying if we are going to do this thing, should we not be trying to disincentivise building in greenfields and incentivising building on brownfields? Now, my wording I have suggested is - well, hopefully people have got it in front of them - essentially to insert the words "which will incentivise sustainable development predominantly on brownfield sites and discourage the development of greenfield sites." Now the problem I have with ... there are 2 impacts here. The way the idea of this levy is going to work is it is going to be ... sorry, in fact, I used the word "levy", that is what it is given the title of, let us call it a "tax" because that is what the Minister does refer to in his proposition. The way the Minister has presented this tax, and it is in his proposition, because it says: "To ensure that those who benefit from an increase in land value arising from the award of planning permission make a small contribution to offset the impact of that development on the Island community." Now small is always relative and if it is a tax, always introduced at a low level. Taxes generally tend to only go one way which is up, hence my concerns about what is one of the impacts potentially on the industry and on house prices. But I would also submit, and the Minister has made no secret of it in the presentations, it is therefore a capital gains tax because he wants to get hold of an increase in the gain arising in land from that planning permission. Now what is interesting is if one looks at the financial and manpower implications per the Minister, he says: "There are no financial or manpower implications for the States arising from the adoption of this proposition." So it is not going to raise any money, it is not going to cost anything to look at it, and we are not going to employ further consultants to do any more work on the matter. There are no implications from this proposition whatsoever. So why are we doing it? So whereas I took the line and it does in fact ... I was hoping the Chief Minister, given the admission in the comments that he and I, when he was, I think, Deputy, of course, rather than Senator; there is already an error in the comments ...

**Senator I.J. Gorst:**

Could he just remind us whether that was a levy or a tax?

**Deputy J.A.N. Le Fondré:**

It was indeed a levy because it was done ... no, because the Minister has forgotten. The Minister has forgotten it was on cost. It was not on the uplift in value and that we were very clear on, because we did not go anywhere near a capital gains tax. It is also a lot lower than what the Minister is talking about because the principle was we did not want people building on greenfields, therefore, you did not get the uplift; you did not get the money. Yet, here we have something that is going to put the people through an awful lot of hassle and is not going to raise any money, apparently, according to this proposition. Because from my point of view, I would suggest that what one should be looking at - and there are issues about whether you use taxes to achieve behavioural consequences or not - I would suggest that what you want to be trying to do if you are going to do some form of levy, or in that instance that would be a levy, or some form of charge, you want to try and discourage people from building in the countryside or on greenfields, and there could be greenfields in the Parish of St. Helier, by the way, and you ideally want to encourage them to build on brownfield sites. Perhaps further down the line, I refer to it in the report, because this is an in principle, I have not gone to the detail, perhaps you might then seek to say: "Right, what

happens if you build slightly greater than the minimum standards?” Do you get less of a levy, less of a charge? What happens if you build more environmentally sustainable things with geo-source heating and all that type of stuff? Should you not be trying to encourage people that way and, therefore, that reduces your levy? So, in other words, that is about behaviour, that is not about getting money, and that really was what the principle was: to go away and just see if you can do that. Because according to this, we are not going to be raising any money, so therefore you are not going to have the money to fund the infrastructure stuff if the Minister is going to raise money, and he has already got a flaw in the proposition that he has brought to this Assembly. Now, just as an aside, because we will then move on, I think that is probably enough on that part; it is a very simple principle. We are achieving a principle and it is saying: “Go away and look at that.” Now the second part where I was listening to a reasonable amount of what the Minister said last night, although it was quite late, the Minister referred to inconsistent and contradictory remarks from the industry. I would suggest perhaps that maybe developers do not want to reveal all their details of how much money or what their costs are because they will keep that commercially confidential and because they are in competition with each other. They may have an idea, but they may not know the exact details. I think the other point to bear in mind is that developers do pay tax, and in fact they do pay tax at 20 per cent, as far as I recall, because it is Schedule A. Now, sorry, I was going back to contradictory remarks, and if I can find one particular one which is in the comments from the Minister at page 4 of his remarks. It says: “The proposer also considers that the proposed levy is in effect a capital gains tax.” Well hopefully I have clarified why I think it is. There is an expression that if it looks like a duck, waddles like a duck, and quacks like a duck, it is a duck, and that generally tends to apply to the definition of taxes as well. If it looks like a capital gains tax, it probably is. Yet, what they then say is: “The J.I.L. (Jersey Infrastructure Levy) is not a capital gains tax, it is not a tax calculated on, or by reference to, the profits made on a particular transaction. The J.I.L. is instead a charge based upon the size of a development, and so is best described as an impact levy.” Hmm. Yet, if you go to the Minister’s comments in the proposition: “The Minister for Environment is not disputing that the levy is a new form of ‘tax’.” That sounds pretty contradictory to me, so which is it? You cannot have it both ways, Minister, and you cannot accuse people of having contradictions in their statements when there is a very clear contradiction in your own remarks. Now, what I am suggesting, when new taxes are introduced, and I am being consistent with a stance for a very long time here, is there a different way of getting the same amount of money? So my part 2, and I am also disappointed the Council of Ministers could not have accepted this, is an appraisal. What it says is, is if there is an alternative way of raising roughly the same amount of money or more money, let us go that way rather than introducing a whole new system. Because, bearing in mind, under this system, I cannot see ... well bearing in mind in the proposition it says there are no manpower implications, but I am pretty certain we have been told there will be 2 or 3 extra members of staff that will be employed, in one of the presentations we have had. So I am not quite too sure how we get no manpower implications and what has been ... I may be mixing the various myriad of presentations we have had in the last few months, but I am fairly certain that is the case. But the Minister for Treasury and Resources, in one of our hearings in front of Corporate Services, in the Budget said they are closing a loophole in stamp duty. Now stamp duty, firstly, does not fall on first-time buyers, but what is also interesting is that if you are clever, stamp duty does not fall upon commercial office developers. So one can be selling an office block for £30 million, £40 million and if one does it in the right way, the £1.7 million of stamp duty that would be due, and that is verifiable against a piece of work that Corporate did some time ago, would not be paid. It would be zero. Yet, if any of us get involved in a house transaction, it is pretty likely that we will be paying stamp duty, and I would argue that is not fair. Big time. Now my recollection, and bearing in mind I am confused obviously because the financial implications of this proposition say we are not going to raise any money, I have it in my head somewhere that we have been told it would be between £1 million and £1.5 million a year.

Now one transaction could raise £1.7 million. You are closing a loophole, you would not be adding to your manpower, and you would be using an existing system. It is then a matter for the Council of Ministers to agree to permanently allocate that sum of money to the Minister for Environment to achieve his aims. I would call that breaking down the silos. I would have called that raising money in a different way to achieve the same aim and without potentially putting house prices up. The whole point is, I am asking for an appraisal and saying that if the outcome of that is greater than the money you intend to raise under this system, let us go that way rather than the other. It is not binding, if you like, at this stage, it is saying: "That appears to be an option. Let us wait until Treasury have finished their work and then let us go down the one that does the most money." Now we could have a debate about the merits of the J.I.L. after that, but to me that seems a fairly straightforward approach. Now, the idea, by the way, as well, and I appreciate this is slightly simplistic, but the idea of course is that stamp duty does recur, so at some point you will re-sell an office block and at some point you will get hopefully more than £1.7 million. Now we know there are at least 3 office blocks down on the Esplanade that are for sale, or will be for sale at some point, but stamp duty recurs. Now this apparently is a capital gains tax, what the Minister is proposing. The biggest uplift is likely, I would suggest, to be from a greenfield site when it gets developed. Now therefore we, I do not think, particularly want to be building on lots and lots of greenfields on this Island. Therefore, the amount of money you are going to raise, I would suggest, is going to be diminishing. There is not going to be a consistent flow because logically the brownfield development, we have all been told, it would be based on footprint. Therefore, if you are refurbishing a building it is not going to get captured, but if you sell that building under stamp duty it would do if the loopholes are closed appropriately. If you add another floor on to a building, well, fine, yes, that floor will be captured in some shape or form, apparently. Then you get to the issue, which I will just touch on, which is about the complexities. The idea of closing the loophole in stamp duty to me is a lot simpler. You have to make the definition, it has been certainly suggested to me; I am not a lawyer and I know there are legal issues around that.

[10:00]

In the accountancy world and the tax specialist people, they reckon it can be done. But what we are looking at here there is the reference to this viability model and that is why I talk about the consequences as well. I think that is relevant to bring in here because if you can do it on stamp duty, as I said, you do not hit first-time buyers as a starting point. My first point about disincentivising greenfields, I would hope would therefore discourage building on greenfields as well. But going back to the levy, it is the unintended consequences and there have been comments around lack of evidence from the industry to suggest what is going to happen. Now I kind of did a little bit of digging, and one can never go from media particularly, but I came across ... now these are 2012, 2014 and I think 2016, 2017. One is Savills, they are obviously agents, but this is November 2014: "Charging authorities have seen a 49 per cent fall in the number of new residential planning consents granted in the 12 months following the implementation of the community infrastructure levy. This is in contrast to the increase of 32 per cent across the whole of England." So, in other words, where the levy was introduced, there was an immediate drop-off in residential planning consents. Big time. Now, I am going to take that at face value, but there is certainly some substance there to the concerns that have been raised about the issues around supply, whereas I am suggesting that stamp duty, particularly when it is people who are not paying at the present, probably would not have that kind of implication. Again, it is an extract from the *Guardian*, this is earlier, it is 2012: "The headline grabber in the Government's latest round of planning reform called for the affordable housing element of section 106 agreements to be cut where the requirement made new development unviable. Evidence suggests that the introduction of the community infrastructure levy", which is obviously the C.I.L. (Community Infrastructure Levy) and obviously we are getting J.I.L.: "is already reducing the number of new affordable homes and



as more councils adopt C.I.L. the situation is likely to deteriorate.” Now there will always be arguments over the definition of “affordable homes” like you do not get into the open market, all this type of stuff, but I am taking that into the U.K. (United Kingdom) context, slightly wider than we define it, in other words, the impact on the availability of houses that people can afford. What was then interesting, and now it is obviously journalism, I believe this was a study from one of the universities at the time, this is more recent, and it just says: “In the light of our findings that C.I.L. was not achieving its original objectives of providing a faster, fairer and more transparent way of collecting contributions towards the infrastructure ...” and then they are making recommendations as to how to improve it. I think the point is from the industry in the U.K., and that is a very quick scan a couple of days ago, that it reinforced something that was in my mind when these ideas were first mooted, probably 3 or 4 years ago, is that there is a potential impact in the supply of housing as a consequence, because for some shape or form the profitability falls and therefore people do not develop as much. Sorry, I was just losing my flow. That, I think, is a pretty crucial point. I have talked about the footprint increases and where that means you have a sustainable flow of money. Yes, what I will just touch on, and again they have talked about having a nice, simple mechanism, and then they talk about this viability model. Now I have to say, almost as an aside, but it is about complexity as well. This viability model, as far as I have managed to understand, is a generic averaged calculation. It is not site-specific. If one has a site that is more expensive to develop than others, you will still be charged the same levy. It could push that scheme into the margins as to whether it makes money or not. Now everybody can turn around and say: “Developers will always make money.” Now generally on the Island, yes, there may be some argument to that. However, I can certainly point to at least one developer, I think there are a couple, who went bust in about 2008, 2012 because the market changed and because the numbers changed, so there is reference to this viability model. No, that justifies the amount they have created, after that, that is it. It then gets applied to every site irrespective of the characteristics of that site, as I have understood it. So we are introducing complexity and, interesting enough, the Minister said: “Oh, we are going to re-review the viability model or something if there is a problem.” Well, you have either got it right or you have not got it right at this stage because that is what we are being signed up to. Certainly, I think, in this instance - I certainly do not speak for the industry - but there are concerns coming through the industry as to the whole raft of stuff that is coming through at the moment. In fact, I was at the Chamber lunch yesterday with some other Members as well and it was a fabulous presentation. It was about branding Jersey and all that; it was brilliant. However, the point was also made, the sewage charge has been coming through, the solid waste charge coming through, the potential infrastructure levy coming through, these are all incremental increases which land somewhere. Someone has to pay. That is why from my stance I turn around and say: “Look, we have got a gap here. We have got people who should be paying something who are not.” If you are going to sell an office block, there is a loophole in the stamp duty which has sizeable chunks. Interestingly enough, hopefully that will be covered. As I have understood it, there are cases, I do not know the circumstances, where there are wealthy properties in companies which are residential, and which can also be used as a mechanism to avoid stamp duty. Now I think sometimes those individuals do raise a question mark and say: “We should be paying it”, but there are some loopholes still there as well. So I say: get that system sorted out and then get Treasury to send that money to Environment and, at the very least, get that appraisal worked because it is in the budget, we did approve it, and that is what my proposition says. It refers directly to P.90/2017 and pages 12 and 31 of that Draft Budget Statement. I think that is probably enough. I shall be interested to hear the Minister’s comments. But, as I said, I do consider that some of his remarks are contradictory and inconsistent between his comments to my amendment and to his comments in his main proposition. What I was going to say is there is a theme, if one goes through the comments from the Minister, the submissions he had made to Scrutiny or the officers made to Scrutiny, I think paragraph 11 of the Scrutiny Report is interesting. It just says: “For this reason, the department,

based on the department's consultant, is confident that the proposed J.I.L. will not affect house prices." Now I am assuming they were able to back the evidence up on that because, all I will say is, from the very quick review I did from the media side, there did seem to be an impact on supply of housing and that will automatically affect house prices ultimately, but also if you are adding a cost in there somewhere, over time it will push house prices up. So, to summarise, we have 2 amendments in front of us: one, as I said, is purely there as an in principle suggestion to disincentivise building on a greenfield that is not a green zone and to incentivise brownfield development, but as well within the report it refers to perhaps when you are doing that, let us look at seeing if we can get more sustainable measures in there. Can we encourage building better properties, building above the minimum standard and that type of stuff? It is not designed to raise money. The second one is purely an appraisal. It does not wreck the J.I.L. It is saying: if the alternative would raise similar amounts of money, let us go with basically an existing system. On that note, I make the proposition. Thank you.

**The Bailiff:**

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

**Senator L.J. Farnham:**

Also, in a similar vein to Senator Ozouf, I would like to declare an interest. The difference perhaps is that I do have works being planned at the moment that could well be impacted by this in the next 2 years, so your advice would be appreciated. I think I might feel more comfortable in not participating.

**The Bailiff:**

Senator, that is a matter for you. I have made the ruling I have. If you feel that you would prefer to withdraw, that is entirely a matter for you; you have declared your interest.

**1.1.1 Senator S.C. Ferguson:**

I was thinking about this last night. Jeremy Corbyn would love this. Capital taxes are political taxes. This particular one is a capital gains tax and Deputy Le Fondré is wise to be so cautious about it. The Minister talks of preventing developments from affecting living or preventing developments being detrimental to living in the Island, but this should be dealt with by the Department for the Environment. You do not do this by taxing people. Sadly, though, the planning officers frequently do not comply with the Island Plan policies, which has frequently been raised with the department by the chairman of the St. Brelade's Bay Association, Mary-Rose Scott. If the Minister could ensure that the Island Plan was complied with, then there would be less scepticism and resistance to planning applications. However, basic economics, basic economics 101 even, the very basic one, always results in the customer paying for taxes imposed further up the stream, whether they are imposed on employers or manufacturers, and the Department for the Environment is incredibly naïve to think that this will be anything different. As I said, this is a capital gains tax on the landowners; far better to ensure compliance with policies or to take Deputy Le Fondré's first amendment to heart. I have seen somewhere in this that the tax is apparently to be hypothecated and applied to St. Helier, but I understood that the profits from S.o.J.D.C. (States of Jersey Development Company) were going to be used for that. Is it that S.o.J.D.C. is not yielding the appropriate profit? I suspect so. We should not be applying ad hoc taxes without an overall review of tax. In fact, the Fiscal Policy Panel have already said ad hoc charges or taxes, whichever you like to call them, the effect is the same, they have said: "No more. Just get your policies together." I recommend that Members support Deputy Le Fondré's amendment and then hopefully reject the eventual tax. I will not be speaking again, you will be glad to hear, but I support Deputy Le Fondré in this and I do not support the overall concept of the tax that is being imposed, or hope to be imposed by the Department of the Environment.

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

Just briefly, I am hoping that the Deputy might be able to clarify something for me when he sums up because I am really unclear about what paragraph 1 means. He talks about brownfield sites and of greenfield sites. Now I cannot find - and perhaps it is my own fault - any legal definition of brownfield sites and greenfield sites, so I am wondering if the Deputy could explain what he means by that. Does he mean green zone, which I can find a legal definition for, and built-up zone, which I can also find a legal definition for? If it does not mean those things, then he could perhaps explain what it does mean. For example, does it include in his brownfield sites, derelict greenhouses which are in the green zone but have been allowed by the owners to become derelict in the hope of getting planning permission? If it does not include those, why not? It is important for me to understand what the Deputy means before I can decide whether I can support paragraph 1 of this amendment or not.

### **1.1.3 Deputy A.D. Lewis of St. Helier:**

I might be able to help the Constable of St. Clement there.

[10:15]

In the U.K. there has been a strive, as you know, for some time to build more houses, as there is a housing shortage there as there is here. So there are incentives going into county councils and boroughs to incentivise developers to build in certain areas. In fact, I have become aware of one in Barnsley, for example. I believe it is a Jersey investor who has been given an £800,000 grant to go in there and start developing, in other words, the council will provide the basic infrastructure. But in the U.K. they have made some changes to the national policy framework and they are encouraging development of brownfield sites because obviously they do not want the greenfield sites used. Now brownfield sites, particularly in St. Helier, if they were of great value now, it would be sold probably now. But if you are sitting on a brownfield site and if it is in St. Helier, it will be yielding some kind of value now. It will have a car park on it or some warehousing, so has quite a good value. As soon as you put an infrastructure levy on it, it decreases the value, so it does not sell. So what they have done in the U.K. is they have now exempted large areas of the U.K. that have brownfield sites from community infrastructure levies so that they get developed in preference to the greenfield sites. That is the idea, so you are incentivising and using fiscal incentives to do that. So this levy, I know we will get on to the major part of the debate later, would stop that. You would end up with brownfield sites that have a value now because they have got a yield on the site, parking, warehousing, whatever it might be, that is greater than the value would be if that person sold the site. If you reduced the value of that site, they would not sell it, they would just wait and sit on it, so it does nothing to encourage development. So in the U.K. a number of boroughs got rid of community infrastructure levies particularly for brownfield sites. They have done it for other regions in other parts of the country, but they simply have not worked very well, but we will come on to that in the main substance of the debate. There are not that many county councils that are using purely infrastructure levies to do this. They are using planning gain in the main which is another policy which we still have, which I will talk about later. So I hope that helps the Constable of St. Clement a little bit. No, he is looking confused. Maybe Deputy Le Fondré will clarify what I am trying to say in a better way than I have, but basically it is a disincentive to develop brownfield sites, and you need to incentivise that so you protect your greenfield sites. Like I say, in the U.K. they have abolished infrastructure levies on brownfield sites, in particular, but elsewhere as well to encourage development. They do not want to do anything that diminishes the opportunity to develop sites in the U.K. because there is a chronic housing shortage, and Jersey is no different. So anything you do to tax it will reduce development, reduce housing stock, and put the house prices up for those that remain. Thank you.

#### **1.1.4 Deputy J.M. Maçon of St. Saviour:**

I only want to speak once during this debate, so you will forgive me if I stray a little bit. Deputy Le Fondré's proposition, I quite like part (a), I think that fits in with a lot of the policies, paragraph 1, with what we are trying to achieve in the realms of sustainable development. I have read the letters from the Chamber of Commerce and I listened yesterday to what the Minister for the Environment had to say, and it is around this issue of planning obligation agreements. Now, as Members will know, I have been a member of the Planning Application Panel for some time now, the Planning Committee, and the Chamber of Commerce, in their letters, rely heavily on the issue of the planning obligation agreements instead of this levy in order to produce improvements going forward. Now as the Minister outlined yesterday, the problem with planning obligation agreements is, it only allows for those advantages in the very confined area around the site that the individual is developing. On the Planning Committee we have said, if you are going to have a significant amount of development in certain areas, it would be really useful and really good, for example, if you are building an estate, it would be good to have a bus stop over there, it would be good to have a pedestrian crossing over there, because this level of development will create other needs within the area. But because it does not fall as closely into the site, it means that a planning obligation agreement cannot be used. Now I understand what the Minister is trying to do is saying: "This level of development does have an impact on the wider community and, therefore, the public realm; therefore there has to be some way in which we can kind of alleviate that." Now starting to sound like possibly a Reform Party member, this fundamentally comes down to the problem of us not putting enough money into the Department for Infrastructure and cutting the budget of the Department for Infrastructure again and again and again, which means that the monies needed for these types of improvements have not been able to be funded, but then that comes down to our rate of taxation. So, when we are looking at the letter from the Chamber of Commerce, there are a lot of comparisons between Jersey and the U.K. and all these types of things, but of course what is not mentioned are the different rates of taxes in the U.K. that are much higher than Jersey. So here is the argument of: "Oh, it will become so unsustainable" but, wait a minute, the tax rate is completely different and, not only that, but there is a different range of taxes in the U.K. which apply to developers which do not apply to developers over here. So you are not comparing like-with-like at all, and that has not been mentioned. I am concerned, I think, like many Members listening into this debate, absolutely thoroughly concerned that we know, particularly with my generation, known as "Generation Rent", that the ability to buy property is out of many of my generation's hands. We know that people my age are leaving the Island because of the unaffordability of property within the Island and, who knows, but that is a huge concern among our community. After population, the second-most biggest concern within the Island is housing; is accommodation. So, when we are looking at everything that the States does when it comes to building charges, of course Members of this Assembly are going to take that very, very seriously because we are all deeply concerned about how, at the end of the day, it is going to affect the purchaser. I do believe that there will be an impact on the end purchaser. I do believe that it is a tax; I do not believe it is going to fall on to the developer. I think it will be passed on to the consumer which is what the Chamber of Commerce say, in effect. But I will go back to my original argument: if you are buying a house in an estate which is going to have a significant impact on the community it is being added to, why should not part of the cost of that property be used to help fund crossings that you are going to use in your area? Why should it not be used to help fund a bus stop which you are going to use in that area? So, effectively it is a user-pays thing in the end, so is it really bad if you are going to benefit from the development in that community, and because of our tax rate not being what it is in order to fund the infrastructure issues that we need, is it really that outrageous to say that part of the deal is the benefits that you are going to have from having that property, that the money that is generated should be ploughed back into that community? I do not think that that is entirely as outrageous as some people are trying to make out. So while I am

concerned about this because I know - I feel that it will push up property prices - we also know that the Department for Infrastructure is seriously underfunded in being able to do a lot of these improvements that are needed when development occurs. But then the private individuals that are going to benefit from this, why should not more be done in looking at how they can provide more back into the pot to deal with some of the negative effects that that development will incur? So, I think on balance, while I am concerned about this, I think the planning obligation agreements that we have in place do not go far enough to address the issues that are raised when development occurs within our community, so therefore I am, on balance, looking to support this proposition. I would like Deputy Le Fondré, perhaps when he sums up, to give a layman's explanation of his part (b) because it seems quite technical and I would just like that done more simply, if possible. But I just wanted to outline my initial thoughts on this debate and to put it into context when looking at the way that our taxation system works and how that affects development, and I will listen to what other Members have to say during this debate. Thank you.

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

I would urge Members to support this amendment and it is on the basis of simple fairness. When we sell a property, you pay stamp duty when it goes through court. But very often a property can be owned by a company and so that company can be sold, in other words, a property, and no stamp duty is paid because it is still owned by the same company; it is just the beneficial owners of that property has changed. This is a simple system, the mechanism is already in place and we could raise significantly greater funds, I believe, with this mechanism than through the infrastructure levy. It is merely asking, this amendment, to research and to come back and report to this Assembly as to what the differences would be. This then gives us a choice of which way to go. One way will be to support this amendment, get the figures, to close the loophole in stamp duty and see what money that would raise, or the introduction of an infrastructure levy with the increased bureaucracy that would be required, and we can balance the 2 out and see which we need to support. What is wrong in finding out more information? That is all this amendment is asking, and so I would urge Members to support it.

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

Before I start, can I just say to Members I have 2 senior officers outside in the back room should anybody need a clarification on detail that I cannot provide, or they feel they need to speak about during the debate. Before I address some of the specific parts of the amendment, I think it is worth reiterating why my proposal is being brought before Members today. As I said in my opening speech, this in principle levy proposal is something that, if adopted, will fundamentally change for the better the way we can deliver long-term improvements for our communities, improvements that can easily and viably be delivered from the development process through existing systems and done simply, improvements that will then make a significant difference to the way we live and interact with our built environment, our public realm. I really hope that we can look back in years to come and say that Jersey has become a better place for this simple, yet effective levy. The consultation my department carried out was predictably split into 2 distinct views. Before I come to those expressed by the development industry, I think it is worth just focusing on the silent majority, those that would benefit from the spending of the levy. Many communities and individuals recognise that the levy will provide them with a better public realm, including improved streets, lanes, roads, green spaces, cycle and walking routes and play areas, to name but a few. Unfortunately, the Deputy's amendments will at best make the levy proposal unnecessarily complicated and, at worse, delay or even stop the levy being adopted through inertia in the belief that there is a better way through what I believe to be will be a more complicated and less transparent tax system. The Deputy seems to have tapped into the unfounded fear that the levy will cause discontent, principally, of course, among our development community. I cannot help but say at this point that I

am a landowner as well and I may well be affected by this levy in the future, but I am putting the alternative view to those who have already expressed their involvement. In my opening speech, I made it very clear that our evidence and the research that my department has done over many, many months now, shows that this discontent from the industry is just not going to happen. The development industry, if they get their way, will want this proposal to go the same way as the Affordable Housing Policy H3, and that is if it were to be dropped without trace or any proper and meaningful discussion and why? That is because they see it as bad for them. Well it might have an effect of lowering land values, but it will not do the other things such as raising house prices as the headlines would have us think.

[10:30]

What I have hopefully shown late yesterday evening is that it is not for the few that we should be focused on going forwards, but for the many Islanders who would benefit from this viable levy. The difference in my proposals brought this time is that we have addressed the concerns head-on with detailed evidence. We have shown that the levy is a viable proportion of the uplift in values that landowners and developers can generate from the awarding of planning permission and this should be the focus and the source of where some of those improvements should come from, the development industry and not the tax system. Taxpayers already provide the lion's share of money that not only improve our public areas but then also go to significantly benefit the landowners who neighbour them, the same landowners and developers that we then reward by giving planning permission to develop these areas further, which further raises the land values again. I support the industry, they provide the Island with a valuable resource, but we must recognise that it also adds extra pressure to our services and infrastructure and those should be addressed and the industry must help us address them. The Deputy talks about reviewing parts of the tax system to find ways to fund infrastructure instead of the levy but Treasury already have undertaken a property tax review. That review has already led to some tax changes on stamp duty and made recommendations for future consideration, one of which is before you today, the Jersey Infrastructure Levy. I would implore the Assembly not to reopen this work in the hope that we can then find and secure a ring-fenced budget from Treasury to spend on the public realm. This would be unsustainable and looking at the wrong end of the public regulatory systems that strike the relevant value. It would lead to a regular bunfight through the normal M.T.F.P. (Medium Term Financial Plan) and, of course, would then be subject to agreement, amendment or deletion, depending on other capital projects. I have to say to Members I fight tooth and nail around the Council of Ministers table but I will never ever be prioritised above the great needs of health, the great needs of education, and Members must understand that it will be right for us to focus on those above providing better quality streets and public realm. Moving to the Deputy's specific parts, I do have to say I have a degree of sympathy with part (a) of the amendment and I recognise some of the issues that the Deputy raises in his report. I have sympathy because when I first considered how a levy might work I thought, like him, that higher rates could be applied in those areas in which it is more of a privilege to get planning permission, predominantly, of course, on the coast and in our wonderful countryside. I, in fact, said as much during the early rounds of discussion and presentations when we first started developing the levy. However, I am unable to support this part of the amendment, primarily because the levy was not intended to directly change development patterns and it is not the most appropriate way of doing that. We have in place a far more effective set of robust policies in the form of the Island Plan. This plan contains a spatial strategy and that protects the Coastal National Park and the green zone and directs development towards the built-up area. Island Plan policies are the best way to determine where it is best to locate new development on the Island as all the planning applications have to be made in accordance with that plan. The other concern with this approach is that those persons who are willing to pay a higher levy contribution could, in effect, circumvent the Island Plan's spatial approach to where development

should be located. One of the criticisms of the similar Community Infrastructure Levy policy in the U.K. is that over time it has become more complicated and cumbersome with very similar interventions that the Deputy is proposing in his amendment. I intend to avoid this risk and so have made the levy simple, fair and, more importantly, most importantly, viable. This last point is really important. I have made it really clear that any levy rate must be set at viable levels in order not to harm the future development coming forward. Quite simply, the evidence and research on viability undertaken over the last 12 months by my officers does not support different rates in different areas and for that reason I cannot support it. Similarly, the Deputy also puts forward in his report the notion of using the levy to encourage larger dwelling units or more sustainable ones by offering a discount for developments over the minimum standards. Again, the place to achieve this laudable policy is not through the use of a levy but through the existing planning guidance in the form of the residential space standards. These, in addition to our building bylaws, ensure standards are being met and energy efficiency is being delivered. The planning guidelines for new properties have been reviewed and will very shortly be released for consultation and the Deputy can then use that consultation process to make the points he wants to about raising the bar on the size of units. In the meantime, the Deputy might find it interesting to note that through our research carried out for this particular part of the proposal we looked at all sizes in all recent residential development completions and the evidence shows that recent developments are, on average, being built out at around 25 per cent above the current minimum space standards. So there is another reason why I cannot really support part (a). Part (b) of the Deputy's amendment is less about the real alternatives to my proposal and, let us be honest, it is more about simply looking at ways to delay it and without ending up with a viable alternative. The proposal to focus on stamp duty is aimed solely at revenue generation and it is blind to where the value is actually being created in the development process and who, in fact, should be paying the levy and, more importantly, about who should not. It is clear to me that a review of the tax system, while potentially identifying some additional tax receipts for Treasury, cannot guarantee the long-term sustainable and more targeted funding that the levy will bring. The Deputy makes a number of points about how using the tax system will be simpler than creating a new levy but, quite frankly, that is just not going to be the case. The tax system is complicated and, with the loopholes that have already been identified, it is imperfect. My proposal is simple, it is very straightforward and it will use information that we already require on the planning application forms. It will simply be a calculation of the square meterage of development multiplied by the levy rate. It is as simple as that in black and white. Whatever the outcome of the review, the tax system is not the appropriate policy option to address and mitigate the impact of development. Moreover, the 2016 property tax review has already put forward a number of agreed measures and rejected others such as a land tax while giving support for the consideration of a development levy. The Deputy also seems to completely misunderstand how revenue would be raised under the levy and who should pay it. Under his proposal to simply raise revenue using stamp duty, he fully protects landowners and simply passes the cost of the levy on to property purchasers who will need to buy their stamp. This is simply not correct and targets the wrong people. The value generated by developments is in the uplift in land value. This accrues to the landowner, therefore this is where the levy is aimed and that is where the value is captured by ensuring that developers take the cost of the levy into account in their residual land valuations as a cost of development before purchasing the land at a slightly lower value. I simply just cannot support the amendment, which will guarantee higher costs to most home owners. Finally, something about capital gains. The Deputy also considers the proposed levy is, in effect, a capital gains tax. The definition of a capital gains tax is a tax on the profit when you sell or dispose of something, an asset, that has increased in value. The Jersey infrastructure levy is not a capital gains tax, is not a tax calculated on or by reference to the profits made on a particular transaction. To illustrate this, the levy will be charged at a standard rate based upon the size of the development built and not be varied by whatever profit level a developer makes at the end value of that

development. The infrastructure levy is, therefore, best described as a development impact levy and not a transaction tax based upon profits made as defined by a capital gains tax. I can only urge in the strongest possible way Members to reject both parts of this proposal so we can move on to the main debate and debate doing some good in our community.

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

Seeing as we are carrying on with the debate, I feel it necessary to speak in particular about part 2, which refers to the stamp duty, and the Minister has just referred to the property tax review. I think it is absolutely instrumental in what we are being asked in terms of having an infrastructure levy, so I will speak with regards to what Deputy Le Fondré has put in with regards to the stamp duty here. If everyone remembers, at the last election we had a nice big property tax review going on at the same time at which time the former Minister for Treasury and Resources decided to rip up that tax property review at an election meeting and the actual consultation responses were not produced until a further 2 years later. There was a lot of comment on that from the public about how they felt about moving forward with property taxes and there was a specific theme about that they thought that the current system worked well. But also, in an answer to the Deputy of Grouville in 2015, it was stated by the Minister for Treasury and Resources that: “At present no changes have been proposed to the property tax system and, therefore, there is no cost of implementation. The aims of the property tax review as set out in the Green Paper are to ensure that Jersey’s property tax system as a whole is modern, coherent and transparent and that it minimises distortions, acknowledges the contribution made by the public to increases in property value and is appropriate for Jersey.” The reason why I refer to that is because in the Scrutiny Panel’s comments under paragraph 33 we refer to the property tax review and we state that: “The property tax review was undertaken by the Minister for Treasury and Resources and addressed the same desire to capture uplift in land values arising from planning permissions. However, the review concluded that while there was public support to capture some of the increase in land value following the receipt of planning permissions, there was no public appetite to capture sales value through the property taxation system.” It was 40 per cent of the responses that agreed with that uplift. “Subsequently, the responsibility for exploring this concept further fell back on to the Minister for the Environment. If the notion of capturing this uplift is pursued, there remains the question not only of whether the levy as now proposed is the only and optimal way of achieving this but also under whose ministerial responsibility it best falls.” Back to the reasons why I am referring to this and particularly in regard to paragraph 2 and Deputy Le Fondré referring to stamp duty, because what I want to say to States Members is: do we really have the full picture? Are we sure that this will not create distortions? Are we sure that it is coherent, it is transparent, it is modern and, like others have said, is about the actual tax system in itself? Even the Minister himself has just stated about the complexities around the tax system. Just back to the actual property tax review and I will refer to the Minister for Treasury and Resources in his response went on to define in terms of what the modern, the coherence and the transparency should look like. Under coherence, he stated: “When thinking about how property taxes should fit within the overall aims of the system, the majority of comments suggested that there needed to be greater clarity and review of the tax system as a whole. For example, there were concerns about the introduction of the long-term care scheme and belief that the tax system is not joined up or balanced. It was recommended that no changes should be agreed without careful analysis of the financial implications for businesses and local people. There was also concern by the public that just by having that property tax review at that time created uncertainty within the market.”

[10:45]

I stand here because I am concerned because I am going to vote against the amendments, I am going to vote against the main proposition, and the reason why I say that is because I think it is



ridiculous, in my opinion, to be agreeing in principle to a charge without understanding the possible complications to that charge. Although I sat on the Scrutiny Panel and I have gone through it, it felt like we were mediators. We had the Chamber of Commerce there, we had the Minister for the Environment there; one had one view and one had the other view and there was no compromising in that situation. It just came to loggerheads. I get what the Minister is trying to do but I do not think it is right for this States Assembly, so close to election time, to turn around and say: “We agree to something in principle”, charge the Minister to go away and ask the law officers to start drawing up legislation, which could potentially just be a waste of time because the new Assembly comes in and turns around and says: “We do not even want to look at it. We do not even want to think about it. We do not want to touch it because we want somebody to look at the tax system in the round and say: ‘How can we phase the tax system in appropriately so it is modern, so it is transparent, so it is coherent and it works and it does not create a great deal of distortions?’” That is my position at this moment. I cannot support the amendments, I cannot support the main proposition. It is not because I do not agree in terms of taking a gain from uplift of value in land from planning permissions, it is not the case at all, but I think that the property tax review needs to be read over by Members or considered when they are taking the vote today on either the amendments or the main proposition because it does create that question in your mind and doubt over what it could potentially do. I go back to the point that I just do not think this Assembly is the right Assembly to be agreeing in principle. If it needs to be done, it should be the new Assembly, they agree in principle and then go through with the detail in the legislation. I just do not think it is appropriate for this Assembly to do it now. **[Approbation]**

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

The Deputy of St. John, who I was pleased to work with on the panel, has already quoted from the same paragraph but I think it is worth reiterating the last part of 33 which says: “If the notion of capturing this uplift is pursued there remains the question not only of whether the levy as now proposed is the only and optimal way of achieving this but also under whose ministerial responsibility it best falls. That is the considered opinion of the 4 Scrutiny members who looked at this on the review.” I think in the context of the amendment that is being put forward, of course it is always the responsibility of any States Assembly to consider: does the amendment that is on the table make what is in front of us better? Does it enhance it? I think the answer has to be yes and I will explain what I mean by that. Just to contextualise, this is an in principle debate. By its nature and by the way it is worded we do not know what it is going to look like in the end, we do not know what a small contribution to offset the impact of development means, we do not know how much it is going to raise. I have asked the Minister previously in question time how much it was going to raise and he was unable to give me a specific figure. It varied. I think it was between £500,000 and £1 million but he was quite coy to give an answer and I am not sure if we had much more joy as a panel with that either. I think that is exactly what one of the Deputies of St. Lawrence ... it is all so confusing this. I do not know why we do not just call each other by our names seeing as people change, but in this case Deputy Le Fondré, if I am allowed to call him that, because there are 2 Deputies in that district. It is simply acknowledging what we as a panel have also independently come to. We did not lodge our comments until the 4th but clearly we have discussed it as a panel before that. The Deputy lodged his, I think, on 24th, 28th November and he is recognising the same issue here. He is saying we do not know how this is going to work; we do not know how much this is going to raise; we do not even know the consequences of it. There is still an argument about whether or not this is going to have a financial impact on the end product of putting houses up. It seems to me that there are basically 2 options: either somehow the industry manages to absorb the cost and does not pass it on to the end user or it pushes prices up. I thought when the Minister spoke he was even suggesting that house prices might come down as a result of this. I understand the economics are not quite straightforward in this and that house building costs

are fixed, essentially. There is not much give and take in what it costs to build a house and there is some flexibility in what the landowner can charge when he or she sells the land, but the starting point should surely be that it is the person who makes the profit who pays the tax. So, if you make certain amounts of money from a development you will pay the tax, but in this case it is not the seller, it is the developer who has to negotiate with the land. Of course, we cannot apply conventional economics. I made the analogy to our Scrutiny Panel of imagine you have this cup. Let us say the cup is worth £1 and I want to sell it to you with a profit so I am going to sell it to you for £1.50. If there is a tax being brought on later and the person says: "I can uplift this cup, I can enhance, put a few embellishments on it and then sell it on to people for a fiver; it is going to cost me £3.50 to do that and I will fix my profit in there." Let us say it costs whatever, you sell it for a fiver, there is a £3.50 uplift in that, some of which will include the investment that you have put into it. It is the person who has created the embellishment who will be paying the tax on that so they might say: "It is going to cost me 50p to pay this new tax. Will you consider selling me the cup for 50p instead of £1?" They might well say: "Yes, absolutely, I will sell it to you for 50p rather than £1 even though I am out of pocket" but they might say: "No, there is a finite amount of these things out here. There is a finite amount. I am not putting my price down. You have got to decide whether you want to buy it for the same price and whether you can afford to pay the tax on top of that." The argument that was being forward by the Minister when we interviewed him in scrutiny is the fact that we do not think there is any evidence for that, no evidence to suggest that prices will go up, yet there is no evidence to suggest that prices will not go up. You have not provided us with evidence. You have not done the appraisal, you have not done the figures to show that this will not have a negative effect on the market, and this Council of Ministers have told us ostensibly, or they told us that they do not want to put house prices up, that they want to encourage first-time buyers, but this very proposition that is before us may well have the unintended consequence - and in fact I would say it is a likely consequence - of pushing house prices up for first-time buyers, essentially. That is not something we can walk into blindly and that is something that is clearly addressed in part 2 of the amendment. I do not see why we are even arguing about this today. It clearly says by all means go ahead but on the caveat that in the meantime you have to do this appraisal, this impact assessment of all the likely implications. The Minister is right in saying this is not a capital gains tax and I think that is part of the problem with it. If it were a capital gains tax it would be fair. It would say you capture the uplift in this value: "You have made £1 million profit; you pay us an extra 10 per cent on that, £100,000." That would be fair. This particular proposal in front of us does not even seek to capture, for example, that you have buildings out there that have negligible rental value and if they are redeveloped this will not capture that. You have some fields that might be worth a lot when they are redeveloped and others that may not be worth as much, but it is based on the surface area size not on the value of that which ends up being built on it or indeed the profit that is made from that. That cannot be fair, can it? What we are saying as a Scrutiny Panel is that there may be a better option of achieving that. We question again this is not necessarily the optimal way of achieving what the Minister wants to do and we know it is not the optimal way because there were previous proposals 3 and a half years ago that got ripped up on the floor of the hustings. Is that how we do policy in Jersey? We have one Minister who is pursuing a policy. It is the same person again, of course, who decides to say: "Let us just rip up this policy", which I am not even sure he had the authority to do that while he was contesting an election. He was no longer the Minister and he did not know who the future Minister was going to be. He was still the Minister but effectively it is during an election period, which is a bit strange, and he did not know whether he was going to be returned to office and certainly we had a different Minister for Treasury and Resources after that. I will just finish with the 34th paragraph, the final paragraph in our comments: "The panel is of the opinion that the debate on the in principle agreement should take place once the new States Assembly has been elected so that the same Members can subsequently consider the detailed legislation. However, if the present States

Members approve the principles of the draft law in forthcoming debate the panel will be urging the new Environment, Housing and Infrastructure Scrutiny Panel, through its legacy report, to review the details of the proposed infrastructure levy and the accompanying legislation when made available to the Minister for the Environment.” I think what Deputy Le Fondré’s amendments do here is say: “Okay, let us agree to the principle of it. We do not know enough detail about it but we can get this through today”, and I think that the Minister should be accepting the amendment of the Deputy because it makes this proposition more viable. It puts some of the safeguards in that I think we are all asking for, certainly that we are asking for as a Scrutiny Panel, and it might make it just about acceptable to most Members, and possibly even the panel but that is a question for the individuals on that, to be able to accept it. I think in its current format I, and I suspect the rest of the panel - we can hear from them - will have great difficulty in accepting what the Minister is proposing without the safeguard of ... we may not need the levy actually. We are talking about such small amounts of money here that I think a £10 ... I think we could also publish Senator Ferguson’s mobile number **[Laughter]** to the public so that they can phone in and we should be able to raise that money pretty quickly. I do reiterate the comments that I think the proposal and the amendments are very laudable. They are the correct thing to do. We should be supporting them. It does not go against what the Minister is trying to do but it does say: “We really need to refine some of the finer detail. Bring that back to us. Let us have an in principle debate on the basis that there will be further information and once you have done, if the figures are correct, if it all works out, we will be happy to support you, not just in principle but in the finer detail.”

#### **1.1.9 Deputy D. Johnson of St. Mary:**

I am pleased to follow the last 2 speakers who are, of course, both members of the Scrutiny Panel and to some extent they have said much of what I was going to say. I would like to revert to the early intervention of the Deputy of St. John this morning when she suggested that it might not be appropriate for this Assembly to take this vote on what is surely a matter of principles. That, of course, is one of the main points that came out of our report. I do appreciate why the Minister does not want to enter into detailed discussions, et cetera, without an in principle decision but, conversely, why would you want to enter into, embark on that work in the knowledge that if a new Assembly does come in - and if it follows last election’s model there will be a 30 per cent differential in its composition - the new Members might disagree with the principles concerned? That is the main point I make. I might also go back to the Deputy of St. John’s comment that throughout this process the Scrutiny Panel has been placed in a difficult position. Following suggestions by the Construction Council, as interested parties, we did invite them to a public hearing to put forward their case, listened to their views, and I think they appreciated that. A matter of days later we had a further public hearing, attended by the Minister and his department, when we were able to put the views of the Construction Council to them and hear their responses and, as the Deputy of St. John said, they were poles apart, they still are poles apart and we are, in a way, being asked to act as arbitrator. That is not our function. It is right that the question of the principles comes before the States rather than the Scrutiny Panel, but at this juncture we do think that it is the States that should be the one to determine it.

[11:00]

If it were to be deferred or rejected then that would give the opportunity for further work to be carried out by the Minister for Treasury and Resources as to raising of stamp duty, et cetera, which might well help the overall picture. I revert to my previous remark that the tenor of our report was that it would be preferable if this debate had been left until a new Assembly had come in and I maintain that position.

#### **1.1.10 Deputy J.A. Martin of St. Helier:**

I rise because I have just heard from 3 members of the Scrutiny Panel who are quite clear on what they recommend. Was it only 24 hours ago or less that we had the Scrutiny report rammed down us and said: "You have got to do it, even Scrutiny say you have got to do it." This time Scrutiny is saying not to do it but it is not quite fitting with the Ministers this time. The report does not back up what they want. I just rise to say that you cannot be choosy with Scrutiny. You cannot say yesterday: "You must support it because of A to Z" and today: "No." It is clear if the work is needed to be done and more work, we are talking about possible implementation in April 2019. Why again the rush at the end of this Assembly with not enough knowledge? It is not a great position for Scrutiny to be put in, arbitrating between the construction industry and the Minister and us, as an Assembly, not knowing enough. But the basis, if you really value Scrutiny, you have just got the report, you have just heard from 3 members, one of them the Chairman, saying: "Do not do it in this Assembly", I think it is clear: have respect for Scrutiny, throw it all out. It is simple.

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

It has been quite an interesting debate. Where do we start? I will try and address the comments that have been raised and, addressing the overall principles, I would hope people will view this at the very least as an improvement if this does go through, and therefore it would be supportable, and then take the view of what their attitude is on the amended proposition when they get to that separate vote. In relation to the part 2 bit, the stamp duty, I am not proposing anything new. Bear with me for 30 seconds. As referred to in my proposition, page 12 of the Budget, business tax proposals, introduction of a stamp duty anti-avoidance provision; it is being done. I am not proposing anything new whatsoever. This is going to happen. What I am saying is that let us do an appraisal of that money and if that generates more money than what the Minister is proposing (a) we have closed the loopholes, (b) it is fairer, (c) it is not going to hit potentially most first-time buyers. True, if you get a first-time buyer on £10 million or something that potentially would be caught. That seems to me a lot fairer and simpler proposal. I must admit, and probably this is a bit of an unfair comment as an accountant, I find it a bit rich coming from the Minister for Planning that planning conditions and planning rules are so much easier to understand than the rules about stamp duty, because depending where you are and whether it is BE7 or GER4 or whatever it is, whichever policy you are trying to find, you can find your way around anything. I would suggest that on the basis it is happening, as in Treasury are seeking to close the loopholes we have talked about, that should be the appraisal we rely on. If it raises more than the Minister is talking about that does cause them to focus their minds on how much money they are trying to raise out of this, bearing in mind their proposition says none because there are no financial implications, maybe that is what we are trying to do. We are trying to break down the silo mentality, which is therefore if the stamp duty proposals do raise more cash than this proposed infrastructure levy, I would have no problem with the Council of Ministers turning around and saying: "Yes, here is the extra money we have raised from closing this loophole and that gives the source of funds to the Planning Department, so we stick to that system." I am not entirely sure if I understand quite what the Minister is trying to do. Is he trying to raise revenue or is he trying to punish people? The number of times there has been a reference ... he has not used the word "punish" but he has implied it, that all these people are benefiting from this and we need to tax them. As we have heard from Deputy Tadier, the problem with that approach is there may be unintended consequences on house prices because certainly the Minister did say something about that this would be included in the cost of developments. Well, that makes sense and if it is in addition to your cost usually - thank you, Deputy Andrew Lewis - your prices go up. The Connétable of St. Clement, I am not going to try to be a lawyer but what I can tell him is that what I have understood from reading law is when definitions have capital letters, which mine do not, there is a specific definition referred to. When they have small letters it is the usual English definition that is applied to it. So, for example, under "brownfield", if one Googles "brownfield": "Brownfield denotes or is denoting or relating to urban

sites for potential building development that have had previous developments on them.” Therefore, there is a definition that exists and it is in the normal English language. I will accept, what I have said is that ... I have to say I did not Google “greenfield” but I assume that is the same thing; for me it is a greenfield or not a brownfield. The point is that it is not zoning. Brownfield sites are the sites. It is not whether it is a white zone or a green zone; it is a brownfield or a greenfield site. The Connétable is absolutely correct that there is an issue around glasshouse sites. I have tried to say: “Deal with the principle.” I have tried not to get dragged into the detail because I think that if we were to approve this that is a matter for the Minister, but there are complexities around glasshouse sites because sometimes it depends on the context. Sometimes there might be a very small site. I have parishioners in St. Lawrence say: “Actually, you could put something there.” However, if one has had a massive thing approved for agricultural purposes and that has moved on, should that be allowed to automatically be redefined as a brownfield site? I think that is a very valid point. I think the Connétable is correct because under the present proposal, as I have understood from the Minister, the type of glasshouse site he may be concerned about would not be captured by this levy. I think I agree with him in that instance and that might be something one might want to address. But I have specifically tried not to get dragged into individual details and individual issues. I have tried to stick to a principle. It is interesting, the Minister also referred to, which is great news, that people are building to higher than the minimum standards. I think it was about 4 years ago, it might have been longer than that, I brought an amendment to the Island Plan, which was supported by the Assembly because it was approved, about increasing the minimum standard and it was also about increasing the installation standards and things like that. The pushback we got at that point was: “You do not need to do that. It should not be going to the Island Plan. It should be done under building standards or whatever it is.” The point was it is about this Assembly setting a direction that these things needed to be addressed. Deputy Maçon, thank you, it is about changing behaviour. He said to try to give a layman’s definition of my part 2 amendment. Broadly speaking, the Treasury is already doing a piece of work to close down loopholes in stamp duty. Part of those loopholes mean that if you own a commercial block of offices, for example, and there are very large sums of money of stamp duty that could be due on that - the one I cited is £1.7 million - at the moment it is possible to avoid paying that. Treasury are saying they are going to close the loopholes, they are going to address that, and I am saying if they achieve that and if the money raised is greater than what the Minister is proposing from his levy, let us not do the levy and let us just basically stick with the stamp duty route. Hopefully that is simple enough. There are separate votes so I would hope people might at the very least give their attention to one or, ideally, both. To go back to the point, I think the Minister has contradicted himself on a number of occasions around his definition of tax. I remind Members that in his report he says: “The Minister for the Environment is not disputing that the levy is a new form of tax, end of.” That is his own words. I think the Minister might be getting slightly confused. He is also, I think, missing the point. It is not about where you build. It is not if it is on the coast. This is purely meant to be: is it a brownfield site or is it not? If it is a brownfield site, let us not disincentivise the construction of that site. I think Deputy Andrew Lewis has picked up the point that in the U.K. there have been issues around that. As I said, I remind Members of one of the original quotes I said on 14th November is that charging authorities of the Community Infrastructure Levy in the U.K. have seen a 49 per cent fall in the number of new residential planning consents granted in the 12 months following the implementation of C.I.L. There is some concern about the impact. At the very least, if we can make sure there is no impact on brownfields development that does not completely mess up the supply that we have concern about. As I keep reiterating, I am not proposing anything new. It is saying there is a piece of work going on. We have talked about what is the objective. I would submit that closing the loophole is a simple approach. I would hope the Chief Minister will be supporting this because it is consistent with his approach that we took back in 2007 about disincentivising greenfield and incentivising brownfield. I hope he will because that will represent

... we will know where he stands on these matters, but I was disappointed because when he was a Deputy he fought tooth and nail to prevent a site being rezoned but when he was Chief Minister he voted to rezone it. That, I think, demonstrates that sometimes policies change; the Island Plan changes roughly every decade. I am looking at brownfield and greenfield; I am not looking at zoning. That is it. I will just go down the line of part 1 is incentivised, sustainable development. As I said, it could mean at some future date putting some measures in that say: “We want you to do better environmentally friendly buildings” or whatever it is. That is a detail that is in the report; it is not in the proposition. I said incentivise sustainable development predominantly on brownfield sites and discourage the development of greenfield sites. We are facing a rising population; we are facing increasing pressures everywhere, and the unintended consequences around the supply of housing as well of the unamended J.I.L. might work. Part 2 is saying if we can get the money a different way in a simpler system that already exists, that does not add to manpower, potentially generates more, is definitely recurring and does not affect most first-time buyers, I would submit that and say that is the way it is going. On that note, I maintain the amendment and ask for the appel.

**The Bailiff:**

Do you wish the amendments to be voted on as a job lot?

**Deputy J.A.N. Le Fondré:**

No. Sorry, Sir, I should have said and it is in my report. Could I have 2 separate votes for part 1 and part 2?

**The Bailiff:**

The appel is called for. I invite Members to return to their seats. The first vote is on the proposed amendment to paragraph (a) of the Minister’s proposition and I ask the Greffier to open the voting.

<b>POUR: 11</b>	<b>CONTRE: 29</b>	<b>ABSTAIN: 1</b>
Senator S.C. Ferguson	Senator A.J.H. Maclean	Senator L.J. Farnham
Connétable of St. John	Senator I.J. Gorst	
Deputy of Grouville	Senator A.K.F. Green	
Deputy J.A. Hilton (H)	Connétable of St. Helier	
Deputy J.A.N. Le Fondré (L)	Connétable of St. Clement	
Deputy J.M. Maçon (S)	Connétable of St. Peter	
Deputy A.D. Lewis (H)	Connétable of St. Ouen	
Deputy L.M.C. Doublet (S)	Connétable of St. Brelade	
Deputy S.M. Bree (C)	Connétable of St. Martin	
Deputy of St. Mary	Connétable of St. Saviour	
Deputy G.J. Truscott (B)	Connétable of Grouville	
	Connétable of Trinity	
	Deputy J.A. Martin (H)	
	Deputy G.P. Southern (H)	
	Deputy of Trinity	
	Deputy M. Tadier (B)	
	Deputy E.J. Noel (L)	
	Deputy of St. John	
	Deputy S.J. Pinel (C)	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	
	Deputy S.Y. Mézec (H)	
	Deputy of St. Ouen	

		Deputy R. Labey (H)		
		Deputy S.M. Wickenden (H)		
		Deputy M.J. Norton (B)		
		Deputy T.A. McDonald (S)		
		Deputy P.D. McLinton (S)		

**The Bailiff:**

The Greffier has reset the system. We will now vote on amendment 2, new paragraph, and I ask the Greffier to open the voting.

<b>POUR: 16</b>		<b>CONTRE: 24</b>		<b>ABSTAIN: 1</b>
Senator S.C. Ferguson		Senator A.J.H. Maclean		Senator L.J. Farnham
Connétable of St. John		Senator I.J. Gorst		
Deputy J.A. Martin (H)		Senator A.K.F. Green		
Deputy G.P. Southern (H)		Connétable of St. Helier		
Deputy J.A. Hilton (H)		Connétable of St. Clement		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Peter		
Deputy M. Tadier (B)		Connétable of St. Ouen		
Deputy of St. John		Connétable of St. Brelade		
Deputy J.M. Maçon (S)		Connétable of St. Martin		
Deputy S.Y. Mézec (H)		Connétable of St. Saviour		
Deputy A.D. Lewis (H)		Connétable of Grouville		
Deputy of St. Ouen		Connétable of Trinity		
Deputy S.M. Wickenden (H)		Deputy of Grouville		
Deputy S.M. Bree (C)		Deputy of Trinity		
Deputy of St. Mary		Deputy E.J. Noel (L)		
Deputy G.J. Truscott (B)		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy L.M.C. Doublet (S)		
		Deputy R. Labey (H)		
		Deputy M.J. Norton (B)		
		Deputy T.A. McDonald (S)		
		Deputy P.D. McLinton (S)		

[11:15]

**1.2 Jersey Infrastructure Levy: approval in principle (P.100/2017) - resumption**

**The Bailiff:**

We now return to the main proposition. I had the Deputy of St. Mary down to speak. Deputy, do you still wish to speak on the main proposition or have you said your piece?

**The Deputy of St. Mary:**

I think I have said enough and I hope most Members will follow my lead.

**1.2.1 The Constable of St. Clement:**

I support the proposition. I think it is an excellent proposition. It simply says that those who benefit from an increase in land value arising from the award of a States permission make a full contribution to offset the impact of that development on the Island community. I think that is fair, I think that is right and I think that is proper. What I cannot support is something that I am not being

asked to support. That is the way the Minister plans to do it. I think it is too complex and it excludes people who should be included. One of the reasons for that is if we think about it for a moment, affordable housing is exempt from this levy, according to the report. Let us just take a hypothetical example. Supposing there is a green zone field, perhaps in St. Clement, worth a few thousand pounds. The States decide to rezone that field to, say, 200 affordable homes. The Planning Department, the Planning Committee and the Minister for Planning give approval for the plans that are put in for those 200 affordable homes. But because of the zoning, because of the planning approval, that site could now be sold - and remember I am only being hypothetical - for £8 million. That, to me, is something of a benefit from increased land value due to a States decision, but according to the report that we have attached to this very sensible proposition, no one will pay any levy whatsoever on that. Is that fair, is that proper, is that right? I say, no, it is not. While I can still support the proposition, I would like the Minister to explain why such a massive increase in land value would be exempt from his levy in his report.

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

I could start off the speech by saying: what is the point in Scrutiny? I do not know how this vote is going to go but the fact that the amendment got rejected does not, of course, mean that we are going to necessarily endorse this today, but the Scrutiny advice is very clear on this. As a panel, we understand the concept that we may wish to gain from some of the uplift in value. We have already reiterated the fact that we do not think this proposal gives us any detail about how it does that. It does not give us any assurances of the fact that house prices will possibly be going up, which is something we want to avoid. Certainly that is not the driver for this proposition. One of the reasons that affordable housing has been exempt, the reason put forward, of course, is to try to encourage affordable housing. Within that we have already asked for a mechanism by which to try to incentivise a carrot mechanism, if you like, but we have said we do not want Deputy Le Fondré's carrot mechanism already, so it is a bit of a contradiction that we are quite happy to have some kind of discretion from the Minister to try to incentivise certain developments but not when it is asked for by a Back-Bencher. Another reason why affordable housing is exempt is because they do not want to drive up the price of affordable housing, and that is a significant issue. What I failed to say before when I gave my analogy with the plastic cup is that land is finite. Land is fixed in Jersey. There is no extra land but demand will always be on the increase. The population, as we know, is always going up, so land value and the scarcity of land can only become a bigger and more important issue. Land values can only ever go up and we have heard exactly from the Constable of St. Clement that this does not capture everyone. It is being proposed now in principle but the principle under which it is being proposed certainly has many holes in it and it does not capture everybody and, as I said before, it does not capture the value. It is a very blunt tool of doing it on the surface area of a particular development and there are certain developments that simply will not be caught, even though there are huge profits that will be being made. There is a reason we asked for it to be put to the next Assembly and that is because we want more detail. There is a strong risk, and we can talk politically - I am talking as an individual not as the panel now - that this Council of Ministers clearly wants to be seen to be doing something rather than nothing, and that is okay to a certain extent. That is understandable but we cannot keep passing in principle proposals with no idea about how much money it is going to raise, where it is going to take us, what the effect is going to be, and creating inherent inequity in the way that this policy will be applied in the future. We do not know who is going to put the meat on the bones of this policy in the future and I think it would be completely inappropriate and remiss for us to be passing this kind of in principle when essentially we know - I am not saying it is the case for this Minister - that as a general principle Ministers want to have something to bring back to the electorate. They cannot say: "We have been in here for 3 and a half years and we were supposed to have done this at the end of the last one but for whatever reason, we know the history of it, nothing has been done so at least here is



something”, something that the industry does not support, something that Scrutiny does not support, something that the people do not understand and something that the Minister cannot even explain to us about how it will work, who will be captured and how much money it will raise. We are not here to pass this kind of in principle nonsense. I think we should kick this out today. The Minister had the chance to improve it with Deputy Le Fondré’s quite sensible amendment and I think this is something that is going to need to come back in more detail for the next Assembly. By all means tax profits but this is not the way to do it.

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

I am grateful for following Deputy Tadier on that speech because although he stated that the Minister cannot explain, I think he has explained quite a bit. He has got a viability assessment and all those bits and pieces but here comes the fundamental issue for me, and I will go back to the fact that we are being asked as a States Assembly to agree in principle, asking the Law Officers to go away and do a job, which I think could potentially be a waste of time. What will happen is this will become an election issue, there will be lobbying, and I do not know whether this Minister is going to be that Minister after the next election. We may be all ordinary Joe Bloggs in the street after the next elections. It could be someone completely different who decides: “I want to include affordable housing, I want to include this type of thing, and I want to do this and I want to do that.” We can refer back to so many reports in the past that have discussed should we bring in environmental taxes, should we bring in a windfall gains taxes, all those different types of things. It is at the end of this term, right at the end. If he had come to us last year and said: “In principle, what do you think?” I would not have had a great deal of issue having a debate about what I thought about taxing uplift in land value on this particular issue, because I knew then the legislation would come, with the detail, before the elections and we could have a proper debate about what it meant, how it affected, whether it distorted the industry or not. But the thing is what we are being asked is: “Do you agree or do not agree on the in principle of introducing an infrastructure levy in Jersey to ensure that those who benefit from an increase in land value arising from the award of planning permission make a small contribution to offset the impact of that development on the Island community?” I will refer back to the property tax review that was done in 2014 and the responses that were published I think 2 years later: 46 per cent of respondents to the online consultation answered, yes, they felt that windfall gains arising from States decisions should be taxed; 39 per cent answered no. Positive change: there was a lot of support for windfall gains to be taxed when they had occurred from a decision made by the States. It was suggested that the States had caused a lucky situation. The company or person had not worked for the gain and, therefore, the windfall should be taxed. Conflict of interest: there were references made to suggest that agreeing a tax on windfall gains would encourage policy and planning decisions to be made on the basis of creating windfall gains. Planning decisions should not be made with a view to the potential tax revenue but rather to what is in the best interests of the Island. Reduction in development: although the majority were in favour of a windfall gains tax, there was a strong opposition. It was felt that any additional taxes would be a deterrent to property development. The costs of meeting the requirements of planning are already said to be high. Further taxes may have an adverse impact on developers’ cash flow. Bank lending for construction projects may be assessed as not viable and hence they may not obtain funding. That is really important here because what the Minister will now stand up and say when he sums up is he will refer to the viability assessment. What we have got here is an issue where the Chamber of Commerce and the Construction Council are saying one thing and the Minister is saying something else. One has got their own experts and the other one has got their own experts. I will put my hand up: I am not an expert. You sit there and you say: “Hang on a minute, that is all well and good, but let us look at all the other policies of the Council of Ministers and what I will expect will come forward in the future, affordable housing.” We have got huge supply and demand issues over here in terms of housing and our finite land resources. We

have got people who do not want to build on greenfields, and rightly so. We want to protect our countryside but you are not going to get affordable housing and that is the issue. Then it takes me back to I get the point that - I probably responded to this tax review, I cannot remember - if somebody is getting a huge uplift in value just by a planning permission on the principle, that seems fair, does it not? That seems right, but I am not here to say it seems fair, it seems right. I have got to assess whether it is going to create a distortion on all the other things that are hugely important to Islanders, one being housing and one being the cost of living, the 2 things that are really important to Islanders. We have had a tax review, a property tax review, where the Minister for Treasury and Resources has stated to the Minister for the Environment: "Go away and do some work", and rightly so. The Minister for the Environment has but, like I say, I do not think it is for this Assembly to say in principle, yes, we agree to it. I have got a lot of faith in this Minister in terms of what he is saying but it might not be him next time and this is what I am saying. Let democracy work properly. We cannot assume that everyone in here is going to be here after May next year. I am being asked basically to say: "Yes, I agree with this. Go away, Minister, get the Law Officers to go away and do some work" when they are already under pressure, because we all know right at the end of term everything gets loaded on the Law Officers and we have to get things through like that and it is just not right. This is an issue we have been dealing with time and time again and I do not want to give extra work to them when potentially a new States Assembly will come along, a new Minister could come along and say: "No, scrap it, I do not want to do this. Treasury, let us do a capital gains tax instead. Let us assess the tax system." The Chief Minister is looking at me funny, but that might be the case. He always looks at me funny, I know. The election platform at the end of the day will be where this issue is then lobbied on by certain people and not everyone at the election will be experts on whether the Lichfield report was right or whether the Minister's report was right. I have to say, the Minister's adviser who he brought to the Scrutiny Panel was very good, but I sat there when we had the Chamber of Commerce in with us and they had their legal adviser there and she was brilliant, she was really good, and it raised questions in my head. I have to admit that the adviser to the Minister for the Environment to a certain extent relieved those concerns and I was back to sitting there going: "Yes, but I still do not know what that means ultimately on these other policies." I am going to go back to the point, I am not abrogating my responsibility in terms of making a decision. I am quite happy to make a decision but I do not think it is for this Assembly to make the decision. I think it is for the next Assembly to straight away have an in principle debate, get the legislation done, have proper scrutiny of the legislation and then decide whether it is the appropriate thing to do. [Approval]

[11:30]

#### **1.2.4 Deputy S.M. Wickenden of St. Helier:**

I do love it when we talk about affordable housing here, certainly when Deputy Maçon says Deputy Mézec's generation. I suppose if you asked them what they thought about do we have enough affordable housing in this Island they might say: "Ask me a knock-knock joke" and I would say: "Knock-knock" and then there would be nothing. I would say: "Why did you not say who is there?" and they would say: "I could not afford the house so I cannot answer the door." I have to say that I fully support the Constable of St. Clement's comments as well. I think in principle I do agree that we need to do something to pick this up and the idea that the supposed affordable housing should be removed. Very much like the retail tax that we did in the Budget, I do believe that that will increase prices on food, and I do agree this levy will increase prices on housing. Should that stop it? No, I do not think it should in this instance because the benefit of the money that we are getting will be helping in other areas. If we really are concerned about the price of housing, certainly for the younger generation, which we know is completely out of their pricing, let us look at where the uplift on the pricing happens most. I am very lucky that I have bought a one-bedroom apartment, but I could not even imagine being able to afford to upgrade somewhere else to

a bigger property. I have bought and sold a couple of times now in my life, and every time I sell and then buy somewhere else I end up getting charged percentages. Estate agents charge me a percentage. The lawyers charge me a percentage of the value of the property. The last time it was a percentage of the value I was selling and a percentage of the value I was buying at, so that had changed. That was more percentage. Stamp duty we charge a percentage, so every time you sell and buy a property we are going up by a number of percentages. That could be one per cent stamp duty or 2 per cent on the estate agent fees. It could be 2 per cent on the lawyer's fees. You have to cover that cost somewhere between selling and buying, so what you do is you put it on the value or the property price, and that increases the value of the property every time it changes hands. Is it right that we charge a percentage for a fixed service in many instances? Should lawyers charge a percentage on brand new properties where they do not have to go back through years and years and years of history of the property? Why is it a percentage? I have bought and sold very quickly at one time and when I was selling I handed over all the information on the electricity, water and gas that has to be done as a survey and said: "Why do you not use those?" and they said: "No, no, we are going to have to do that all over again." You have to pay for it all over again, even though within a year nothing would have changed. You have to do it. So, if we really are concerned about affordability of housing, let us look at where the prices go up the most. It goes up every time you buy and sell because we are allowing people to charge percentages rather than a fixed fee. That is good competition. Different people can price at different levels and you can shop around rather than just 1 per cent or 2 per cent. I think that is more important. I fully agree in principle with this levy. I would say that if we do not want the Minister to come back with the legislation in this Assembly, I will ask the Minister to take it in (a) and (b). Vote for (a) to say whether you in principle think this is the right decision. Do not vote for (b) to ask him to bring it back with the legislation. Is that pointless? Maybe, maybe not, but the proposition here is asking us in principle if we agree with it, on one part of it, and the second part is do we want the Minister to come back with something. So, just vote for (a) and do not vote for (b) if that is how you feel about it and let the next Assembly or the next Minister for Environment know that we were in favour of it; maybe the next one is not. That is all I have to say.

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

Just to pick up on the last point from Deputy Wickenden, I think he has missed the point of what Scrutiny is saying, if I have understood the point. Scrutiny is saying the next Assembly should agree the principles and agree the legislation. You should not be splitting the 2 because it may be a complete waste of time because you will have different personnel in the right place and they may have different views than what has been produced. This Assembly cannot bind the next Assembly. All I want to say after that is to place on record obviously the outcome and the outcome of the amendments is such but, therefore, I will not be supporting the main proposition. I have huge concerns on what it will do on house prices and I have huge concerns on what it might do on supply. I do not think that has been fully understood. I do not think the Minister has provided any evidence that it will not increase house prices and I think that is fairly important. I think possibly as well, looking at the U.K. experience when the thing was introduced, there was a major drop in planning consents and, as Deputy Andrew Lewis pointed out, there is also concern around the development of basically unused or brownfield sites that could be better used. The U.K. has had to take steps on that as well. On that basis, we should not be going anywhere near this and I urge people to vote against it.

#### **1.2.6 Connétable P.B. Le Sueur of Trinity:**

I must say from the start that I have the utmost respect for our Minister for Planning [Approbation] and I think he does an absolutely first-rate job. This makes it all the more difficult for me to speak against the principle of the Jersey Infrastructure Levy, although this probably will

not come as a complete surprise. I have aired my views on the matter at previous States Members' briefings. I completely understand and support the principle. He desires to improve our infrastructure and the public realm by taxing the uplift in value of land rezoned for development. I am not convinced that this is the vehicle to achieve that aim as I firmly believe the levy will be applied at the end of the process and would inevitably result in increased property prices. Developers will simply add the levy on the end of their development appraisal as another cost. Expecting the landowner or vendor to take a hit is just not realistic. Landowners in my experience have a fixed idea on the value of their land and will sit on it until such time as they realise that value. Property development is a risk business and gone are the days when you could build anything in Jersey and it would sell. Developers have to be innovative and use their skills and expertise to maximise the return on their investments. The levy is aimed at capturing the often massive increase in land value when, for example, a landowner gives up growing Jersey Royals and gets permission to grow some houses. In reality, it is a form of capital gains tax or, as described here, an impact levy. However, I believe that it is the developer and the eventual purchaser of property who will pay the levy and the vendor will still ride off into the sunset waving his cheque. Experience in this industry has taught me that virtually every development opportunity is structured differently. By that I mean it could be an outright purchase of a site and the developer takes the risk on achieving a satisfactory planning consent, or it might be a joint venture where a landowner puts in the land, the developer builds the houses or flats, and they agree a split on the profits. Or it might be a subject to planning deal on achieving a certain number of units or square feet of development, usually with an agreed overage payment. There are many combinations of vehicles in which a development can be delivered and that is why I envisage this levy being added to the cost at the end in the same way as stamp duty is now. I need to be clear. Is this aimed at taxing the vendor of the land or the developer who has taken all the risk and used his skill and expertise to deliver a development? I also have a concern that we are not applying the levy to social housing. This is going to put housing associations and Andium at a distinct advantage when bidding for sites, and I just question: is that fair? It also worries me that this proposed levy or development tax is only going to raise a relatively small amount of money each year. Figures of £1.5 million to £2.5 million have been mentioned. How much is it going to cost to administer in staff costs alone? Furthermore, what is to say that the introduction of the fee does not start creeping up year on year as planning and bylaw application fees do? We already have planning obligation agreements and I cannot understand why we cannot develop and make better use of that system to achieve the same ends. I cite by way of an example, not necessarily related to housing, the recent development of the big office block at Gaspé where the developer has only provided, I understand, about 30 parking spaces in the basement for a development which will accommodate 1,000 workers. Why did they not have to provide a couple of half floors on the Patriotic Street Car Park as public gain or planning gain? As I have said, in theory a nice idea, backed up by volumes of data from U.K. experts, albeit drawing some local data, claiming it maintains the developer's 20 per cent profit margin, a statement that I cannot get my head around. If they do not make 20 per cent, are they going to come back to us and ask for a refund? I am afraid I cannot agree that the final outturn will achieve the desired result. It may damage the local construction industry, we do not know, but more importantly I believe it will drive up property prices and for that reason, I am afraid, I am unable to support this proposition.

### **1.2.7 Deputy G.P. Southern of St. Helier:**

Briefly, I rise to my feet to encourage Members to chuck this out because they would be better off going to the Christmas competition for window dressing in the town tonight and looking at that window dressing than voting for this piece of window dressing, because the 2 are very similar: they look very nice; they do not mean anything. I am just reminded that if I was bringing something like this and I went to the Greffe and said: "What do you advise?" they might say: "You want a small

contribution to offset blah-blah-blah?” and they might say: “Do you not want a number there, Deputy?” If I went to the law draftsmen, again, similarly, do you think they would be putting through a small ...? It would not happen. What this is is the general factotum proposition, to be seen to be doing something using the weasel words in some combination. I have heard it said throughout this debate: viability, affordability, sustainability. They are weasel words. They mean nothing. They mean what you want them to mean. You can apply them to anything: tax, earnings, buildings, land. Okay, just combine those 3 in some way and say: “This is the way forward.” This is not the way forward. This is something that is not worthy of this Assembly voting for it. Please vote against it.

### **1.2.8 Deputy M.J. Norton of St. Brelade:**

I will not repeat those that have already been said by other people, but I will confine myself to my concerns regarding the Minister, who talked of - and it will not be any surprise to him that I am talking about this - Percentage for Art, which is voluntary and runs alongside. Percentage for Art started in 2002, 15 years ago. It was in the cultural strategy of 2005 and will be in the next cultural strategy of 2017-18. The Percentage for Art has delivered a massive impact on our cultural identity and supported artists and boosted creative industries and creative education within our Island. Why am I talking about that? Because it is voluntary. What is going to happen when you have a levy that people have to pay? Do you think they are still going to pay for something that is voluntary? What is the impact on our Percentage for Art? We as an Island punch way above our weight in cultural offerings. Given that pretty much every provider of our cultural offerings are on the breadline and would argue with some merit that they are underfunded already, the Percentage for Art is more crucial than it has ever been. The creative industry summit for the British-Irish Council recently discussed much to do with access to cultural offerings for all. Its value to the economy, to tourism, wellbeing and our cultural identity are widely acknowledged by everyone. The Percentage for Art has brought us fabulous bits of art that we sometimes do not even notice as we walk past. The suspended Jersey Girl by Liberty Wharf, the stunning birds outside the Co-op building for the Battle of Jersey, the day-night casts on 50 Colomberie, those curious bollards just off the Esplanade, the vortex of mackerel on the health building, these are all part of our identity that have been given to us by the Percentage for Art, not to mention the 12 creative videos from the Jersey College for Girls students, recently funded by the College Gardens development. So I ask again: what is the impact that this levy will bring on the Percentage for Art? Will those who voluntarily contribute still wish to do so when they have a levy imposed upon them? I am very concerned about it, as are many in the cultural industries in this Island, so I would ask, please, for the Minister to bring some comfort and possibly look at, when we get to the detail, should we get it in principle today, the impact of the Percentage for Art and just consider possibly bringing the Percentage for Art inside the levy so it is not left there to wither and die, so that we are not looking back in another 25 years saying: “Well, it was good for the first 25 years and then nobody put any more cultural identity on our Island.” It is a concern to many within those industries and I would ask for some comfort from the Minister.

[11:45]

### **1.2.9 Deputy A.D. Lewis:**

Firstly, I would like to congratulate the Minister because the way that he has consulted on this with Members I think has been exemplary. We have had several meetings. We have heard from advisers. I think he has done everything that he said he would do and he has delivered it to us very well. His speech yesterday I thought was excellent and his counteracting of arguments today has been very good, too. That is where the positives end, I am afraid. I am just going to tackle an issue in a little bit more detail in the way that the Constable of Trinity did in terms of land values. As far as I am concerned, this demonstrates a fundamental lack of understanding of cultural approach to

land ownership in Jersey. Jersey is different. The Island has a finite land resource. Jersey remains a popular place to live and do business, as testified by the increasing population and, of course, our population forecasts. The lack of available housing stock is well publicised. Despite a market correction occurring during the recent recession, land values have never fallen and continue to grow. Land is, therefore, a safe, long-term asset. Generally speaking, those individuals and entities owning land that could be developed for housing often have no financial need to sell it. They are in a position to hold on to their asset as an investment and watch its value grow as pressure on our resources continues. Furthermore, likelier than not, that investment may be providing a return in the interim by means of rental income. With bank interest so low, land represents one of the more lucrative yet safe investment options. Jersey landowners are, therefore, in a strong negotiating position and are effectively able to name their price. There have been occasions of landowners simply withdrawing from negotiations with developers when they considered they were not being offered enough to sell it. Evidence from the U.K. shows that development slows following the introduction of community infrastructure levies, as Deputy Le Fondré said. I am very concerned that should the same pattern repeat in Jersey it would dramatically impact upon an already projected shortfall of some 1,500 2 to 3-bedroom units, and I believe it may even be more than that. That is what we would like to have over the next 2 years. In turn, it is likely that house prices and, indeed, land values would increase by virtue of the paucity of supply making housing less affordable than it is even now.

**The Bailiff:**

I am sorry, I must ask you to sit down, Deputy. I am afraid we are no longer quorate. Can I invite Members in the coffee room listening to the debate to return to the Chamber, please? Very well, we are now quorate.

**Deputy A.D. Lewis:**

I will try to spice my speech up a bit more so that people will return. There is already some evidence of potential developments in Jersey stalling as a consequence of the introduction or possible introduction of a community infrastructure levy in the Island. I have been made aware of a developer with a significant track record in residential development that has withdrawn from negotiations over potentially a large site due to the cost uncertainties caused by this very debate. Another significant development opportunity for a former hotel site has similarly recently been abandoned due to uncertainties over the community infrastructure levy. Neither vendor nor developer were prepared to bear the risk of the future burden. The planning and development process in Jersey has already been assessed by some as too onerous, costly and risk laden. One prominent local developer has already ceased developing in Jersey and has moved all development operations off the Island. Other developers are already developing off-Island and may choose merely to reduce their Jersey development arm in the future because of these types of taxes and increases of costs. In short, if the community infrastructure levy is designed to fund all future infrastructure needs of the Island, a dwindling appetite for development will directly impact upon the sums that are made available through C.I.L. and thus impact upon the nature and quality of the infrastructure works that can be undertaken. The very levy you want to introduce may reduce the amount of income you receive in other ways, too, in income tax because property companies pay 20 per cent tax. There are some laudable attributes to this proposition and I think many Members have said so, but the danger, the impact, that it could have on a fragile development market is too great a risk, I believe, to take. We have a housing shortage. We need to encourage developers to develop. This does not do it. Other places are implementing grants and incentives to develop for doing something separate. The Minister admitted to me recently - we have talked about this quite a lot and I think he has presented it very well today, as I said before - he wants to do lots of things with infrastructure in the Island. He cannot do it because he does not have the money to do it. This

is purely a revenue-raising exercise. It is not designed to change behaviour. It is not designed to reduce housing prices. It does the opposite. It is purely a revenue-raising exercise so the Minister can do the good works he wants to do to improve the infrastructure in the Island, the very things the tax is there to pay for. He sits in the Council of Ministers and has to fight his corner week after week to get the funds that he needs to do the good things that his department does. Because as said, it is a lower priority than many other important things that we do and that we expect the Council of Ministers to put before us, the priorities being at the moment health and education. But this is an equally important priority. We need to budget properly, use the tax-raising measures we currently have to raise the amount of money we need to do all the things we need to do. We do not need to invent another levy, another charge. We have been here before with discussions about charges in very recent months and my own particular bugbear, as many Members will know, is that very few people are paying 20 per cent in income tax anyway. The majority of people earning over £100,000 are still not paying 20 per cent in income tax. That is where you address the income to do the good works that the Minister wants to do so he does not have to fight his corner every time at the Council of Ministers for things that the Island really does need to do. The experience in the U.K. of community infrastructure levies has not been a good one. That is possibly one of the reasons why we did not end up with a student loan scheme for the very same reasons, yet we are suggesting to introduce the very same here. It is administratively burdensome. It will create more red tape. It will create more administration. It will not encourage the building of affordable housing. People forget that there is a chain effect in property. If you build lots of small units that are affordable and you buy them and you are very pleased with that and you are very excited by that first day you have your key to the front door, as I am sure Deputy Wickenden will remember - he has gone now - but when you go on a little bit further in life and you have a family you want to move to the next stage. That is not an affordable house now. It is not your first time purchase. You do not have the benefits you had the first time. But if you do not move and you keep building houses and units that are one and 2 bedrooms at the affordable end of the scale and you do not build further up the scale, the market stagnates. There is no movement. If you disincentivise developers by imposing things like levies on that next step up in the market, you simply will have less homes created. So do not kid yourselves that the creation of housing all has to be at the affordable end of the spectrum. No, it needs to be the whole spectrum, not just the affordable end of the spectrum, which will be exempt in this particular proposal. I think we need to concentrate on planning obligation agreements. They are there already. They can create infrastructure exactly as the Constable of Trinity was suggesting on a commercial development. Why was the Planning and Environment Department not stronger on P.O.A. (planning obligation agreements) in that particular example? I can cite many, many others. That is what is favoured now in the U.K. When there is a major development there is significant infrastructure going in around it. The basic infrastructure for the public is created from other revenue, from rates in the councils or from taxes in the cities, not from community infrastructure levies. The impact that that development has is covered by the planning obligation agreement but they are strong. Some big developments have even resulted in schools being built as a result, partly because they have had to because there is more housing, but the developer has contributed significantly to that, many millions of pounds of planning obligation commitment in the U.K. There are lots of costs of development that the Constable of Trinity touched on, but I am going to touch on a few more. It is not an industry that is in full recovery yet. We all know what happened in 2008 to the construction industry. They are now in recovery. It is a delicate industry. It is also a very big employer. A lot of our own young people are going into that sector with fantastic courses at Highlands. Training with large developers has improved significantly. There are real strong careers for young people in this industry and it is in a process of recovery. The last thing you would need is something that is going to detract from that. They pay 20 per cent on their profits, property companies do. They pay stamp duty. They are often contributing voluntarily to the Percentage for Art. They are paying legal fees. They are paying

quite large sums of money to borrow money as well, set-up fees, percentages to establish bonds, to build the units they are building. They pay the Parish money to rent the pavement, put up scaffolding. These are all charges that are made on them, often and mainly by Government already. Do not be fooled that the industry is in full recovery; it is not. This will not change the way they are behaving. It will not have the impact ... well, it will have an impact, as Deputy Le Fondré said. It will increase, I am quite sure, the price of property, the price of buying a house. It might not be the affordable housing but I think it will be there, too. It will be further up the chain. So when you move, you are going to pay it somewhere. It will be passed on. I applaud the Minister for the way he presented this, but I would urge Members to resist the seductive nature of it. It is an important industry for Jersey. They are not big, bad developers. These are people that employ lots of people in Jersey. They pay their taxes. They develop quality housing, quality commercial units that we should be proud of. What we do not want to do is disincentivise them from doing that. At this moment in time in the current cycle we are in we need to encourage development for housing purposes and for commercial purposes as well. I hear what the Minister says. I hear what the industry says. I hear what the 2 experts say. I expect there to be opposing opinions on a matter like this. But evidence is clear in the U.K. Where C.I.L.s were introduced development has been reduced. We need to increase the housing stock. This will do nothing to do that. We need the Minister to have the funds he needs for infrastructure, too. We need to do it a different way. We have the mechanisms in place to do it. We should be using those and exploring those first before introducing a community infrastructure levy. It is over-burdensome. It is administratively complex. It will not raise that much money either. The Minister is urging more money for things I know he wants to do and that should come from the tax-raising measures we already have in place. We do not need another charge specifically singling out a specific industry as well, which I think is wrong. It is proven not to have worked elsewhere and elsewhere C.I.L.s ... one of the reasons why they are complicated elsewhere is because they have made so many amendments to them. I know the Minister is suggesting that he will not be copying the C.I.L.s and regulations in the U.K., but it would be difficult not to. So then we will have our own raft of amendments coming through thereafter. It is not as simple as is being made out at all. You will end up with a complex system when we have systems already in place to raise the revenue the Minister desperately needs to do the good things he wants to do, which would be raised in a different way. I urge Members to vote against this and look at other ways of funding the important infrastructure work that the Minister and the Minister for Infrastructure both want to do. One last thing: I have heard so often the Chief Minister and the Minister for Treasury and Resources say do not hypothecate funds, and what are we doing?

[12:00]

Hypothecating funds into a fund just to spend on infrastructure. So, it is okay sometimes and it is not okay other times. I think the Government is there to do the works for the public, to provide infrastructure. That is what we pay taxes for. That is what they should do. It should not be hypothecated from one industry into one fund for one specific purpose. The Treasury is normally against that. On this occasion, apparently, they are not. I think that is not playing cricket. That is not what has been said in the past. I will leave it there, but I hope that gives Members enough to think about to oppose this well-intended but, I am afraid, quite flawed proposal to provide infrastructure. It should be done through our normal tax revenue-raising mechanisms.

**The Bailiff:**

Chairman of the Privileges and Procedures Committee, perhaps you could help me. I think you said to me last night that you were proposing that we adjourned at 12.15 p.m. and then returned this afternoon at 2.15 p.m. Now I have 2 more Members who have indicated they wish to speak. The



Minister will need to reply, and then it is simply the question of the Christmas greetings. I am just wondering how late we can be in adjourning today.

**The Connétable of St. Clement:**

My understanding is that our lunch is due to be served by the students at Highlands College at 12.45 p.m. I think it would be most unfortunate if we cancelled that or had to delay that because they are looking forward to seeing us. As you point out, this debate is important and every Member needs to have the opportunity of making their contribution. Indeed, there are the traditional Christmas greetings which I think are also important and valued. I would suggest that we would need to adjourn at 12.15 p.m. to give Members the opportunity to either walk up to Highlands or however they are getting there, and then we could resume at, I suggest, 2.30 p.m. for the rest of the debate. I do not think there is any possibility of us completing this debate and the other matters before we should be up at Highlands, and I would suggest that we adjourn at 12.15 p.m. and continue this afternoon at 2.30 p.m.

**The Bailiff:**

Very well, thank you.

**1.2.10 Deputy S.M. Brée of St. Clement:**

I shall attempt to keep my comments as brief as possible. We are being asked to debate a principle and at first glance it does seem a good idea, but on further reading and on further consideration, despite the Minister's protestations, this is nothing but a capital gains tax because it is aimed at the landowner, not the developer. As a capital gains tax, wherever you insert a tax into the chain of events, I cannot see how this will not first of all push land prices up, which as a direct result will push house prices up because the landowner knows the amount of money he wants to get for his land. Then we get to the question of affordable housing. What is affordable housing? I am sure to a vast number of people under the age of probably 30 there is no such thing as affordable housing. Now, if we are going to be pushing house prices up by introducing a tax, which we have to accept this is, that is going to push prices even further because developers are looking to return a certain amount of profit out of any development, otherwise they would not be doing it. I think we have to think about that fact very clearly. So, what is the aim of this proposition? Well, on page 2 it makes it very clear. To finish off paragraph (a): "... make a small contribution to offset the impact of that development on the Island community." Well, I would ask: how does this actually achieve that? I would seek clarification from the Minister because, like Deputy Andrew Lewis, I am concerned how this is going to work because the overriding principle under this Government is that we do not ring fence or hypothecate taxes. Now, if you look at page 12 of the proposition, you will see that it talks about: "Spending the levy: what is it for?" However, the words are very carefully caged here because it says the levy "can" be used to help, examples of what the levy "could" fund. It does not say "will" and "would". So, are we looking at just a revenue-raising measure? Because the levy, where will it be retained? Will it be retained by the Department for Environment? Will it be retained by the Department for Infrastructure? Will it be used solely for improving the public realm as this infers it will be? Or is it just to increase departmental revenues to offset cuts in the budget? Again, it goes back to this question of how is this going to work if you introduce it. Now, the other point, if I may, is if you turn to page 9 of the proposition, I am highly concerned when it talks about what kind of development is liable for the levy. The particular area is development, redevelopment or refurbishment resulting in the creation of over 75 square metres of net floor space. If you are lucky enough to be able to buy a house and it has enough land to extend it and it may require either knocking down or refurbishment, you are the owner of a property. You put in an application to turn, say, a small 2-bedroom bungalow into a nice family house and you go over 75 metres squared, 80 metres squared is the actual footprint, and you get planning approval to do

that. You have no intention of selling. You want to create a nice family house for, hopefully, years to come. Having read this, it would appear - and again I would seek clarification from the Minister - that, firstly, why restrict it to 75 metres squared and, secondly, if you apply the levy you are taxing unrealised capital gain. Do we really want to be introducing the concept, firstly, of capital gains into our tax system and, secondly, the concept of unrealised capital gains tax? Lastly, as I am sure everybody will be pleased to hear, I fully support the recommendation by the Scrutiny Panel that we should not be debating the principles at this point. We need to allow the next Assembly to debate the principle and then debate the draft law because otherwise, while no Assembly can impose anything on a following Assembly, there will be a precedent that could be called upon by whoever is the new Minister to say: "The States Assembly have already approved in principle the concept. All I am doing is delivering what they approved." I do not believe this is the time that we should be debating this.

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

I have been lobbied by the Minister through his presentations, which have been very fruitful, very useful. I have also been lobbied by the Chamber of Commerce and the Construction Council. But I think Members of this Assembly know that I make my own mind up and I am my own man. The problems I have with this is when there is a development within the Parish that is regarded by myself as substantial, I sit down with the developer or the owners or whoever is carrying out the works in order to get some form of gain for the Parish. The most common comment I get is: "Well, Constable, I do not want to give cash, but if there is something we can do, build a granite wall, put a bit of tarmac down, if there is something we can do, we can make our pounds go further." So, I can get £10,000, £12,000, £15,000 of work out of what might have been a cheque of £5,000 in cash. So, from my point of view as a Constable, I am afraid I find this very difficult to support. The idea, however, is good. The Minister himself said, and this is my second reason: "We wish to try and get some benefit from the uplift in the value of land." That is a capital gains tax and, therefore, I could not support that. The third reason that I am against supporting this is because when an individual who owns some land is selling it, they have in their mind their own price. They will stick and hold on to that land until they achieve that price. This has 2 effects. The first is it will create a delay and any delay in bringing land into housing must not be allowed to take place. Between now and 2035 we are going to need a substantial number of new houses built and this, if it is going to cause delays, is not the right way to go. The alternative, as Members have suggested, is that the developer will pay rather than the landowner, and that being the case the price will pass on to the end user. Therefore, house prices will go up. I urge Members - and I do so with a very heavy heart because I know how much work has gone into this - to reject this.

#### **LUNCHEON ADJOURNMENT PROPOSED**

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

The adjournment is proposed. The States will now stand adjourned until 2.30 p.m. this afternoon.

[12:12]

#### **LUNCHEON ADJOURNMENT**

[14:31]

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

We return to the debate on P.100/2017.

#### **1.2.12 Connétable M.P.S. Le Troquer of St. Martin:**

I am not sure there is much I can add that has not already been said this morning and I have only put these words together over the lunchbreak. I am not sure whether anything else said during

another speech will change any mind of any Member in this Assembly. I hope my few words might. Could I just say I did forego my lunch with the students and I apologise at this time. I did not get up there and I know I should have been, and I do apologise to them for not getting there. For those that may be listening to this debate on the radio or watching it at home or in their office not aware of the usual processes for Members, this might enlighten them. Members are invited to pre-debate briefings, usually a week before a debate, sometimes sadly the day before a debate. Sometimes we have none, no briefing at all. However, in this case the Minister has consulted with Members over a considerable period of time, not a week ago, not a month ago, it has gone on for very many months. I do not know how many times; I could not get back to my diary at lunchtime to have a look how many briefings I have been to in relation to this subject. I have been to many, some that have been group ones, some that have been one to ones. We have had updates from the expert that was engaged to assist with this. I thank the Minister and his department's officers for their time. I thank them for that, for the time they have given to explain and even the consultation document that came around and all Members had it as well. I even attended the breakfast event last week when the Minister was on the panel answering questions from the trade, builders and architects themselves, so I was able to listen to the other side. Much of the debate that we have heard today is related to many of the issues Members have raised at many of those briefings and again this morning. "It is a tax." Well, you can call it what you like. Okay, it is money coming into Government, if you like, to a department. "It will put up the price of houses." I accept it might do, yes. It probably will do, although the expert advisers are telling us that has not happened elsewhere. "We have to build new homes." I agree, I do not think there is anybody in this Assembly that does not believe that we have to build new homes unless, of course, we stop immigration or control immigration even more. "The landowner will sell his or her land to a developer at a higher price." The advice from the experts is that that does not happen. It probably will do and I am sure many Members will say yes, that is what is going to happen. Why? What is the Minister seeking? Why is he seeking to do it? Because someone who has land is going to see their land value increase because of the planning permission. It is as simple as that, really. I may be a narrow-minded Jerseyman, simple views in my life, I do not know. I do not have the expert advice on commerce. I do not have it on the financial situation. I go to many briefings and listen and read, but I am not an expert like many will be in this room, certainly the experts we have and some of them in the back. But I am a deep thinker, believe it or not. So a landowner sells his or her land at a higher price because of the new proposed levy. I remind Members again we have been told by the expert many times at many of those briefings that that did not happen elsewhere. So the price of a house goes up, yes, and I would just say welcome to the real world. It is the real world. We have to accept that, but we also want better roads. We want better pavements. We want bus shelters outside housing estates. We want safer roads near our homes and better facilities on the Island throughout, which has to come from somewhere. It has to come from somewhere. We want to support St. Helier. One of our strategic aims is to support St. Helier, and St. Helier is going to benefit from this. Whatever happens, St. Helier is going to benefit from it. We cannot have it all ways. Do I want to pay more taxes? No, I do not want to pay more taxes. Do I want somebody who owns land, who sells it for housing, to pay more? Yes, I do. It is a fact. That is what I want, sorry. Or do I believe a landowner who has sold his field for housing should not help support a pavement in one of those streets? This is the initiative today, basically, a road safety initiative and an improvement to our structure on the Island. This is, I think, where Members are a little bit split today because the argument is that the price of property is going to go up. That has been the main argument I think that we have heard this morning and in many of the briefings that we have been to. But this is where I believe we should all consider what is on offer. I say to Deputy Maçon, and there have been other Members as well, if you think by not supporting this proposition today it will result in you being able to buy a house sooner and cheaper, then good luck. I do not think that will happen. The price of the house that you want to buy will go up. I do not

want to direct it to the Member, I am sorry. It is going to go up and even if it did, if the proposition failed today and we want to improve those roads in your district even, not outside your house, in your district, then we have to pay for those road improvements. I think of the Bagot Road area, which often comes up in question time in this Assembly: when are things going to be done? Money has to come from somewhere and the only other option is having the Treasury staff working at the weekends printing more at Cyril Le Marquand House in the basement. I said I was a simple St. Martin lad. How many times have I heard in this Assembly in my short 6-year term this is only an agreement in principle for a Minister to bring forward for approval? Yes, it is exactly that and that is my understanding. When it comes forward, it will be scrutinised. It will come forward. It will be scrutinised. Members can bring amendments. Maybe it will be on affordable homes, maybe it will be on a value per square metre. It may be the size of an extension or change in amendments that could be brought. There may be more exemptions or less exemptions than the Minister is proposing at this time, but any Member can bring that. Then we move on to what we have heard quite often again this morning, it is too close to an election, too close to a possible new Council of Ministers, too close to a possible new Minister for the Environment. Well, I think the Minister wanted to bring this earlier and has been delayed from bringing it until this time. Only yesterday, there was quite a considerable amount of conversation, I understand, asking the Minister to delay it until February for Members in this Assembly because we wanted to be finished in time for this week's sitting. Of course, Members think December 2017 is too close and they suggest when we stop. What is too close to an election to bring propositions next time round? Is it 14th November 2021 or maybe October 2021, maybe July, just before the summer recess in 2021? Nothing gets brought forward. Do all propositions have to stop, not just ones similar to this? It just does not make sense. How do we stop the projects in our Parishes 6 months before an election or 3 months before an election because we do not know if we are going to be Constable next time round? The Government has to carry on going, of course it does. You cannot just stop. Another issue raised this morning - and I know I have been quiet this week, apart from coughing and interrupting everybody, I am sorry - related to the Percentage for Art. I do not want to upset the Deputy. I might have said much this week but I have not because of the cold. Do I prefer the Minister and his department to arrange for a fountain or a plaque, which will probably only become rusty - because I have seen some of them, some are very good - following a planning consent? I know he may well disagree with me. Or do I want to see an additional 10 bus shelters or wider, safer pavements for pedestrians? I know what I want to do. I do not need to tell Members, and you know that as well. Percentage for Art is a very directed alleyway and I really cannot support that. Can Members' comments during a debate change a vote? I do not think they do, not very often. Then it is probably the exception, not the norm. I think most Members come in with their mind made up because they have been to briefings or they have read the papers, obviously, and they come in. I have occasionally changed my mind during a debate but it is not very often. I just ask Members to consider what is being sought by the Minister. Not having funding for infrastructure issues will mean the funds will be needed to be raised by other means from everyone, not just this targeted route but from everyone, or the improvements that we all want will not be done. That is the fact of it, really. It is hard to come back to this Assembly at question time, month after month, and keep asking Ministers why this, that or the other has not been completed in their districts or in their Parish. If I could briefly mention the adviser and the experts that the Minister has engaged for the considerable work that has been undertaken, on listening to the debate so far it would appear that many of the findings and the advice and the suggestions have not been accepted by Members. I am not sure if the expert adviser is in the back room listening in - I have not been to see them - but if he is he must be dismayed at the views expressed by some of the Members. Maybe those Members have gone out and spoken with him again, having spoken with him at the briefings as well. Not only he but the officers who have worked so hard with the Minister and the department in the preparations to bring forward this proposition. I do not like to use the word "rubbished" and

no Member has used that word this morning, I hasten to add, but that is what the experts and the officers must be thinking after their prolonged research work and advice to have found so much criticism this morning. I thank them personally for the time they have given me in the last 6 or 8 months. I would add that I have not sat down and discussed the proposition or the speech this morning with the Minister or over lunch, my good colleague from the Parish, Deputy in the Parish, too. Many fine words have been said about him this morning, yet again, by lots of Members in this Assembly, but I just ask let us show him more than just platitudes and support him in this. He had no idea I was going to speak and I hope I have not lost him any votes on this debate today. Only 4 or 6 weeks ago we voted to give nearly £1 million of States money to the Parishes in unspent rates money that would have been used for 2017. I will not dwell on that, that is not the subject today, other than to say that it was eagerly accepted by the majority - I did not but I have my cheque - to do whatever we wanted with it. It was not to improve our road structures in the Parish of St. Martin. I have £6,500. I can do whatever I like with that taxpayers' money. I am a simple and stubborn Jerseyman but that has come from all taxpayers and not from a developer who has done something in the Parish or anywhere else for that matter. I would like to add, and it is not criticism, I cannot, I will not and I never will sit in my office at the Public Hall and suggest to a developer that I would need a new granite wall somewhere in the Parish and wishing him good luck with his or her planning application. I have never done that and I never will. I do not know if the Constable of St. John was trying to imply that he could do the work cheaper than what might have been able to have been done by D.F.I. (Department for Infrastructure) staff themselves. I remind the Constable of St. John that if this is approved today, the proposals today, it is St. Helier that would benefit considerably, which is one of our main, as I said earlier on, strategic aims. I think I have said enough. I once again apologise to those students at Highlands who would have made my special menu today because of my condition, but I did sit down at lunchtime and put these few words together. I know the Minister is soon to meet with D.f.I. and public authorities to discuss improvements to the public facilities in the Parishes and around the Island following a few recent events. A lot of people do not realise what went on in St. Catherine but there was a lot of work done behind the scenes that was never made public. There may be some scope with this where the Minister and the department would be able to assist these States organisations with some funding to improve facilities. Although it is Christmas, we cannot have everything. I hope I have not lost any support from Members for the Minister's proposal. This is to enhance our whole Island. I shall be supporting the proposition.

[14:45]

### **1.2.13 Deputy J.M. Maçon:**

I should remind the Constable of St. Martin, through the Chair, that I did say I was broadly supportive until, of course, the Constable spoke, in which case I might reconsider my position. There is one point, speaking with colleagues again over the lunchtime, which they wanted said in this debate. It is the conclusion of the Oxera report done in 2008, which the department bases this proposition on. In the conclusion in the second paragraph it goes on to say: "However, there is one important caveat to this conclusion. Because of the importance of the credibility of the tax on its impact, the introduction of such a tax without very strong political backing, which is believed to be long term, could result in an economic disruption as additional land is held back from development. Therefore, unless there is strong political will for this tax, there is significant risk of negative consequences even if all the detailed issues of practicality are successfully addressed. As a result, before this tax the next efficient step may be to establish if political will is present to enable this tax to be credible if it were to be introduced." Then it goes on to say other implications about trying to look at brownfield sites over greenfield sites. The only other thing I want to say, just because I feel the Constable of St. Martin has encouraged me, is again we do not know. That is the point. We do not know what the effect of this levy is going to be. We do not know if it is going to be absorbed.

We do not know if it is going to put prices up. I think that is the point the Scrutiny Panel were trying to make is that the evidence is not there. The Constable of St. Martin, it was so much better when he was on my Scrutiny Panel because, again, looking at the evidence when we worked together, he was very robust in how he examined things. Again, this is what the Scrutiny Panel is asking us to consider. Is the evidence there in order to support this proposition? In their conclusion, they have not been able to do that. So, I just wanted to put that on the record.

**Deputy J.M. Maçon**

But I should say I do very much like the Constable of St. Martin. Sorry, Deputy of Trinity.

**The Bailiff:**

Even polite second speeches should not come ...

**1.2.14 Deputy A.E. Pryke of Trinity:**

Just briefly, the delivery of the Jersey Infrastructure Levy is one of the policies set out in the housing strategy, so I am very pleased to see this policy come before this Assembly today. Just to remind Members, it is an in principle debate. It has taken a great deal of hard work and consultation to get to this point and, like others, I must commend the Minister and his officers for their extensive research and close engagement with the industry in developing this policy. I know it is not easy, but the Minister is clearly passionate about the introduction of a levy that has taken forward policy with a clear determination to ensure that landowners and developers who have gained from developing our precious and limited land supply make a small contribution towards the enhancement of our Island. I think it is only right and fair that landowners and private developers, the very people who benefit from the uplift in land value from the award of planning permission, should make a small contribution to improving the public realm. I believe that the proposed levy will provide a sustainable, long-term mechanism to deliver regeneration in St. Helier and develop improvements to the public realm in other parts of the Island. For those reasons, I firmly support the Minister for the Environment's proposal. I can remember very clearly sitting in meetings with the previous Minister being exasperated, and I am sure the Planning Committee is at this time, too, with those planning obligation agreements or lack of them or added at the very last minute. That is not right. But on the other hand we need more housing and I would not support any proposal that will put at risk our development industry's ability to deliver or adversely affect the cost of housing. We have heard much from the development industry in the build-up to this debate. Construction is a vital part of our economy and it is essential that we take on the industry's views. The Environment Department has spent the last 12 months at least looking at the viability of introducing a levy. The department has worked with independent experts to determine the impact of a levy and whether it would be viable in Jersey. They used Jersey-based facts, costs and values and they have determined that the levy is viable. Industry have failed to provide sufficient evidence that challenges these findings. As Minister for Housing, my concern through the development of this policy has been to ensure that the proposed infrastructure levy does not have an adverse impact upon housing supply and, as a result, the price of homes. I have been reassured that this will not be the case. Industry has said that introduction of the proposed levy could reduce land supply, but I have seen no evidence to support that claim. The viability assessment is clear that a low, broad charge will not have an impact of supply. A levy will not stop landowners from selling their land, it will not stop developers from selling homes at a profit, but what it will do is to ensure that developers make a small contribution towards negating the impact of the development on the community. The industry has talked a lot about the proposed levy impact on house prices and I am glad that the industry is concerned, as I am, about the cost of buying a home in Jersey, but I have not been convinced that a levy will have that impact. Firstly, the levy will only be applied to new housing, which I understand typically represents about 20 per cent of sales in Jersey. Secondly, the

levy will not be applied to affordable homes. Most importantly, Jersey's housing market is competitive. House prices are set according to what buyers are able to afford. Buyers are constrained by what they can pay and by what the banks are willing to offer them as a mortgage, so the market will simply not allow house prices to rise simply because of a small levy. I urge Members to support the Minister for the Environment's proposal. The principle of a levy is right and fair. We should seek to capture a small amount of value from developments that impact most on our scarce land resources and developers should put something back into their communities for the profits they make. The policy will not have a detrimental impact on the delivery of new homes in Jersey. This is demonstrated by an independent assessment and economic advice, but the delivery will benefit our community; it will enhance our streets and open spaces; it will strengthen our community buildings and transport links; it will invigorate our art and cultural life. I would like to think those are things we can all aspire to in this Assembly. These are things that will affect the quality of life for many future generations, so I ask Members to support the Minister for the Environment.

#### **1.2.15 Connétable J.M. Refault of St. Peter:**

When we come to the vote, I shall be pinching my nose, but I will be pressing the pour button. The reason for that is that I agree with the principle of what the Minister is trying to achieve. He is trying to reflect some value of the land. All too often I hear people complaining about these rich developers and the profits they are making. They are carrying the risk. The person that makes the biggest profit carries no risk at all, he gets just a big fat cheque just because he owns that land. Any method that we can put in place that makes the land value go down has got to be the right way of doing it. Developers are right: in the initial days, there will be some landowners who will not want to go forward because they are not going to be given the offer that they thought they were going to be getting. But it is up to developers to hold the feet to the fire of these landowners, because at some stage they will give in. They may not be getting £2 million, but they will still get £1.5 million and that is what they will come to expect. They know. They are listening in, the landowners. They know this is coming their way. It will be a new cost on the developer, and the developer, when he is looking at doing his appraisal on his development, will have to factor that into the offer he is making to landowners. One thing that was very, very clear to me in the 5 years I spent between what I call my middle career in negotiating and valuing houses, houses will only sell for what the public can afford to pay for them. That will cap the prices of the houses and the developer knows that. He is not going to build houses that he knows he cannot sell because they are too high-priced. That in itself will hold the prices down. It is getting harder and harder for people to buy houses nowadays. That in itself is going to control the price of houses, particularly at the lower levels as well, where there is great demand, but few people able to afford. As I say, I support the principle of extracting value out of the land. If the developer is able to do that, then so be it. I just wish there was a better way we could do it directly on the landowner.

#### **1.2.16 Deputy J.A. Martin:**

I really was not going to rise because I spoke in the amendment and thought I had said it all about Scrutiny, but it was literally the Constable of St. Martin and then the Minister for Housing. I am going to say this very slowly: nobody knows what effect this will have, but we need 1,000 homes by 2020 and another 1,000 homes by 2025. The Constable of St. Martin stood up and said: "It might stop Deputy Maçon or somebody like Deputy Maçon. It is only going to go one way, it is going to go up. The price is going to go up and this may affect this; it may not." I have read the report and I am so like the Deputy of St. John. I like to have a bit more fact. On page 9 it said it will not take effect until April 2019, and on this basis, the exact parameters of an infrastructure levy such as the threshold, the land type use of the levy and the levy rate remain to be determined. We all know what it will do and what it will not do, but we just do not know what it looks like, so: "I

am going to design this and it might affect that.” Then the other thing, of course we are promised something. I am a Deputy for St. Helier and I must love this, because it improves St. Helier. No, it is not. Anything between £1.5 million to £2.5 million is going to give me some bus shelters, some trees in the Millennium Town Park or the Weighbridge. Really? This is another promise, another unknown. It is ring-fenced money, it is going to do this? This Council of Ministers, for anything that has been worthwhile, has always been against ring-fencing, but this suddenly is going to make it better: “A few trees here, a cycle track there, let us extend that cycle track.” That is a good selling point. Do you believe it? It is not here, it is not in the projet. You must listen to what Deputy Maçon says. Oxera, it was their report in 2008 which said: “Watch the economy.” I think we had a bit of a blip in 2008 and it has not gone very much better, has it? Political will: today you are determining a principle that will not have the political will of this Assembly, because this will never, never come back in the life of this Assembly. It is never intended to come back before or even be introduced before April 2019. It is mad. There is a little bit of everything in this report to say: “Oh, do this, do this. It is really great for St. Helier, it is great for a few cycle tracks.” It is not ring-fenced, it will just go into the sinking pot, where the Council of Ministers or whoever spends the money can decide: “Do we really need that? Do we really need that bus shelter there? Do we need more trees there?” Nobody knows. You are literally voting on a blank sheet of paper. Nobody knows. You have got one side. I am so annoyed that the Minister for Housing has stood up and said: “Oh, I think it will not affect us.” She knows the shortage of housing. If this has one iota effect on supply - and we know there is demand - you should not support this, as the Minister for Housing, you should be stamping your feet and saying: “No, no, no.” But no, here we go, the party, collective responsibility, the Council of Ministers, it is done and done. Sorry, she knows how hard it is, we all know how hard it is to even ... social housing. You read the 3 caveats as well. Social housing is not in this provided by the States, it says. Andium is not, to me, the States anymore. But my biggest question ... and I did look at the Constable of St. Clement when the Minister read out affordable housing will not be in it. Has anybody ever told you, me? What is affordable housing in Jersey? Well, I can afford it if it is about £10.

[15:00]

But who can afford this? It is not even ... nobody knows. People even email me and say: “Deputy, what is affordable housing in Jersey?” It is normally something somebody who is earning a good wage or a decent wage or working 3 jobs can afford. Not here. Really, really, really, we are putting something down today. If we support this, that has not got the political will, because we do not know who the political people will be from May next year, no idea. Good luck if it is the Minister who is here, but he might have a change of heart, because it will be a political election issue and he might say for £1.5 million and probably loss of even 100 homes in Jersey, needing 2,000 by 2025, you need to start digging now to get some of them in the ground. It is such an unknown. It is such stupid promises, a few trees in the Millennium Park or a bit of bus shelters. Come on. Unless I hear the Chief Minister stand up ... and I will put a challenge to the Chief Minister. If the Chief Minister stands up and says he will ring-fence this money for St. Helier as his full strategic ... it never had a penny given to it in the last 3 and a half years ... I will vote for this, but I probably will not sit down and hold my breath, because I probably will keel over.

**The Bailiff:**

Does any other Member wish to speak? If not, then I call of the Minister for Environment to respond.

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

If the Minister for Infrastructure wants to sum up, he is most welcome. I would like to thank everybody for contributing to the debate. I will not mention those few people who have supported



my cause, but I will try to run through some of the points that have been made in criticism of the scheme. I would say immediately to Deputy Martin that this has been almost as much as a challenge for me on the Council of Ministers as it has been in the Assembly today. Please do not think this is a Council of Ministers thing on its own. I have worked hard and tirelessly and I am still convinced - I am sure - that this is the right thing to do. But anyway, we have had that discussion. I will start by addressing Percentage for Art, if I may. The Percentage for Art scheme is a voluntary scheme, as we all know, and it will stay because it is still needed. I can see the infrastructure levy only adding to that and enhancing the impact that the artistic value has on our infrastructure. The reason that we need to keep it is because there may well be some big schemes. One that came to mind immediately was if we ever decided to redevelop Cyril Le Marquand House, that is quite an ugly building, but if it did not increase its square meterage, it would not attract a levy, but I would think my planning officers would very much like to extract a Percentage for Art scheme out of it if it was ever converted in the future. Those 2 would sit side by side. I have been criticised for not having enough detail. I wondered if I had put too much detail. It seems to me that I cannot do right for doing wrong. But Deputy Tadier's example of his glass being sold and modified and resold was unfortunate, because the numbers he used were quite large in percentage terms and he cited £1, £2, selling for an extra £1, and that was in the 20 per cent, 30 per cent, 50 per cent bracket. We are talking here about something which is going to be around something just less than 2 per cent of the development cost, so the Deputy's example in those ratios was unfortunate. My Scrutiny panel, as Members will have heard, are not impressed. I have had a good working relationship with them over the 3 years that I have been Minister and we have done some excellent work, but I have not been able to convince them that this is the right time to bring this. They have heard both sides of the story and have not been able to make up their mind as to whether my evidence or the opposition's suggestions, which one was correct. But I personally have put about 2 years into this project. We have been over 12 months consulting and I have to say to Members, sometimes these policies take an awful long time to get to the Assembly. It is not always going to be possible within a term of Government to come up with stuff and get the principles agreed and then come back with the regulations at a later date. I am not afraid, if challenged, to stand on the infrastructure levy on the election platform. I will proudly stand up and debate it against anybody that wants to take me on. It certainly would not worry me, but what I would say to Members is we are challenged on passing the principles today, knowing that the detail cannot come until the next Assembly. Yesterday we voted unanimously - and I am so pleased we did - for the rented dwellings proposition, which is the same sort of thing. There are a few details there that could come back. We spoke about cash flow and I just want to say that I can only reiterate this: I am not trying to damage the construction and development industry here. What I am trying to do is to just extract a very small part of that very large bit of profit that people get when they sell land. Cash flow is important. As an ex-businessman, I know only too well how not having cash flow at the start of any project can scupper you before you even get going. If this moves ahead, when the detail comes back there will be propositions for the cash flow to show how it will be phased not to damage the cash flow of any development project. Deputy Southern used some unfortunate words, and I am not going to attempt to combat them in the same vein, but it is only 2 per cent. The money we are going to aim to get out of this would be around £1 million, £1.5 million. Yes, I could go much higher, but I do not want to go over the top. Similarly, if the number was very, very much smaller, we have to say to ourselves: "Is it worth doing if we are only going to get £100,000 or £200,000 out of this?" The most confusing thing I find about Deputy Southern's speech is - and he is not the only one, because there are others, and I am going to come back to another one at the end - he is a St. Helier Deputy. What I am trying to do here is to put a process in place which will improve his Parish, especially his own district. He may know - he may not know - but the Future St. Helier team, the Future St. Helier group that consists of myself and the Minister for Infrastructure and the Constable of St. Helier, we have got a list of things we want to do. Top of

our priority list of the places that we want to go is bang in the middle of Deputy Southern's constituency: Midvale Road, David Place, Bath Street, around the Millennium Town Park, Belmont Road, Phillips Street, Ann Street; those are the areas we next want to tackle. I cannot understand how Deputy Southern is going to face his constituents and explain how he does not want to support something which is going to improve the lot of the people who live in his constituency. Deputy Brée asked me 2 questions. The first one was about a young couple expanding their home and the other one was about hypothecation. The example he gave, and we have thought about this, was a young couple with a small-ish house who wanted to expand by 80 square metres. The answer to the Deputy's question is there is a cut-off of 75 square metres. If a young couple wanted to expand their home by 80 square metres, they will pay the levy on the additional 5 square metres over the 75 square metres and that is all. The reason we have set it at 75 square metres is we were extremely conscious that young families with maybe young children who can only afford to get on the ladder at a certain level may, as their family grow, want to add a bedroom, add a bathroom, add a little conservatory or a small utility room and we did not want them impacted by this levy. Seventy-five square metres is about the same size as a 2-bedroom flat. There should be plenty of opportunity there for young people to expand their properties without having to suffer the levy. The other question was about hypothecation. I can only say to the Deputy, this proposal has been in the Council of Ministers for some time now and hypothecation will happen and it will happen because we already have a process of planning obligations agreements, which has a system in place. Anybody who has been subject to a planning obligation agreement will know that the money goes into a ring-fenced bank account at the planning department and is spent on the project which it is set out for. If that project is not completed after 5 years, the money is returned to the person. There is a lot of work to do on this, but certainly my intention is to have a similar system for this in the future. I have mentioned how we spend the money. Certainly it is my intention also that further detail would have the costs of the type of schemes that we would want to do in there. Some Members spoke about parts of the U.K. not attracting an infrastructure levy and that is right. There are certain parts of the U.K. where property sells for £45,000 and £50,000 per property. There is not the value in those parts of the U.K. to attract a levy and that is why it is not applied. Similarly, we heard a lot about the fiddling with the infrastructure levy in the U.K. and, yes, they have been hugely guilty of playing around with the levy after very short periods of time. We want to keep our levy simple and easy to administer. The other thing that I must stress is that if this does come back, before it comes back with the detail, this is going to be subject to a public inquiry with an independent planning inspector. That is the normal way it is done in the U.K. Once the principles are established, the detail comes back and is put in front of a public inquiry to make sure that the numbers that we have set - numbers which I have indicated, but are not set in stone - out achieve what we are saying. This is not about hitting agriculture; this is not about hitting tourism; this is not about hitting social housing; this is not about hitting young families; it is not about hitting people who want to only refurbish their properties and not increase the sizes of them. This is all about taking a very small part of the profit, the massive profit that accrues when people sell land. We have left in our calculations 20 per cent profit for the developers. I can only reiterate that in all our calculations in viability, when we looked to see whether the scheme was viable, we have always allowed, on average, 20 per cent profit margins for developers. We understand that if you want to go to a bank and you want to borrow money, large amounts of money to do a large project, the bank will not be interested unless you can show that you are going to attract that sort of profit margin. So that is what we have left in our calculations, a 20 per cent profit margin is allowed for. The Constable of St. Clement, I have a certain amount of sympathy with his views. I say that because when we first spoke about who this levy might apply to, we too spoke about social housing and we had some challenging discussions backwards and forwards as to whether we should apply this scheme. The detail will come back and that can be changed. It is not set in stone that social housing will not have the levy applied, so yes, Constable, we could do that. I know for a fact you

are quite correct that the value of the land we were talking about in St. Clement went up from £7,500 a vergée to £300,000 a vergée with a stamp on a piece of paper. Is it not right that the public take some of that back? But the reason that we have not looked at social housing is I was determined that nothing at all would be put in the way of providing social housing. We have heard from Deputy Martin behind me, she is absolutely right, we have got to get on and deliver and the more that we can deliver, the better off I will be. There was a discussion about greenfield and brownfield sites. Somebody challenged me and said: "You are only ever going to rezone greenfield sites for social housing." That may be the case, but brownfield sites still come before us and they will continue to come before us. Just think about the massive increase in square meterage that we have had at Gaspé House; that we have had at the old dairy site in Westmount Quarry. There are schemes that will attract this levy which will contribute. The Constables generally - and I will say generally - have been relatively kind to me on this so far. I did not want to say too much, but I will remind them on page 15 and 16. I have been to see the Constables, twice I have been to the Comité and explained what we are trying to do here, but I would remind them there is some money coming back to the Constables. There is money in this scheme going back to the Parishes and we have already spoken about 10 per cent. Again, that is a detail that may vary up or down, but it is only right that a scheme in St. Brelade, a scheme in St. Ouen that pays the levy that goes towards the future of St. Helier also gets a small percentage back for the Constable to use at his discretion to increase the quality of the infrastructure in his Parish. This is the biggest consultation I think my department have ever undertaken. We have done a huge amount of work over a period of time and I know that the evidence that I have put forward is sound. The one person I have not spoken about, and I will come back to him now, is Deputy Lewis, sat alongside me. I have to say that ... I am trying to pick the words I have written down, the ones I am going to use and the ones I am not going to. There is one here that says "astounded" - I will use "astounded", that is far better than the others - and I am astounded at the Deputy's position. He does good work for his constituents in his area of St. Helier.

[15:15]

He is always on about improving the quality of life and making things better for his parishioners, but I cannot understand how he thinks that general taxation should pay for the things that we are proposing. Is it right that somebody who stays in their home and does nothing at all pays their tax to improve St. Helier because of the effects made by somebody down the road who has got a lot more people there that impinges on the infrastructure of town? I just cannot see how general revenue continue to do that. The Minister for Infrastructure has general revenue for doing things like tarmacking roads and all sorts of major stuff like that. Without his generosity over the last 2 or 3 years, the Future St. Helier project would have been woefully lacking. It is only the fact that he has managed to find small amounts of money to help us with Conway Street, Charing Cross with the zebra crossings and those small things that we have got on with. I do not have the money to do that in the Future St. Helier project, even though it is a future and strategic plan of the Council of Ministers. Deputy Lewis, I am afraid I found his speech a little bit scaremongering. He was telling us that large sites and developments are not coming forward and that developers are worried, but I would say to him there is at least 12 months to get the plans in. If people have land-banked and they have already bought it, this is not going to start at the earliest sometime in 2019. People have got time to get their plans approved and they have then got 3 years to build it out. There is plenty of time. Those schemes will not be affected by a levy. The Future St. Helier project I have just mentioned, it is a strategic priority of the Council of Ministers and we have done some good work. Of course it is the wider St. Helier. This is part of St. Saviour, this is part of St. Clement. This is about the town of St. Helier and not the Parish, but the public are saying now: "Where is the funding for moving it forward?" and I have to share their concerns. As I said, Deputy Noel, the Minister for Infrastructure, has been very generous in helping us thus far. In conclusion, we are all

here as public servants, servants of the public, and civil servants work for the public as well. Putting a stamp on a plan costs nothing really in my department, but what it does is it has a massive, massive impact on the value of that land. That decision is being taken on behalf of the public and I say to Members, is it not right that in return for that decision, we get a very small percentage back to help increase the value and the quality of our public realm for everybody on the Island? When I became an elected politician, I did so because I really had a vision, if you like, to see what I could do to try to help make our Island better. I started my work on the Back Benches, as Members will know, working very effectively with my 2 Scrutiny Panels and with the chairman of the Chairmen's Committee, Deputy Vallois, and I would like to think we did some good work. But in reality, if you really, really want to make a difference, you need to get yourself on the Executive and I was so humbled to be allowed ... some Members may think I am completely barking, but I really wanted the job of Minister for the Environment, because I am passionate about the environment and I could not think of another job where you have the ability to do things which make our Island better. This is a win-win for me. This is about doing good for our Island, it is about taking a very small part of an uplift in value that is made as part of a public decision and putting it back to work for the general public of this Island. This is about an opportunity to make a difference, to make the Island a better place and I very much ask Members to support my proposition.

**The Bailiff:**

Minister, one point. You were asked whether you wished to take the proposition separately.

**The Deputy of St. Martin:**

I would like to take it in one vote, please, Sir.

**Deputy S.M. Brée:**

May I seek a point of clarification from the last speaker? The Minister very kindly answered my question with regards to the young couple who buy a property and wish to extend it or refurbish it slightly larger. Now, he explained that if it was say 80 metres square, they would only get charged the levy on 5 square metres of the increase above 75. Am I correct in saying that the Minister would look to charge a levy on such a redevelopment or refurbishment even if the land was not sold?

**The Deputy of St. Martin:**

That is correct.

**The Bailiff:**

Deputy Martin, did you have a ...

**Deputy J.A. Martin:**

No, I just asked for the appel, Sir.

**Deputy M. Tadier:**

I had a question, Sir, which you may be able to give direction on. I noticed that this proposition invokes Standing Order 21(3)(a) on collective responsibility. What is the situation if one of those Ministers under that does not support the proposition? Is that a matter for the Assembly or is it a matter for subsequent ...

**The Bailiff:**

I would have thought it is a matter for the Chief Minister, but that is the instinctive reaction. It will not affect the vote, at any rate. Very well, the appel is called for. I invite Members to return to

their seats. The vote is on the proposition P.100, brought by the Minister for the Environment, and I ask the Greffier to open the voting.

<b>POUR: 18</b>	<b>CONTRE: 21</b>	<b>ABSTAIN: 1</b>
Senator I.J. Gorst	Senator S.C. Ferguson	Senator L.J. Farnham
Senator P.M. Bailhache	Connétable of St. Ouen	
Senator A.K.F. Green	Connétable of St. John	
Connétable of St. Helier	Connétable of Trinity	
Connétable of St. Clement	Deputy J.A. Martin (H)	
Connétable of St. Peter	Deputy G.P. Southern (H)	
Connétable of St. Brelade	Deputy of Grouville	
Connétable of St. Martin	Deputy J.A.N. Le Fondré (L)	
Connétable of Grouville	Deputy M. Tadier (B)	
Deputy J.A. Hilton (H)	Deputy of St. John	
Deputy of Trinity	Deputy M.R. Higgins (H)	
Deputy E.J. Noel (L)	Deputy S.Y. Mézec (H)	
Deputy S.J. Pinel (C)	Deputy A.D. Lewis (H)	
Deputy of St. Martin	Deputy of St. Ouen	
Deputy R.G. Bryans (H)	Deputy L.M.C. Doublet (S)	
Deputy of St. Peter	Deputy R. Labey (H)	
Deputy S.M. Wickenden (H)	Deputy S.M. Bree (C)	
Deputy P.D. McLinton (S)	Deputy M.J. Norton (B)	
	Deputy T.A. McDonald (S)	
	Deputy of St. Mary	
	Deputy G.J. Truscott (B)	

**Deputy M. Tadier:**

May I ask something? It is for the Chief Minister. There has clearly been a breach of the Code of Conduct here for 2 Ministers who did not abide by Standing Order 21(3)(a), or rather, the collective responsibility. I was wondering if on the floor of this Assembly I might make that complaint publicly for the Chief Minister to look into and refer to P.P.C. (Privileges and Procedures Committee), if necessary.

**The Bailiff:**

Deputy, it is not question time. The Chief Minister will have heard you and he will take such steps as he thinks are appropriate.

**Senator L.J. Farnham:**

I just wanted to remind the Deputy, he probably was not here or was not concentrating or listening, but I did declare an interest, which is why I abstained.

**The Bailiff:**

You did. Chairman, you wish to propose ...

**Deputy M. Tadier:**

May I ask a point of order? When you declare an interest on this, is that not to say that you do not take part in the vote? You do not turn up and then abstain, because that is taking part in a vote and therefore breaking collective responsibility. Could we have a ruling from the Chair as to whether when you declare an interest and remove yourself from the Assembly, you should continue to take part in the vote?

**The Bailiff:**

The Senator declared an interest, which was of a general nature. It did not prevent him from voting. Chairman.

## **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

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

A proposal for future business. As per the Consolidated Order Paper, with the addition on 16th January of the proposition brought about by a petition presented by Senator Ferguson regarding St. Peter's Technical Park, that is the only item that has been lodged in the last few days. Looking at the agenda, Sir, I would anticipate 16th January, Members should allow 3 days for the sitting.

#### **The Bailiff:**

Sorry, Chairman, I see that Senator Ferguson is brandishing something which she has been wanting to get before the Assembly for some time. Perhaps I can come back to you in just a moment. Senator?

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

I would like to present a petition on behalf of Sally and Paul Wood of St. Peter, which they have raised as a protest against the location of the catering facilities for the hospital at the Technical Park in St. Peter.

#### **The Bailiff:**

This is the subject of your proposition P.124?

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

Yes, indeed, Sir.

#### **The Bailiff:**

It was P.124 you were talking about, Chairman, was it?

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

I do not have the number in front of me, Sir, but it is to do with that petition.

#### **The Bailiff:**

Thank you very much. If there are no comments from the Assembly, then that is the way things will be. Senator.

## **CHRISTMAS GREETINGS**

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

For the second year in a row, it falls to me to stand in for the Father of the Assembly, Senator Routier. Senator Routier, I am told, was attempting at the weekend to put an angel on top of the Routier family Christmas tree. Unfortunately the ladder, I am told, collapsed and he fell and he suffered a broken Achilles tendon. Perhaps the lesson is that even when trying to do something good, some problematic things can occur. The definition of an angel is somebody of exemplary conduct or virtue, an attendant spirit, a benevolent one. I know that many Members of this Assembly know that they are not angels and I am certainly not one; we are human beings. But the Senator is the kind of benevolent Member that I know that all Members will join with me in wishing the Father of the House a very speedy recovery. **[Approbation]** In the same vein, I hope that the senatorial benches and all Members of this Assembly will not mind if I take the opportunity of wishing a deputation colleague - a very special deputation colleague - who I know would want, and is, in here, because he is watching, and that is our colleague, Deputy Rondel. He has faced a

particularly challenging year, a challenging year that many of us would have buckled, but he has shown courage and fortitude and he has been in this Assembly as many days as he possibly could. We know that Deputy Rondel will be watching this sitting, perhaps with a few seconds' delay, and we know that he has shown such enormous courage and fortitude. He will want to know, I am sure, that every Member of this Assembly sends him our good wishes and we salute his courage, his friendship and we offer him, during this Christmas time, continued strength in his battle ahead. **[Approbation]** I think that says it all for Deputy Rondel. There are of course other Members who have experienced in a private way challenges with their loved ones, who have befallen challenges and illnesses. They know who they are and I am not going to mention them, but I want to take, on behalf of the senatorial benches, the opportunity of wishing them too strength and fortitude for their own individual battles, often hidden, because they are human beings who suffer individual issues in their daily lives. On a happier note, the Senators note that there has been one Deputy who has become a mother and we are delighted that the individual is with us here today and we wish that Deputy, Deputy Doublet - who mentioned becoming a mother in one of her contributions yesterday - we wish her and her husband every joy in their first Christmas as a family with their son. **[Approbation]** The senatorial benches I think, without doubt, could be described as a diverse group of individuals. What can a Senator who is attempting to represent the views of such a diverse group say on such an occasion? I know there is one thing that we share in common, perhaps expressed in different ways, and that is that we are no different from any other Member. It is, for every Senator, a joy and an honour to serve the people of Jersey in the way that we do and to try leave this Assembly, whenever we do leave it, in a better state than when we arrived. Christmas is traditionally a time to reflect on the events of the year. They say a week is a long time in politics. For some Members and some Senators, some weeks have been longer than others, but for my case, certainly there was one week in which I thank Members for their honest and really thoughtful good wishes in the fact that I became, I think, the first Member of this Assembly to become a married civil partner and I thank Members for their understanding for that. **[Approbation]** It has been a year of challenge. It has been a challenging year internationally. It started with the inauguration of a new President in the United States; March, triggering Article 50, the U.K. Brexit Means Brexit, leaving the European Union; a new President of France, a new party, En Marche, and the election of a new President; in May, a surprise U.K. general election, with an unexpected outcome; Germany also had an election. Indeed, it is evermore a world that is challenging and changing at a speed that is perhaps frightening for some of us. It will be a brave person who will say who will be here in this Assembly in 12 months' time, because of course, like those countries that I have mentioned, we will have elections. But whatever the outcome of that election, we know that we will welcome new colleagues, we will say goodbye to others.

[15:30]

But we are joined with Commonwealth parliamentarians from around the world in having, for the first time, election observers at our elections, but also Members who are here to do one thing, and that is to serve. Jersey serves the world, and as the Chief Minister explained in one of his answers earlier this week, despite the constant conveyor belt of change and challenges, continues to be an Island which frankly defies gravity. Of course there are challenges, but the Island of high standards, of figures that would be the envy of most others, we show an Island of stability and certainty. We are also an Island that perhaps, unlike any others, has shown courage, to perhaps look at the past in a way that others have not to identify perhaps where things have gone wrong and how to make them better. This is perhaps best-represented in one of the most important events that has happened this year and that is the publication of the Independent Care Inquiry. One of the memories that will remain with me will be the exhibition about the Care Inquiry that was part of the Société collection, and the remarkable work of the photographer in residence, Jonny Briggs, who brought to life effectively some of those memories in the positive and a way that can learn. Art has

an ability to explain the unexplainable and that exhibition, if it had the effect of healing one individual, then it was work well done, but I am sure that it did a lot more. I am sure that I can speak for all my senatorial colleagues in joining the Chief Minister when he said that: “We shall commit and do commit to do everything we can to make this Island a beacon of high standards and zero tolerance of child abuse and to do everything we can for every child in Jersey, whether they be born here or brought here or educated or cared here and to give every child that opportunity to reach their potential in the chosen field that they wish to do.” You may recall, Sir, that last year I recalled that you had been known to say that the thing that they call in England the Battle of Hastings, you like to call it the Norman Jersey invasion of England. In doing so, we learnt that, as has been traditional, our Bailiff has been knighted. That knighthood was bestowed upon you, sources tell me, at Buckingham Palace very recently. Now, Members will be aware that when somebody is knighted, a sword is held by the individual that is bestowing the honour upon the individual. I am told, according to sources, that indeed it was Her Majesty that honoured you in your knighthood. Conversations with Her Majesty are always private, of course, and I cannot therefore be in any way sure of the conversation that you had, but as you are still here and as you have been known to say: “*La reine notre duc*” clearly nothing untoward happened to you while being knighted and therefore that you did not say anything inappropriate, as you do not, and Her Majesty used the sword for the intended purpose. On behalf of the Senators, we congratulate you on your knighthood. **[Approbation]**

**The Bailiff:**

I still have both ears.

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

We are pleased about that, Sir. Of course we honour you for your knighthood and all those others, particularly those Islanders who have received honours in the last 12 months, and particularly those who have been recognised for their community and voluntary service, which is such an important part of our Island life. As we said farewell to the modern-day representative of the Duke of Normandy last year, we welcomed the new representative. While he is not with us today, we welcome Sir Stephen and Lady Dalton and we hope their time in Jersey is a happy one. I send, on behalf of the senatorial benches, Christmas greetings and to thank Sir Stephen and Lady Dalton for the service that they have already given to Jersey in their short time here. **[Approbation]** We also welcomed a new Dean and wish him and his wife a very happy Christmas, even though he is not here with us today. **[Approbation]** Last year I referred to a word called civil servants and I said that I do not particularly like that word, because it almost says the wrong thing. The Senators take this opportunity of thanking all of those hardworking members of our public sector and particularly those who will give of their service and their time over the Christmas period, where other people are enjoying the festivities, and making lives better by the healthcare that they are delivering, keeping our streets safe or whatever machinery in the complicated world of Deputy Noel’s department, the things that go unseen, but we thank all of the public sector for the work that they do on our behalf. **[Approbation]** Last year we welcomed a new Greffier. The Senators, I must say, while the Greffier is not here, have been impressed at the new Greffier and the way he has almost revolutionised a number of other things and has also kept the existing staff. Of course we have 2 members of the Greffe, who are highly respected members of the Greffe staff, here and the way in which they continue to serve each Member of this Assembly in such an honest and clear and helpful way in all the work that they do. I would like to take the opportunity of mentioning one particular individual since I have become a Back-Bencher, and that is the Head of the Printing Department, **[Laughter]** and that person who edits documents in a way that is with such perfection and such dedication and I do not think has ever been publicly recognised. I do thank that individual for the service that she gives the Greffe, because we know there are many others. **[Approbation]** I



would like to offer, on behalf of the Senators, our thanks to the ushers and particular the Senior Usher, for the work that he does and particularly the help that he gave me in that certain special time earlier on this year. We thank all of the ushers, all of the team, for what they do for us. This place would not be the same without them. **[Approbation]** This is the second year also that there are no media in this Assembly, but we know that they are watching and they report on us. The problem is that I cannot see them, Sir. There is one. Yes, I am sorry about that. But we thank the media for the interest that they take in the affairs of our work. We sometimes do not like what they write, we sometimes do not always enjoy reading about us, but we know that they have an important role in explaining, in promoting the work of this Assembly, so we thank the media for the work that they do. **[Approbation]** The last year has seen the arrival and departure of a number of distinguished guests, particularly, for example, from a country that means a lot to me, Rwanda, and we have seen many important and distinguished visitors arrive because of the good work of the External Relations Department, your department and others. We thank all those people who have shown an interest in Jersey. Senators have enjoyed serving in a number of capacities, particularly the Commonwealth Parliamentary Association, which is so important, and basically all of the work that the Senators do attempts to do it in a way to leave this Island in a better place. The debates that we have had in the last 12 months have been difficult, they have been challenging, but in a sense politics would not be the same if it was not just a little noisy and I realise the clock needs to be installed in order that that noise could be just limited a little in terms of time. **[Approbation]** In conclusion, I take this opportunity on behalf of the senatorial benches, to you, Sir, and Lady Bailhache - and I can say that for the first time - and wish you our Christmas greetings and a happy and enjoyable Christmas period and New Year. To the Deputy Bailiff and his wife, to thank him for the way he has conducted himself in this Assembly in the Chair in a dispassionate way, in a fair way, we thank him and wish him similar Christmas greetings and New Year greetings over this period. We thank Her Majesty's Attorney General for his work, Her Majesty's Solicitor General for their advice, sometimes really at quite unfair short notice and sometimes one does not understand whether or not it is a point of order, whether or not it is a point of law, but we thank the Attorney General and the Solicitor General and all of their staff for the service that they give us and the advice that they give us. **[Approbation]** We thank the Viscount and Deputy Viscount for their presence and for their work in this Assembly, because they are indeed historic Members of this Assembly in those honorary capacities. The year ahead is no doubt going to be a similarly challenging one, with an election. The cost of living, housing, which we have just been talking about, and all of those important issues will be dominating the debates that we will be having before that election in May. I will end with a quote from Charles Dickens, which said on Christmas: "Christmas in my heart and I will try and keep it in my heart all of the year." I wish all Members and you, Sir, a very happy Christmas. **[Approbation]**

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

On 14th December last year, I was faced with the challenge of extending Christmas wishes to the States on behalf of my fellow Connétables, all bar one of whom had earlier that day voted down the Article in the Finance (Jersey) Law that would have seen the States agreeing to pay rates on their properties. **[Laughter]** The task was made even more difficult, as 14th December is the date on which I was first elected Constable. I had been looking forward to getting the matter resolved after 15 years trying, so my feelings for my fellow Connétables were not very Christmassy, and I must confess my speech was rather frosty. Yet exactly one year later, how things have changed. All bar one of my fellow Connétables have agreed the States should pay rates next year and all bar none have gratefully pocketed the cheque on behalf of their Parishes in respect of this year's States rates payment. Here on the Constables' benches, there is an *entente* which is more than *cordiale*, it is positively *chaleureuse*, so much so that there is a risk that we will return to the days of voting *en bloc* in the New Year. **[Laughter]** It is with great pleasure, as well as with considerable relief, that

I extend the Constables' greetings of the season to all Members of this Assembly. The Constables are particularly hopeful that our new Lieutenant Governor, His Excellency Sir Stephen Dalton and Lady Dalton, enjoy their first Christmas in Jersey. His Excellency certainly hit the ground running, as they say, when he arrived in the spring. I know that he and Lady Dalton have already won the hearts of Islanders for their support of the Island's numerous charities and good causes, His Excellency, for example, keeping his chauffeur waiting after the St. Helier municipal dinner so that he could personally talk to everyone present in the room after the dinner, while Lady Dalton was up to her elbows in soup in the Royal Square recently. You, Sir, were honoured with a knighthood in Her Majesty the Queen's Birthday Honours in June this year, which you received modestly, saying that it was a confirmation of the longstanding relationship between the Crown and the community of Jersey and a recognition for the whole Island. We know that your role as President of the States must tax your patience at times - a pause, no reaction - which is why some of us, though by no means the majority on the Constables' Benches, think you should grab the opportunity of relinquishing it, but that is a matter for another day. We hope that you, Lady Bailhache and your family enjoy a relaxing break this Christmas. We also hope that the most recent Member of the States, the Dean and his family, manage to enjoy the season. Although it will not be his first Channel Island Christmas, it will of course be his first Jersey Christmas and he will only have to pop down to David Place and Bath Street instead of having make the uncertain and expensive crossing of the stretch of water between us and the other island to do his Christmas shopping. That is a veiled reference to the superiority of St. Helier as a shopping centre. **[Laughter]** It is of course a particularly busy time of year for the Dean, given his support and guidance to the rectors of the 12 Parishes. While we are speaking about the churches, let us also extend our Christmas wishes to our leaders of all faiths in the Island, who provide such a great deal of service to us, **[Approbation]** whether it is the Catholic community, the Methodist community, the Baptist community, the Muslim community and so on. It has been another busy year for the States with the usual debates about the composition of the States and the role of the Bailiff, achieving very little in the way of change, which is par for the course. It is just as well we made a decision yesterday about Jersey's new hospital, or the public might be wondering what exactly we do in here. But we have at least been spared a debate about Sunday trading and also the usual annual proposition to oust the Constables. Tomorrow in the Royal Court the swearing in of Centeniers from across the Parishes takes place and how glad the Constables are that we will not have to choose between our duty of attendance in this place, listening no doubt to a scintillating speech - and now we have webstreaming, I have to be very careful not to look in a particular direction, having said that - to choose between being here and our wish to support our Honorary Police officers. As you know, the Island's Honorary Police epitomises all that is best in our Island's long tradition of voluntary service, playing a vital **[Approbation]** and unique role in Jersey's criminal justice system, facilitating the numerous events that take place throughout the year in Jersey and assisting the States Police in maintaining public order and community safety when these crucial components of our quality of life are under threat in many parts of the world.

[15:45]

The Constables are extremely grateful to the Honorary Police for the work they do and we also express our thanks and our good wishes at Christmas to the many others in each Parish, both members of the municipality and members of the non-profit sector, who give their time, their skills and their money in support of the community. Although we can never know what the New Year will bring, as parliamentarians we are more than aware than most that there is a general election to look forward on 16th May. At least those Members who have declared their intention to stand down are probably looking forward to it. Indeed, some have an app installed on their phones and are counting off the minutes as I speak. The commemoration of the centenary of the outbreak of the First World War will reach its apogee in 2018, while a Royal wedding will offer the Parishes

the opportunity to demonstrate once again our loyalty and support for the Royal family. The Constables thank the Attorney General and the Solicitor General for their advice this past year and wish them a well-deserved break with their families, as we do the Crown officers, the Deputy Bailiff, the Greffier of the States, Deputy Greffier and Assistant Greffier. We extend warm Christmas greetings to the Senators on our right - although at the start of this morning's meeting, not one of them was there and I wondered if I would be able to greet them - as well as the Deputies on our left, the Viscount and their staff, the ushers and the media. We wish Jan, our tea lady, a Merry Christmas, as we do the press, for whom I am sure 16th January cannot come soon enough, and the many other people associated with the efficient running of this Assembly. We wish all of our parishioners a peaceful and enjoyable Christmas and best wishes for 2018. **[Approbation]**

**Deputy J.A. Martin:**

It may surprise people, but this is one of the hardest speeches I ever have to do every year because I am not speaking on a policy or I will give you my opinion, I am speaking on behalf of all my fellow Deputies, I hope. I get this privilege because I am the longest-serving Deputy. **[Approbation]** Not far behind me is Deputy Southern, and I did ask him if he would do this, but we are where we are. **[Laughter]** What do I want to say on behalf of the Deputies this year? It has been a hard year. We have had some really, really tough issues to deal with, the whole Assembly. 3rd July we saw the report from the Care Inquiry, which has, I think, brought together a lot of us, working together and working for the same aims, **[Approbation]** and that has got to be something to be grateful for, really, because these are issues that we wondered if they were there and then they are in black and white and we spent a lot of money and a lot of expertise on getting the answer. Also I am standing here as a woman, the longest-serving woman, **[Approbation]** and I was grateful to Deputy Doublet and I think the Deputy of Grouville. Two weeks back, we were asked to speak on women in politics and it happened to be: "How do you do it and what are the barriers?" I think it is 100 years, near enough - it is this year or next year - that women were not even allowed to vote and look at where we are now. We have a Senator, we have 3 Connétables, we have 8 Deputies. Is that enough? No, not at all. There was one thing that set me thinking with the lady, a very, very good lady speaker who comes from the U.K., and she was talking about why she introduced her own party, because it was men of a certain age in grey suits and selection, but what I wanted to say - I did not have time - we do not have that in Jersey. If you have good politics, you have a good ethos and you can do a good campaign, a woman should be elected as much as any man. There is no selection by the parties. **[Approbation]** It is a fantastic platform. I just go out there and say to the youngsters or the younger women, because I am getting to an age where I need a few more behind me, and I really say: "Do not think that it is men in grey suits of a certain age selecting you. If you are good, present yourself, you will be respected and you will be elected." That is all I really want to say about where we are and women. Somebody has asked me to mention, because he does sit there week after week, and we have mentioned the media, it is Chris Rayner up there, **[Approbation]** and I look at him every day and when someone's microphone is not turned on, he is like: "Oh" so you know you have to tell them: "Turn your microphone on." The media and everybody, the public who listen in, I was one of those before I was elected, for 5 years I used to listen in weekly and I used to love it. It used to be a great sense of ... I used to sort of test myself: "Who is that speaking?" and it used to be a different twang before lunch and after lunch. I say no more. People probably think that about me. I am waiting until we get the bell in the pub across the road, when I get my 15 minutes to come in, like they do in the House of Commons. I doubt that is going to happen. But anyway, Sir, I would like to say on behalf of all the Deputies to you - and I have just changed this - and Lady Bailhache, we would like to wish you all a very merry Christmas, the Deputy Bailiff, the Attorney General, the Lieutenant Governor and Lady Dalton, Her Majesty's Solicitor General, the Dean and Mrs. Keirle, the Viscount and the Deputy Viscount, the Greffier and the Assistant Greffier and all the States Greffe staff, especially

those who help Scrutiny, the clerks who help Scrutiny **[Approbation]**, they are fantastic, obviously the ushers: Stewart, Paul, Dean and Marios and our tea lady, Jan. As I say, from the Deputies' benches, I would love to wish you a very, very happy Christmas, a very, very prosperous New Year. Whatever you are doing on 16th May next year, good luck. Thank you. **[Approbation]**

### **The Bailiff:**

Senator Ozouf, Connétable of St. Helier, Deputy Martin, on behalf of His Excellency, the Deputy Bailiff, the Law Officers, the Dean, the Greffier, the Viscount, the Deputy Viscount, the Chief Usher, all the members of the various teams, I would like to thank you very much indeed for your good wishes for Christmas. This is the last Christmas before the election and therefore the last occasion on which I will have the opportunity of wishing all those present a happy Christmas and relaxing break. Some of you have already announced your intentions not to put yourselves forward for election again. Others no doubt may make a similar announcement between now and May and some of you of course may stand, but find that your talents are no longer appreciated by the electorate. That is the nature of politics, as the Deputy of St. John was mentioning earlier. By this time next year, who knows, I too may not be in the States, so it is a particular pleasure to be able to extend to all Members here today the compliments of the season. Come the return of Members in January, we can look forward to the inevitably busy legislative programme, which always seems to precede an election. We await with eager anticipation to discover if the new average of one speech a day from the Connétable of Trinity will be continued. **[Laughter]** **[Approbation]** We can also look forward to more contributions from Members to charity, which is likely only to be significantly reduced if Senator Ferguson learns how to make her laptop quiet over Christmas. **[Laughter]** No doubt Reform Jersey will remain in the vanguard of putting questions to Ministers and no doubt we can also look forward to some more applications under Standing Order 26(7) sometime after lastminute.com, which will continue to keep us all guessing as to what will be debated in the next few days. All that is some way away from the intention behind those who drafted the Code of 1771, which required as a matter of law all legislative proposals to be lodged for a minimum of 14 days to allow the Constables to go back to consult with their parishioners, if they wished, on the proposals which had been made. Some may think that all not change is necessarily good. For my part, I would like to thank Members for the indulgence which we are afforded in respect of decisions we have to take in the Chair from time to time, but it is a good opportunity to emphasise that the Presiding Officer of any parliamentary Assembly relies to a considerable extent on the Clerk of that Assembly and the team. Taking up the comments of Members already made, we are very fortunate to have a strong and hardworking team, ably led by the Greffier and the Deputy Greffier and the Assistant Greffier. **[Approbation]** As all Members know, the Greffe staff are available to help and do help Members in the performance of their duties and I am just pleased to be able to join others in acknowledging that contribution. It is also a good opportunity to thank the Viscount and Deputy Viscount and their teams for what they do - and of course Jan was mentioned, the tea lady - the Chief Usher and his team, part of whom are up in the public gallery, I see, **[Approbation]** because they all together help to make the work of the Assembly manageable. We have had 2 changes in the membership of the States this year, first and foremost the arrival of His Excellency Sir Stephen Dalton as Lieutenant Governor, and as has been mentioned, the Very Reverend Mike Keirle, the Dean. It is very obvious that Sir Stephen and Lady Dalton and the Dean and his wife, Mrs. Keirle, have thrown themselves wholeheartedly into our community and I thank them all very much for what they do and have done. **[Approbation]** I was very pleased to hear Senator Ozouf mention both Deputy Rondel, who has not been well, and Deputy Doublet and her becoming a mother this year. I thank him too for his remarks about the knighthood conferred on me. Those remarks, and indeed the speeches, show that although this Assembly can be quite a hard place to do business, the personal touch between colleagues is a really essential part of what goes on. **[Approbation]** It is the oil which allows the different parts

of the system to work together, even if they are trying to go in different directions. It has been another busy year for the States. I think by my calculations, there have been, including today, a total of 42 sittings during the year, which is up on last year's total of 33. From the year 2000 to date, the number of meeting days has varied between 32 in 2000 to 64 in 2011. In 9 of those years since 2000, there have been more than 42 sittings; in 7 there have been less. There has been one other occasion where it is the same. Those of you who are mathematically inclined will be noting that between 2000 and 2017, we have 9 years greater than the present one, 7 years less and one the same, making a total of ... **[Laughter]** You have adopted 29 new pieces of legislation, which is a significant amount, although falling some way short of being a States record, and those of you who are looking closely at the agenda over the next 5 months will see that there is a considerable amount yet to be considered. There have of course been many policy debates. Deputy Martin was right to say that there have been some quite ... I should not say taxing debates, although some of them have concerned tax, but there have been some quite challenging debates which have faced Members this year. Although Members of the States know it, members of the public may not necessarily focus upon it. The work done in this Assembly is just a small part of the overall work of politicians more generally. Ministers and Assistant Ministers have a considerable amount to do in the Executive running of Government every day and members of Scrutiny are likewise fully committed in what they do, as is obvious from a visit to the Scrutiny section on the Assembly website or to those Scrutiny meetings which are held in public. It is now time for all of us in the Assembly to take some well-earned rest from our duties in this place. On behalf of His Excellency, the Deputy Bailiff, the Dean, the law officers, the Greffier, the Viscount, the Chief Usher, our families and our staff, I wish you all and all those close to you a relaxing and fulfilling Christmas break. May you find peace in your hearts and come back in the New Year duly refreshed. **[Approbation]** The States will now stand adjourned until 10.45 a.m. on 16th January. I invite Members of course to attend the service in the Town Church at 9.30 a.m. that day.

## **ADJOURNMENT**

[15:59]