

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 11th SEPTEMBER 2012**

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[9:30]

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

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

Sir, may we raise the défont on the Deputy of St. John, please?

**The Deputy Bailiff:**

It is proposed the défont be raised on the Deputy of St. John. If Members agree the défont is raised.

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

**The Deputy Bailiff:**

Under F, Appointment of Ministers, Committees and Panels, there is the appointment of unelected members of the Public Accounts Committee.

### **1. Deputy T.A. Vallois of St. Saviour:**

Members will see on the Order Paper, at the back, biographies for 2 members who wish to be part of the Public Accounts Committee. I would just like to make Members aware that there was a process followed for this. We advertised for the position. Applicants came forward and there was an interview process carried out jointly with the Appointments Commission. I would therefore like to put forward Mr. John F. Mills CBE and Mr. Ian Ridgway as members of the Public Accounts Committee.

**The Deputy Bailiff:**

Seconded? [**Seconded**] There being no other nominations, Mr. Mills and Mr. Ridgway are appointed as the unelected members on the Public Accounts Committee.

## **QUESTIONS**

### **2. Written Questions**

#### **2.1. DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING TEACHERS' TERMS AND CONDITIONS OF SERVICE:**

##### **Question**

Will the Minister inform members what was the cost of the 2011 Sector benchmarking report on teachers' terms and conditions in Jersey and advise what confidence, if any, he has in the value of its findings?

Will the Minister advise whether Sector was able to;

- (a) obtain terms and conditions for Guernsey teachers,
- (b) make a meaningful comparison between UK and Jersey cost of living, and
- (c) understand differences between 'directed' time, 'contact' time and total working hours?

When will he be publishing this report?



## **Answer**

The Sector Benchmarking report into the terms and conditions of head teachers, Deputy head teachers, teachers, lecturers and senior managers was commissioned as a separate piece of work to be undertaken alongside the general review of terms and conditions of employment for public sector workers.

The report has not yet been signed off by the Steering Group responsible for this piece of work which includes representatives from the teachers' unions.

The purpose of the report is to provide meaningful benchmarking information that may be used to inform negotiations regarding pay and terms and conditions.

At the time it was not possible for Sector to obtain information from Guernsey. Neither was it possible at that time to obtain information that would have allowed a meaningful cost of living comparison between Jersey and the UK.

The report acknowledges that teaching contact and non-contact hours are allocated differently between Jersey and the UK and that making comparisons on a like for like basis is not possible.

The report will be published once it has been accepted by the steering group.

The quote for the report was £19,500, subject to any additional work the contractor is required to do. The report has been funded by the States Human Resources Department as part of their wider work on terms and conditions.

## **2.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE PERFORMANCE OF ATOS:**

### **Question**

Following concerns about the performance of Atos in assessing the fitness for work of those with disabilities for the UK's Department for Work and Pensions and problems in its delivery of services to the UK Border Agency, will the Minister justify for members the involvement of Atos in the reform of Jersey's public sector?

In particular will he state:

- a) on what terms were companies invited to bid for this reform contract,
- b) the names of those companies bidding,
- c) what is the cost of the successful Atos bid
- d) what the final terms of reference for this contract are?

Will he further inform members what his "vision" for the public sector is and whether he still wishes to invite public sector UK representatives to help inform this vision in the light of their experience?

Given the success of Atos in capturing extensive UK government contracts for the delivery of privatised services, can the Chief Minister confirm the assurances made by the Chief Executive to public sector representatives that this reform is not about privatisation of services?

## **Answer**

Atos is a global company which offers a range of services to organisations, including delivering technology solutions to support efficient transactions and they have considerable expertise in making customer service enhancements in both the public and private sectors. The contract Atos has with the UK Government is completely separate and in a distinctly different area to the work they are undertaking in Jersey.

In answer to the specific questions:

- a) Three companies with experience in undertaking the work required were invited to tender for the project.
- b) Atos, Capita and KPMG.
- c) The successful bid was £330,445. It was assessed as the best value for money submission on account of the ability, experience, resource and service being supplied.
- d) The detailed Invitation to Tender document contained the engagement terms of reference and specification and these form part of the contract between Atos and the States of Jersey.

My vision for the public sector, as I outlined at the States Members Briefing on Tuesday last week and is articulated in the Strategic Plan, is that it is responsive to the needs of customers and flexible to change. It must be as efficient and effective as possible and provide good value to the taxpayer and needs to engage and empower staff to improve services. I do believe we can learn from UK experience but also from Jersey people who have been through change in their businesses and I am still considering how best to engage with such individuals.

At the States Members Briefing, it was explained that there are a variety of different models for service delivery which range from providing in-house services to services being contracted out or provided by the 3<sup>rd</sup> sector. The Reform Programme will look at a range of options and impacts before deciding how best a service should be configured for the future.

At the briefing held with Union officials held on 18<sup>th</sup> July 2012 the Chief Executive presented a range of options for the way in which services could be provided in the future. He did state that the reform agenda is not about privatisation of services – it is about engaging and working closely with staff to determine how these services can be provided in the most efficient and economic way, although that does not preclude privatisation where that is appropriate. Close working with external organisations and partnerships with the third sector will form part of the reform programme.

## **2.3 DEPUTY J.A.N. LE FONDRÉ OF ST. LAWRENCE OF THE CHIEF MINISTER REGARDING THE JOB DESCRIPTION FOR THE CHIEF EXECUTIVE:**

### **Question**

Further to the recent announcement of the appointment of the new Chief Executive, would the Chief Minister provide the following information:

- (a) a copy of the job description under which the successful individual was appointed;
- (b) a copy of the previous job description that was applicable when the earlier process of recruitment was performed in circa June 2011, which did not result in a successful appointment to the post;
- (c) details of the process followed in relation to the selection and appointment of the new Chief Executive, including the individuals (or positions thereof) involved in that process?

**Answer**

Both job descriptions requested are attached for information.

During March to June the Council of Ministers (CoM) and the States Employment Board (SEB) considered various options with regards to how the Chief Executive role for the States of Jersey should be filled. In considering the options both CoM and SEB were cognisant of the ongoing Governmental reform agenda. When defining the requirements of the role both CoM and SEB focused on the delivery of the Strategic Plan and the 7 strategic priorities, in particular the huge challenges the Civil Service faces in delivering this agenda, particularly the Reform of the Public Sector. A new Job Description was developed and circulated to CoM and SEB for comment. The previous recruitment process had led to the appointment of an Acting Chief Executive for a period of one year.

In June CoM selected a panel of three Ministers to take forward the recruitment of the Chief Executive. The Jersey Appointments Commission agreed and chaired the recruitment process. The interview process took the form of an assessment of the competencies of the then Acting Chief Executive against those of the job description and against the States competency framework. The new role was approved by SEB in July and the contract for the Chief Executive was agreed and signed at the end of July.

**JOB DESCRIPTION QUESTIONNAIRE**

**DEPARTMENT:** Chief Minister's  
**JOB TITLE:** Chief Executive  
**REPORTS TO:** Chief Minister and Council of Ministers  
**TYPE:**  **Maintenance** - if this box is ticked, please indicate job number below  
 **New**  
**JOB NUMBER (if maintenance):** 07.001  
**GRADE:** (please leave blank)  
**EVALUATION DATE:** (please leave blank)

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**1. JOB PURPOSE**

To be the principal adviser to the Chief Minister and the Council of Ministers on all matters within the Council's remit, including the formulation of strategic plans, business plans and policies.

To lead the Reform of the Public Sector in order to deliver a sustainable and efficient Public Sector delivery model to meet the demographic and socio economic challenges faced by the States of Jersey.

To lead the Corporate Management Board and thereby ensure:

- Departments provide professional advice and support to Ministers and deliver their policies efficiently, effectively and in a co-ordinated manner;
- Public Servants are equipped with the skills and capability to deliver the Reform agenda and meet the demands placed upon them.
- Ensure the development of an empowered and engaged management team that works in a fair and decent environment.

Ensure that all departmental duties, responsibilities and delegated functions within the Chief Minister's Department are discharged effectively and appropriately and that the department meets the needs of the Chief Minister and Council of Ministers.



## **CHIEF EXECUTIVE – (3 YEAR CONTRACT\*) ROLE PROFILE**

**Job Title: Chief Executive to the  
Council of Ministers and  
Head of the Public Service**

**Department: Chief Minister's**

**Reports To: Chief Minister and  
Council of Ministers**

**Date: April 2011**

### **Role Purpose:**

As Chief Executive, act as the principal adviser to the Chief Minister and the Council of Ministers on all matters within the Council's remit, including the formulation of strategic plans, business plans and policies.

As Head of the Public Service, lead the Corporate Management Board and thereby ensure:

- The Council of Ministers policies are delivered efficiently and effectively;

- Departments provide professional advice and support to Ministers and deliver their policies efficiently, effectively and in a co-ordinated manner;;
- Public Servants are equipped with the skills and capability to meet the demands placed upon them and that they work in a fair and decent environment.

As Head of the Chief Minister's Department ensure that all departmental duties, responsibilities and delegated functions are discharged effectively and appropriately and that the department meets the needs of the Chief Minister and Council of Ministers.

\*NOTE – this is a 3 year contract post during which time it is proposed to undertake a thorough review of the ministerial and managerial structures. The role and responsibilities of the Chief Executive will be redefined in the light of that review.

## **PRINCIPAL ACCOUNTABILITIES:**

The following must be viewed in relation to the three principal roles of the postholder as:

- Chief Executive to the Council of Ministers
  - Head of the Island's Public Service
  - Head of the Chief Minister's department and, as such, Chief Executive to the Chief Minister
1. Provide, and ensure the provision of, all necessary support to the Chief Minister and the Council of Ministers, so that the machinery of government in the Island operates smoothly and effectively, based on well founded decision making.
  2. Act as the principal adviser, and ensure the provision of co-ordinated advice, to the Chief Minister and Council of Ministers.
  3. Having regard to the needs of the strategies, policies and decisions of the Council of Ministers, prepare the strategic policy programme, oversee preparation of the annual States business plan and lead the development of corporate strategy and policy.
  4. Ensure that there are satisfactory and sufficiently resourced arrangements in place to enable the Chief Minister and Council of Ministers to communicate with and receive views from Members of the States, the public and other stakeholders.
  5. Chair and lead the Corporate Management Board (terms of reference attached as Appendix 2) to direct and co-ordinate the work of Executive departmental Accounting Officers in order to deliver accountabilities 6 to 11 below, taking account of available resources.
  6. Ensure that the strategies, policies and decisions of the States and Council of Ministers are implemented and delivered efficiently and effectively.
  7. Oversee Chief Officer's performance in the provision of advice to Ministers and the efficient and effective delivery of their policies.

8. Provide professional advice to the States Employment Board and ensure that as a good employer their delegated functions are discharged properly by Departments.
9. As Head of the Public Service and with the support of the Corporate Management Board ensure that States staff are properly performance managed, supported and developed in order to create a corporate culture in which staff deliver efficient and effective services that meet client needs.
10. Oversee a corporate governance structure and culture that ensures good governance, effective assurance over the use of resources, effectively identifies and manages risks and ensure that departments comply with relevant statutory, legal and international provisions.
11. Oversee the delivery and implementation of the CSR as agreed by the Council of Ministers and the States. (Governance structure shown in Appendix 3)
12. As Head of the Chief Minister's department, ensure that all departmental duties, responsibilities and delegated powers are discharged effectively and appropriately and that the functions and services provided by the department continue to meet the needs of the Chief Minister, the Council of Ministers and government as a whole.
13. Ensure effective working relationships are maintained and developed on all relevant matters with and between the Council of Ministers, the Chief Minister and his or her department, the Bailiff and Law Officers, the Lieutenant Governor, the States Assembly, Scrutiny Committees the States Greffe and other non-executive departments, the Comité des Connétables and the Parishes.
14. To facilitate the proposed review of the working of Ministerial Government and the roles and responsibilities of Ministers and Civil Servants.
15. Provide and ensure the provision of, all necessary support to the Chief Minister and the Emergencies Council to ensure that Departments are prepared for a major emergency and that there is an effective and co-ordinated response in the event of such an emergency.



## **PERSON SPECIFICATION**

### **Knowledge, Skills & Experience:**

- Extensive experience and a proven track record in the public sector environment at a senior level, including substantial experience of a large and complex public sector organisation.
- Significant knowledge and understanding of the process of government including interaction between politicians and officials.
- Significant experience of the policy-making process in government.
- An ability to acquire an understanding and appreciation of the system of government within the States of Jersey, and of the factors underpinning the move to a ministerial system.
- A good understanding or the ability readily to acquire the same, of the wider international context within Jersey must operate.

### **Qualifications**

The postholder will have extensive experience and a proven track record. In addition, it would be essential for the postholder to have one or more of the following –

- A degree or professional qualification;
- A formal management qualification;

## **ORGANISATION CHART**

Attached

## **DIMENSIONS**

### **States of Jersey Dimensions**

Financial: Annual Revenue Budget (2011) - £650m (net); £770m (gross)

Annual Capital Budget (2011) - £38m

Employees: at 31.12.10 – 6, 800 headcount

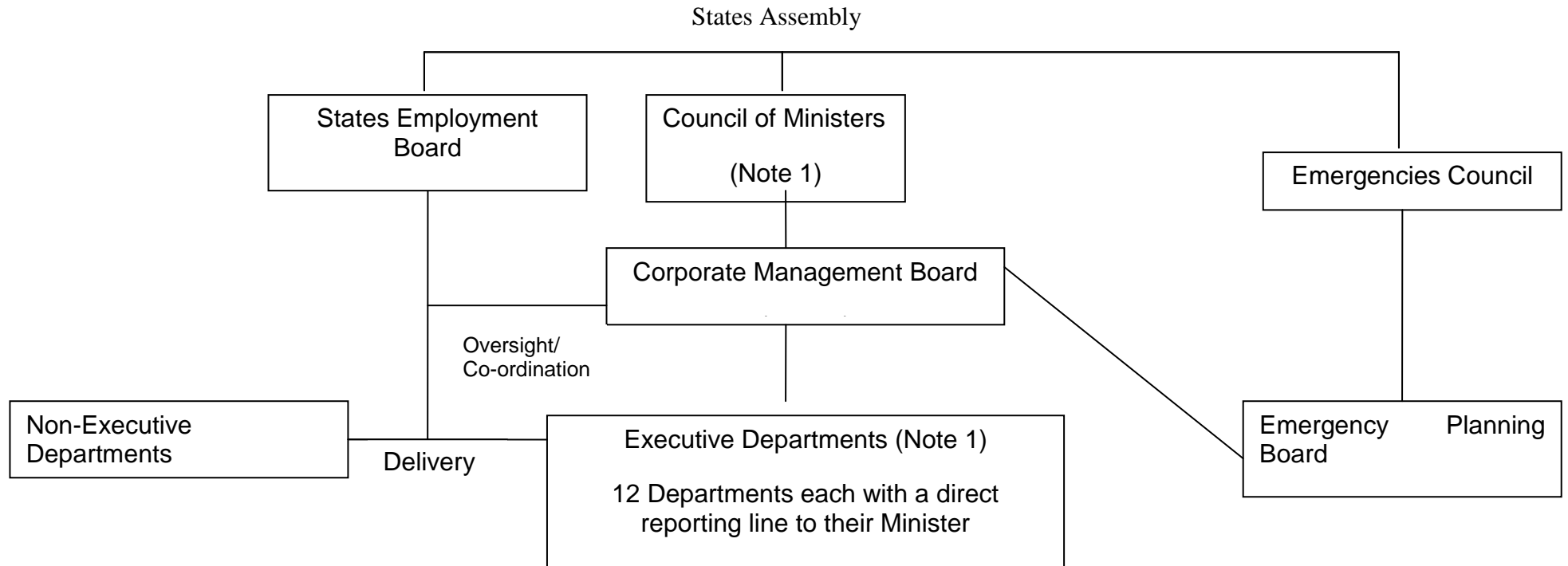
6, 000 FTE

### **Chief Minister's Department**

Financial: Annual Revenue Budget (2011) - £21.3m (net); £22.5m (gross)

Employees: at 31.12.10 – FTE 204.8

Corporate Organisation of Responsibilities for Executive Functions



Note 1: The Chief Minister chairs the Council of Ministers.

Each Minister is a separate legal entity with a cash limit voted directly by the States.

The Council operates by collective decision making, but does not operate under the doctrine of collective responsibility on all issues.

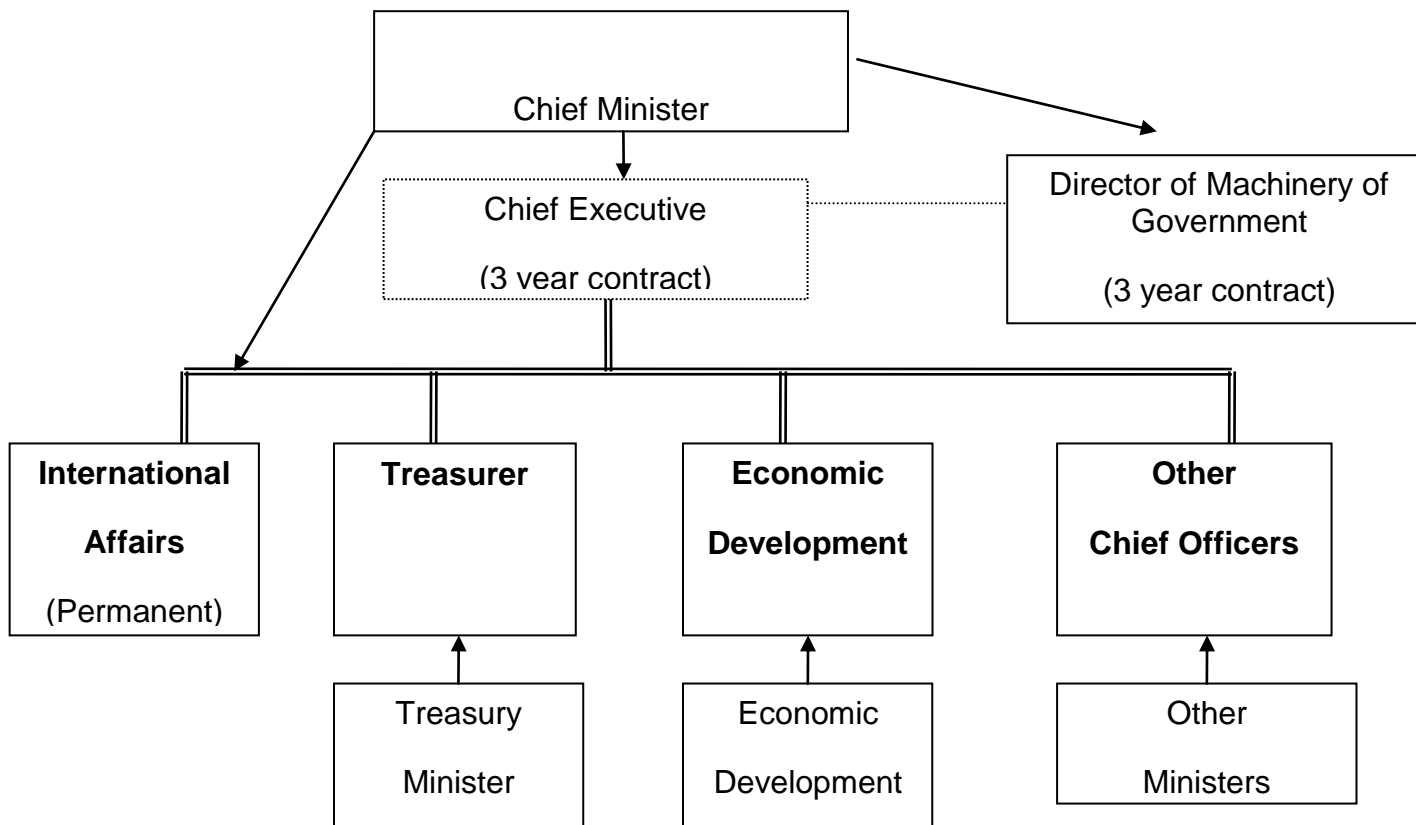
Note 2: The Chief Executive chairs the Corporate Management Board (CMB)

CMB reports to the Council of Ministers, its Terms of Reference are at Appendix 3.

CO's report direct to their Minister on policy and its implementation

# ORGANISATION STRUCTURE

SHOWING CHIEF OFFICER AND MINISTERIAL REPORTING LINES



NOTE:

==> Indicates HR responsibility, nominal performance management accountabilities and Council of Ministers delegated responsibilities.

## STATES OF JERSEY CORPORATE MANAGEMENT BOARD (CMB)

### Role

- To provide advice to the Council of Ministers as required.
- To provide corporate leadership to staff in order to deliver policies and services efficiently and effectively as decided by the States and the Council of Ministers.

### Functions

- Ensure there are effective corporate governance arrangements in place across departments. Regularly review performance to ensure effective accountability and identify corporate issues to be resolved. Examples are:-
  - Risk Management;
  - Health and Safety;
  - Internal Controls;
  - Welfare etc;
- Monitor and improve performance and accountability in relation to the use of resources and oversee the effectiveness of central resource functions:-
  - Human Resources
  - Property
  - Purchasing
  - Information
  - Shared Services Function.
- Maintain corporate oversight of financial management across departments and for the States as a whole in order to improve financial performance, rectify problems and advise the Council of Ministers as necessary.
- Keep the health of the organisation under review in order to develop and implement programmes to resolve issues and meet future challenges.
- Monitoring and improving the management of performance and accountability;
- Protecting and enhancing the organisation's reputation for professionalism, effectiveness, integrity and efficiency;
- Communicating the States purpose, policy goals and vision to staff and other stakeholders and ensuring that they are properly engaged in order to harness their commitment to creativity in delivering them as efficiently and effectively as possible.

- Undertaking regular future scanning to identify major issues which could impact on the management of the organisation or which need to be planned for.

It is expected that all departments will be represented and therefore substitutes would be expected to attend, as notified to the secretary.

### **Structure**

- The Board is supported by four Sub-Committees:-
  - Audit
  - Risk Management
  - Emergency Planning Board.
  - Corporate Strategy Group
  
- The Board will meet 6 weekly, with agendas circulated 5 days in advance.

## **CSR PROGRAMME MANAGEMENT**

### **Roles and Responsibilities of the CSR Programme Board**

(The CSR Programme Board will report to CoM and CMB)

#### **Outline of Officer Accountabilities**

The Chief Executive to the Council of Ministers holds overall accountability for the implementation of the CSR as the Programme Sponsor.

As such he is accountable to the Council of Ministers for the overall programme.

Each Accounting Officer will be responsible for delivering the CSR programme for their department within the agreed cash limit. (The cash limit will be adjusted to reflect the proper allocation of corporate savings once those programmes have been finalised). The Accounting Officer will be responsible to:-

    Their Minister for the policy content of the programme;

    The Chief Executive in respect of their application of HR and other Resources policies.

#### **Role of the Programme Board**

The Programme Board is responsible for ensuring that the CSR is delivered across the States Departments. In particular it will:

Oversee finalisation of the CSR in 2010 and 2011 in preparation for the 2012 Business Plan, (including corporate savings).

Ensure that the appropriate corporate support functions (Treasury, HR, IS, Procurement, Property, Project Management) are available to support departments delivery of CSR.

Ensure that there is a consistent application of corporate resource policies across departments in their implementation of the CSR;

Analyse the CSR programme as it develops to identify critical pinch points and re-organise the programme (in collaboration with Accounting Officers and CMB) to ensure the programme is deliverable.

Monitor implementation of the programme to ensure that the CSR savings are delivered.

Oversee the communication programme, both internal and external

## **Membership of the Programme Board**

Chief Executive to the Council of Ministers (Chairman)

Treasurer

Chief Officer EDD as a corporate lead



## 2.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING GROWTH PREDICTIONS FOR THE ECONOMY:

### Question

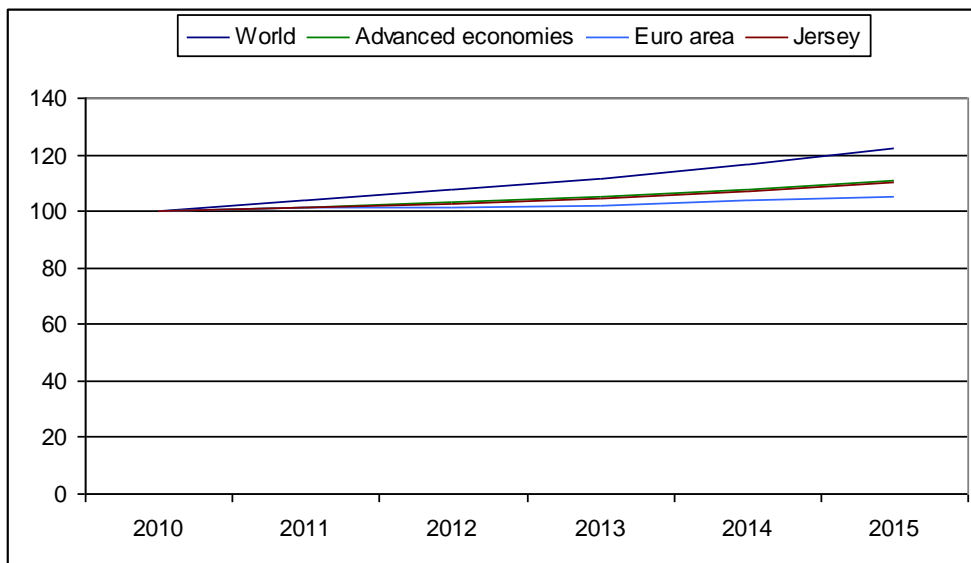
Will the Minister inform members how his growth predictions for the economy and taxes over the period of the Medium Term Financial Plan are related to local, UK and Europe-wide predictions for economic growth from any other respected institutions in the field?

### Answer

Chart 1 below shows that Jersey economic growth as forecast over the MTFP period is below that forecast by the International Monetary Fund for the world economy but in line with that forecast for the advanced economies. Not surprisingly, given the difficulties faced by some of the Eurozone countries, growth is forecast to be higher in Jersey than the average for the Eurozone as a whole over the same period.

### Chart 1: Economic growth forecasts

Real GDP/GVA index, 2010=100



Source: MTFP/IMF World Economic Outlook

Table 1: Forecasts for real GDP/GVA

% change

	2010	2011	2012	2013	2014	2015
<b>World</b>	5.3	3.9	3.5	3.9	4.5	4.5
<b>Advanced economies</b>	3.2	1.6	1.4	1.9	2.7	2.7
<b>Euro area</b>	1.9	1.5	-0.3	0.7	1.7	1.7
<b>Jersey</b>	-5	1.2	1.4	2	2.5	2.5

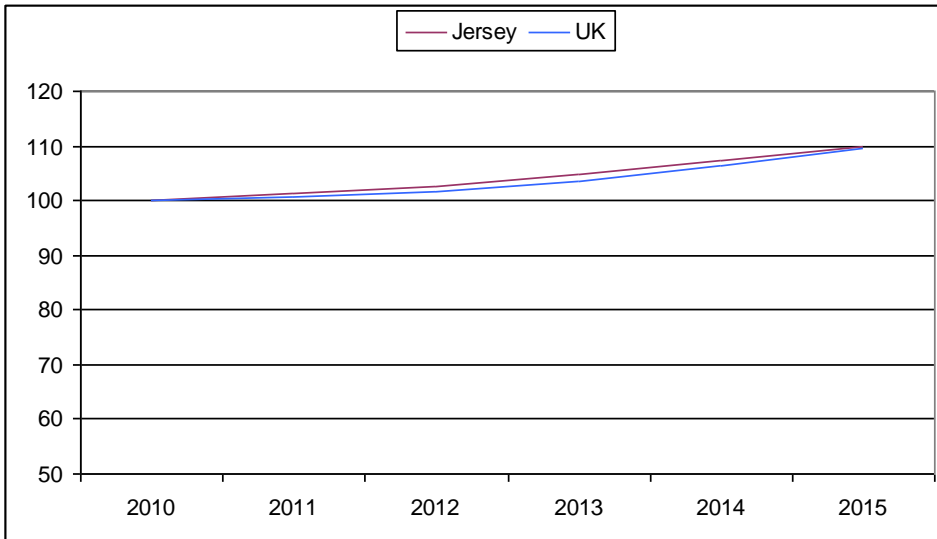
Source: MTFP/IMF World Economic Outlook

The latest forecasts from the UK's independent and official fiscal watchdog, the Office for Budget Responsibility (OBR), show real economic growth in the UK in line with that forecast for Jersey

over the MTFP period. The chart below shows that although Jersey is forecast to grow at a slightly higher rate in 2012, the UK is forecast to grow more quickly in 2014 and 2015, meaning that by 2015 there is little difference in the rate of growth over the period.

### Chart 2: Jersey and UK economic growth forecasts

Real GDP/GVA index, 2010=100

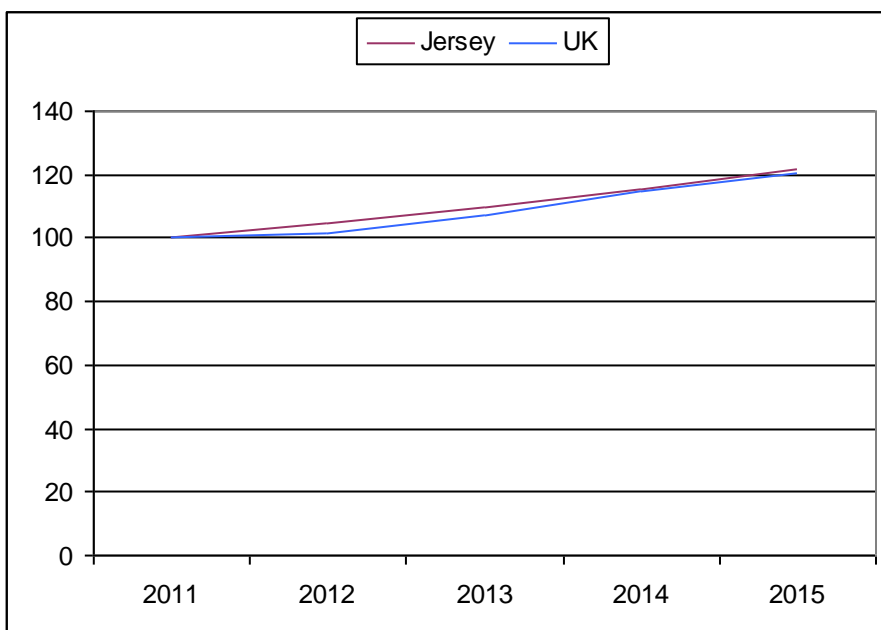


Source: MTFP/OBR Economic and Fiscal Outlook

Chart 3 shows that the growth in corporate and personal income tax forecast as a result of these trends in the UK and Jersey economies is also very similar.

### Chart 3: Trends in UK and Jersey personal and corporate income tax

Index 2011=100, nominal trends



Source: MTFP/OBR Economic and Fiscal Outlook

These comparisons show that the assumptions underpinning the MTFP are both suitably cautious and balanced given the global economic situation. They were based on the latest forecasts from the FPP, rolled forward on the basis of a fairly average economic performance – in line with the approach taken elsewhere.

When forecasting Income Tax receipts, 3 scenarios are predicted - pessimistic, central and optimistic. The central scenario has been adopted in the MTFP and will be adopted in the Budget.

Income Tax accounts for 70% of total States income (£450 million out of £647 million in 2013) and the latest Labour Market report show total employment is at its highest level for 15 years. In only one of the last 5 years (2010) have Income Tax receipts fallen short of the forecast, and even in 2010 receipts exceeded the forecast in the 2010 Budget.

It is already apparent that 2012 Income Tax receipts will exceed the forecast by at least £7 million and there are likely to be a small number of large settlements of complex cases.

Receipts from GST, Impôts and Stamp Duty in 2012 are proving less robust than income tax receipts and the forecasts in the MTFP reflect this. However the slight downturn in these receipts is more than compensated for by buoyant income tax receipts. At the end of July Income Tax is forecast to be £21 million up on the 2012 Budget with GST, Impôts and Stamp Duty down £3.3 million, £2.9 million and £1.6 million respectively. Overall income is projected at £1.4m above the 2012 forecast in the MTFP. We monitor GST, Impôts and Stamp Duty throughout the year and amend our forecasts in the light of actual receipts. This means we could decide to adapt spending plans if income from these sources appears to be worse than anticipated.

Our own independent experts the FPP will publish their annual report in October which will include more up to date economic forecasts and it is important we see what their advice is on what this means for the approach taken in the MTFP. The Council of Ministers will listen closely to their views and if the FPP advise that a different approach is required we will consider bringing appropriate amendments to the MTFP.

Growth forecasts are a useful part of our financial planning and will not require significant changes in our tax system.

## **2.5 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE HISTORIC ABUSE REDRESS SCHEME:**

### **Question**

With reference to the Historic Abuse Redress Scheme will the Chief Minister advise

- (a) the number of claims that that have been submitted for compensation up to the close of business on 3rd September 2012;
- (b) how many claims have been fully settled;

- (c) how many claims are still under investigation and an estimate as to when he believes they are likely to be settled;
- (d) how many claims have been rejected and the grounds for each rejection;
- (e) how many claimants have been asked to agree to a psychiatric and/or psychological harm report being compiled on them and whether any have refused and if so how many;
- (f) details of the people/organisations undertaking these psychiatric/psychological harm reports, their experience and qualifications and the exact instructions or guidance issued to them by or on behalf of the States of Jersey when determining their assessments.

Would the Minister confirm:

- (i) whether all claims will be accepted under the Scheme regardless of the identity or status of the alleged abuser;
- (ii) that, in order to qualify under the Scheme, applicants do not have to meet an evidential burden more exacting than if they had been brought in civil proceedings?

**Answer**

- (a) The Scheme remains open until 30th September 2012 and claims are being received on a regular basis. The number of application forms received by close of business on 3rd September 2012 was 91.
- (b) The Scheme is still open and so the focus is presently on processing and advancing new claims. At the present time, 5 claims have been settled.
- (c) The rest of the claims therefore remain to be considered and more claims are expected in advance of the deadline of 30th September 2012 being reached. It is likely that most claims will be settled in 2013.
- (d) No claims have been rejected at this stage.
- (e) The matter of whether a report is required is one discussed between the Scheme Lawyers and the claimant or their appointed lawyer. Approximately twenty claims are currently in the process of reports being prepared by agreement with the claimant or their legal advisor. In one case, as a result of the ill health of the claimant, matters proceeded without a report and by agreement between the Scheme Lawyers and that claimant's own lawyer. No claimant has refused a report.
- (f) The psychiatrists appointed to prepare reports were appointed with the agreement of lawyers acting for the claimants. The terms of any appointment are discussed and agreed between the Scheme Lawyers and the claimant or their lawyer.

- (i) The decision to accept or reject any individual claim does not rest with the Chief Minister.

The question is ambiguous. The identity or status of the alleged abuser is only relevant as to whether the claim falls within the scope of the scheme. The Scheme was devised to address abuse alleged to have taken place in full time residential care. A number of claims have raised issues by virtue of where the abuse is alleged to have taken place. These are matters that the Scheme Lawyers are referring to the Council of Ministers in October 2012 for clarification of the appropriate scope of the Scheme.

- (ii) The Scheme Lawyers are responsible for reviewing and assessing claims, including evidential matters, and then making recommendations. The Scheme was established in the knowledge and belief that these claims would very likely fail in Court proceedings for a number of reasons. It is not intended for the Scheme to be run as a process akin to Court proceedings therefore, and as a matter of principle, the evidential burden being applied is less exacting than in civil proceedings. However, each claim is reviewed to ensure, so far as possible, its reliability.

## **2.6 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE VETO POWERS OF THE ROYAL FAMILY IN RELATION TO LEGISLATION:**

### **Question**

Will H.M. Attorney General advise the Assembly whether Her Majesty the Queen or any other senior member of the Royal Family have the power directly to see, amend or veto any legislation enacted by the States of Jersey in addition to the powers she has conferred on her Privy Council?

### **Answer**

By an Order in Council of 28th March 1771 any laws to remain in force in Jersey for longer than three years require the sanction of the Sovereign in Council. The Privy Council's Committee called the Council for the Affairs of Jersey and Guernsey (the "Committee") is appointed at each succession of a new monarch and acts as the advisory body to the Crown.

In accordance with Her Majesty the Queen's General Order of Reference of 22nd February 1952 there stand referred to the Committee all Acts and Laws passed or to be passed by the legislature of the Island of Jersey and submitted to Her Majesty in Council for Her Majesty's approval. Her Majesty the Queen does not act independently of the Privy Council in this regard, and in the opinion of the Attorney General no other member of the Royal Family has any such power.

With regard to Her Majesty the Queen's ability to see legislation enacted by the States of Jersey, it should be noted that Her Majesty the Queen attends Privy Council meetings. Additionally, any two Counsellors of State may attend Privy Council meetings in the absence of Her Majesty the Queen. Counsellors of State are presently The Duke of Edinburgh, The Prince of Wales, The Duke of Cambridge, Prince Harry of Wales and The Duke of York. It should of course be noted that, between legislation being enacted by the States of Jersey and sanctioned by Her Majesty in Council, copies of draft legislation, together with comments, amendments and transcripts of proceedings in the States with regard to that legislation will be publicly available on the States Assembly website and anyone can therefore see legislation passed by the Assembly.

Standing Order 169 of the Standing Orders of the States of Jersey provides that “When a draft Law has been adopted by the States in 3rd reading the Greffier shall ensure that the draft Law is sent to the Clerk to Her Majesty in Council.” Reference in Jersey law in this regard is consistently to her Majesty in Council.

The power of Her Majesty the Queen is the power of the sovereign. Only the sovereign, acting through her Privy Council has any power in the approval of Jersey legislation. In the opinion of the Attorney General, neither Her Majesty the Queen nor any other senior member of the Royal Family has the power directly to amend or veto any legislation enacted by the States of Jersey.

**2.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE APPOINTMENT OF THE CHAIRPERSON OF THE JERSEY CHILD CARE TRUST:**

**Question**

Will the Minister advise the Assembly why he has appointed the former Directorate Manager of Social Services to be the Chairperson of the Jersey Child Care Trust (R.105) bearing in mind that she and/or her Department’s role may, or may not, be considered in the forthcoming inquiry into Haut de la Garenne?

Does the Minister not think that it would have been wiser to await the Committee of Inquiry’s Report before appointing anyone formerly employed in this area of States work to such an important position?

**Answer**

The recruitment to this post was carried out in line with the Nolan Principles which relate to high-level honorary and voluntary positions.

This appointment was overseen by the Appointments Commission in whom I have confidence.

I am not aware of any reason why the appointment should not have been made.

**2.8 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE FULL COSTS OF THE LOW VALUE CONSIGNMENT RELIEF CASE:**

**Question**

Further to his response on 26th June 2012, will H.M. Attorney General advise the Assembly whether the full costs of the recent failed Low Value Consignment Relief case are now known, and if so, will he set out the costs to Members breaking them down into their various elements and explain how the £85,000 contribution towards these costs, provided by members of the Fulfilment Industry, was determined?

**Answer**

It is still not possible to give a figure for the full costs of the LVCR judicial review proceedings because HMRC’s final bill of costs has not yet been submitted.

Detail on costs breakdown between Jersey's solicitors and both leading and junior Counsel, as well as total hours claimed, was provided in the Attorney General's answers to Written Questions 6947 and 7029.

The Attorney General had no involvement in the discussions relating to contributions that might be made by members of the fulfilment industry. Contributions from industry were co-ordinated by the Economic Development Department.

## **2.9 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING SIMILAR FACT EVIDENCE:**

### **Question**

Will H.M. Attorney General set out the legal position in Jersey on the application of similar fact evidence and in particular what considerations his office would have to take into account when seventeen or more people allege that a particular individual has committed a similar crime against them? Will he also set out any differences between the application of, or criteria used for, similar fact evidence in Jersey and in England and Wales?

### **Answer**

In all cases which are referred to the Attorney General for consideration as to whether it is right to prosecute an individual there is a two stage test. Firstly, the Attorney General needs to be satisfied that the evidence disclosed by the papers provides a realistic prospect of conviction and secondly, but only if a case passes the evidential test, whether a prosecution is in the public interest.

Each case depends on its own particular facts and, in cases where there are several allegations made against an individual, the evidence in relation to each allegation needs to be considered separately. In order to assess the likelihood of proving a case to the criminal standard, one will always need to assess the reliability, credibility and consistency of the evidence. Although as a matter of law there is no requirement for the corroboration of an allegation made by a complainant, if an offence is not admitted by a suspect, in determining whether there is a realistic prospect of a conviction the Attorney General will also look for other evidence which corroborates the allegation. Such corroboration may come from a variety of sources, for example, independent witnesses or forensic evidence.

Evidence which tends to suggest that a defendant has been guilty of misconduct other than that for which he is on trial or that he has a disposition or propensity to commit offences of a particular type is not normally admissible in evidence against him at his trial in Jersey.

The type of evidence which is referred to by the expression "Similar Fact Evidence" may arise in two ways. Firstly, a court in Jersey may grant leave to the prosecution to adduce evidence of a defendant's previous misconduct. Secondly, in circumstances when a judge directs a jury or Jurats that the evidence given by one complainant in a case may provide support to the evidence given by another complainant in the same case. In the first situation there needs to be a strong similarity between the specific circumstances of an allegation against an accused and the specific circumstances of an earlier or separate incident. Before allowing the evidence to be put before the court, the court has to be satisfied firstly that it is relevant and secondly that the probative value of the evidence outweighs the prejudicial effect of permitting a court to hear evidence of other misconduct committed by an accused other than that for which he is on trial. It is not sufficient that an accused has been previously charged with or convicted of the same type of offence.

In the second situation, in considering whether it would be right for a judge to direct a jury or Jurats that the evidence of one complainant in a case may provide support for the evidence of another

complainant, the judge must determine whether there is material before the court upon which a jury or the Jurats would be entitled to rely on in deciding that the evidence given by one complainant is so related to the evidence given by another such that the evidence of the first complainant provides strong support for the evidence of the second victim notwithstanding its prejudicial effect. In this type of situation, what is important is not so much the number of complainants but the quality of their evidence, its relevance to the case and the similarity of the allegations which they make.

The Attorney General reiterates, as do all the leading authorities on this topic, that every case will depend on its own individual facts and, in deciding whether to allow the prosecution to adduce evidence of similar facts or in determining what, if any, direction to give to a jury or the Jurats, the judge will take into account the particular circumstances of each case.

That is the position in Jersey. The position in England and Wales is now different. As I understand it, as a result of changes brought about by the Criminal Justice Act 2003, since 2005 courts in England and Wales have been able to admit in evidence the previous conduct and offences of an accused where it is important explanatory evidence or when it is relevant to an important matter at issue in the case. This includes allowing the prosecution, with leave of the court, to adduce evidence that an accused has a propensity to commit offences of the kind with which he or she is charged. It is now not uncommon in trials in England and Wales for a jury to be made aware of some of the previous convictions or conduct of an accused where it is relevant to the case

**2.10 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING A BREAKDOWN OF JERSEY TOURISM'S ADVERTISING COSTS:**

**Question**

Will the Minister provide a breakdown of expenditure on advertising to promote Jersey tourism outside the Island (including country by country and in the varying media) for 2011 and 2010?

**Answer**

The advertising expenditure breakdowns by country and media selection are provided below.

<b>Advertising Media Spend 2010</b>	
<b>UK</b>	
National Billboard Campaign	£120,000
National and Regional Press, Magazines, Supplements and brochure Panels	£586,000
Magazine inserts & Online Banner Advertising	£75,435
Classic FM Radio & Email promotion	£103,000
Digital, including Pay Per Click (PPC) <sup>1</sup>	£155,000
TV	£250,000
Direct Marketing Campaign	£55,000
<b>UK total</b>	<b>£1,344,435</b>
<b>France</b>	
Billboards	€57,848 (c. £48,300)
Digital, including PPC, Social Media advertising, online display ads	€27,500 (c. £23,000)
Channel Islands joint email campaign (France)	€10,632 (c. £8,900)
Press Advertising	€37,823 (c. £31,600)



<b>France Total</b>	<b>€133,803 (c£111,800)</b>
<b>Germany</b>	
Radio	€145,000 (c. £121,000)
Consumer eNewsletters	€3,600 (c. £3,000)
Tour Operator Support	€39,350 (c. £33,000)
<b>Germany Total</b>	<b>€187,950 (c £157,000)</b>
<b>Total advertising expenditure 2010</b>	<b>£1,613,235.</b>

<sup>1</sup>Excludes email campaigns which are completed in-house and do not incur media purchase

<b>Advertising Media Spend 2011</b>	
<b>UK</b>	
National and Regional Press, Magazines, Supplements and brochure Panels	£290,000
Digital, including Pay Per Click (PPC) and social media advertising <sup>2</sup>	£190,000
TV	£1,075,000
<b>UK total</b>	<b>£1,555,000</b>
<b>France</b>	
Billboards	€73,000 (c. £63,950)
Digital, Including PPC, Social Media advertising, online display ads, excludes Jersey iPhone app	€75,000 (c. £65,700)
<b>France Total</b>	<b>€148,000(c129,650)</b>
<b>Germany</b>	
Radio	€65,000 (c. £56,000)
Email campaign	€6,000 (c. £5,250)
Joint marketing activity with Air Berlin /Lufthansa	€35,000 (£30,500)
<b>Germany Total</b>	<b>€106,000 (c £91,750)</b>
<b>Total advertising expenditure 2011</b>	<b>£1,776,400</b>

<sup>2</sup>Excludes email campaigns which are completed in-house and do not incur media purchase

**2.11 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING MONIES RECEIVED FROM THE SALE OF PUBLIC LAND:**

**Question**

Will the Minister advise of the total sum received from the sale of public land at Les Quennevais Park and Clos des Sables over the past 20 years, including a breakdown of each transaction by date, amount and beneficiary?

**Answer**

Jersey Property Holdings' records of transactions at Les Quennevais Park and Le Clos des Sables estates show that the total sum received was £1,569,695.

A breakdown of each transaction by date, amount and beneficiary is set out as follows:

<b>Date</b>	<b>Amount</b>	<b>Beneficiary</b>	<b>Note</b>
16 10 1998	£ 500	Housing Department	Sale of strip of land
29 06 2001	£ 10	Housing Department	Sale of land for sub-station
25 04 2008	£266,250	Housing Department	Sale of house
27 06 2008	£360,000	Housing Department	Sale of house
23 04 2010	£ 35,000	Treasury & Resources Department	Sale of land parcel
05 09 2010	£ 17,500	Treasury & Resources Department	Sale of land parcel
19 11 2010	£345,000	Housing Department	Sale of house
15 04 2011	£ 11,493	Treasury & Resources Department	Transfer from long leasehold to flying freehold
15 04 2011	£ 17,293	Treasury & Resources Department	Transfer from long leasehold to flying freehold
15 04 2011	£ 14,393	Treasury & Resources Department	Transfer from long leasehold to flying freehold
15 04 2011	£ 11,493	Treasury & Resources Department	Transfer from long leasehold to flying freehold
15 04 2011	£ 17,293	Treasury & Resources Department	Transfer from long leasehold to flying freehold
15 04 2011	£ 14,293	Treasury & Resources Department	Transfer from long leasehold to flying freehold
15 04 2011	£ 11,493	Treasury & Resources Department	Transfer from long leasehold to flying freehold
15 04 2011	£ 11,493	Treasury & Resources Department	Transfer from long leasehold to flying freehold
15 04 2011	£ 15,293	Treasury & Resources Department	Transfer from long leasehold to flying freehold
15 04 2011	£ 11,493	Treasury & Resources Department	Transfer from long leasehold to flying freehold
15 04 2011	£ 11,493	Treasury & Resources Department	Transfer from long leasehold to flying freehold
27 04 2011	£ 11,493	Treasury & Resources Department	Transfer from long leasehold to flying freehold
06 05 2011	£ 11,493	Treasury & Resources Department	Transfer from long leasehold to flying freehold
10 06 2011	£ 11,493	Treasury & Resources Department	Transfer from long leasehold to flying freehold
10 06 2011	£ 11,493	Treasury & Resources Department	Transfer from long leasehold to flying freehold
10 06 2011	£ 11,493	Treasury & Resources Department	Transfer from long leasehold to flying freehold
10 06 2011	£ 16,993	Treasury & Resources Department	Transfer from long leasehold to flying freehold
10 06 2011	£ 16,493	Treasury & Resources Department	Transfer from long leasehold to flying freehold
10 06 2011	£ 11,493	Treasury & Resources Department	Transfer from long leasehold to flying freehold
11 11 2011	£ 11,493	Treasury & Resources Department	Transfer from long leasehold to flying freehold

10 02 2012	£ 15,500	Treasury & Resources Department	Sale of garage
03 08 2012	£ 8,690	Treasury & Resources Department	Transfer from long leasehold to flying freehold
03 08 2012	£ 11,721	Treasury & Resources Department	Transfer from long leasehold to flying freehold
03 08 2012	£ 18,027	Treasury & Resources Department	Transfer from long leasehold to flying freehold
03 08 2012	£ 12,328	Treasury & Resources Department	Transfer from long leasehold to flying freehold
03 08 2012	£ 8,690	Treasury & Resources Department	Transfer from long leasehold to flying freehold
03 08 2012	£ 10,711	Treasury & Resources Department	Transfer from long leasehold to flying freehold
03 08 2012	£ 16,460	Treasury & Resources Department	Transfer from long leasehold to flying freehold
03 08 2012	£ 10,711	Treasury & Resources Department	Transfer from long leasehold to flying freehold
03 08 2012	£ 10,711	Treasury & Resources Department	Transfer from long leasehold to flying freehold
03 08 2012	£ 15,171	Treasury & Resources Department	Transfer from long leasehold to flying freehold
03 08 2012	£ 19,178	Treasury & Resources Department	Transfer from long leasehold to flying freehold
03 08 2012	£ 11,721	Treasury & Resources Department	Transfer from long leasehold to flying freehold
03 08 2012	£ 16,467	Treasury & Resources Department	Transfer from long leasehold to flying freehold
10 08 2012	£ 11,721	Treasury & Resources Department	Transfer from long leasehold to flying freehold
10 08 2012	£ 11,721	Treasury & Resources Department	Transfer from long leasehold to flying freehold
17 08 2012	£ 10,711	Treasury & Resources Department	Transfer from long leasehold to flying freehold
17 08 2012	£ 18,872	Treasury & Resources Department	Transfer from long leasehold to flying freehold
17 08 2012	£ 10,711	Treasury & Resources Department	Transfer from long leasehold to flying freehold
17 08 2012	£ 11,721	Treasury & Resources Department	Transfer from long leasehold to flying freehold
17 08 2012	£ 11,721	Treasury & Resources Department	Transfer from long leasehold to flying freehold
17 08 2012	£ 10,711	Treasury & Resources Department	Transfer from long leasehold to flying freehold

## **2.12 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING LOW VALUE CONSIGNMENT RELIEF AND THE FULFILMENT INDUSTRY:**

### **Question**

Following the loss of the recent Low Value Consignment Relief case will the Minister advise the Assembly how many firms engaged in the fulfilment industry have as a consequence of this loss:

- (a) have relocated their business and left Jersey;
- (b) have gone out of business;
- (c) have laid off staff - giving precise figures as to how many staff?

### **Answer**

The figures below are based on preliminary analysis of June manpower returns compiled by the Population Office relating to changes in employment that have occurred between June 2011 and June 2012 in fulfilment companies and related service industries. This information does not specifically identify any reason for changes in staff numbers. The official manpower return figures will be published by the Statistics Unit Population Office.

According to information available to the Department:

- (a) No companies relocated their business between June 2011 and June 2012. However, there is anecdotal evidence that businesses that are registered here have established offices in other non-EU jurisdictions.
- (b) 1 company has gone out of business between June 2011 and June 2012. However, there is anecdotal evidence that some companies still registered here have reduced staff in Jersey and increased staff levels in offices in other non-EU jurisdictions.
- (c) 19 companies have reduced their employee numbers over the period by 421. During the same period 4 companies increased their employee numbers by 18, with the net change in employment over the period and across the sector being 403.

It should be noted that LVCR still existed until the end of March during the period to which the information refers. Given business cycles, we do not expect to see the full impact of the removal of LVCR until the manpower returns of June 2013.

**2.13 DEPUTY M. TADIER OF ST. BRELADE OF THE CHIEF MINISTER REGARDING THE IMPLEMENTATION OF THE FREEDOM OF INFORMATION (JERSEY) LAW 2011:**

**Question**

Will the Chief Minister explain to the Assembly his plan for the implementation of the Freedom of Information (Jersey) Law 2011 stating in particular his timetable for implementation and where in the Medium Term Financial Plan he has made provision for the necessary expenditure?

**Answer**

In addition to the £500,000 already allocated from the Central Reserve to commence implementation of the Freedom of Information (Jersey) Law, 2011, provision has been made within the £16m "Emerging Items" Contingency in the Medium Term Financial Plan. The intention is to implement the Law in 2015.

The Council of Ministers is due to be briefed on progress and approach in October 2012 and, in the same month, the Chief Minister will update the Privileges and Procedures Committee on this matter. As implementation plans are finalised, more detailed information will be placed in the public domain.

**2.14 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOME AFFAIRS REGARDING THE RELEASE OF THE SOUTH YORKSHIRE REPORT INTO THE CONDUCT OF STATES OF JERSEY POLICE OFFICERS:**

**Question**

Will the Minister agree to publish the South Yorkshire Report into the conduct of officers accused of frustrating enquiries into child abuse allegations and if not why not?

Would the Minister confirm whether one of the officers concerned was subsequently promoted?

**Answer**

In 2008 an internal investigation was conducted by the South Yorkshire Police on behalf of the States of Jersey Police, following an internal allegation that an officer had failed to act

conscientiously and diligently in ensuring that an investigation into allegations of child abuse at the former Haut de la Garenne Children's Home was dealt with in a timely manner.

The South Yorkshire investigation concluded that the file in relation to alleged child abuse should have been brought to the attention of a senior officer sooner. However, there were no issues about the integrity of the officer concerned. It is not appropriate to state the disciplinary outcome of the investigation as such matters are treated as confidential.

However, even if an officer is subject, during their career, to a disciplinary sanction, that will not perpetually preclude them from consideration for promotion, but the circumstances will be taken into account by any appointments board. The officer has subsequently been promoted.

It is not appropriate to publish this report as, generally, police misconduct allegations and investigations are treated as confidential.

## **2.15 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE USE OF HOUSEHOLD MEDICAL ACCOUNTS IN THE INCOME SUPPORT SYSTEM:**

### **Question**

Following his statement on 17th April 2012 in response to a question on the use of Household Medical Accounts (HMAs) in the Income Support system that his officers would continue to review and, as necessary, improve the existing support mechanisms within Income Support (IS), including the use of HMAs, will the Minister inform members what progress, if any, he has made in pursuit of such improvements?

Will he further state how many HMAs are currently in existence and how that number compares with previous years, and confirm that HMAs are not closed against the will of clients?

Will he also confirm that where HMAs cover medical expenses beyond 12 GP visits a year, the HMA is made up of additional payments and is not merely the redistribution of other IS components?

### **Answer**

To reiterate my previous response:

The Income Support system includes mechanisms for supporting the costs of GP visits and other medical costs for low income households.

The Minister for Health and Social Services is currently undertaking a major review of health and social care provision. My officers continue to work very closely with HSSD officers on this project which is likely to involve major changes in the way in which primary health care is provided in the community by GPs and other health professionals and how this care is funded.

It is likely that legislative changes to Income Support will be needed in the next few years to support the outcomes of the Health review as it affects the provision and funding of primary care services.

Whilst the Health review is in progress, my officers continue to review and, as necessary, improve the existing support mechanisms within Income Support, including the use of Household Medical Accounts.

The most recent action in this area was included as part of the latest amendments to the Income Support regulations (P.56/2012), agreed on 17th July. These included an increase in the value of the component that assists individuals with the cost of GP visits. Clinical cost components levels 1

and 2 were increased from £3.01 to £3.15 per week and from £6.02 to £6.30 per week respectively. This increase of 3.5% is set against a background of very limited increases in other benefit rates this year and ensures that low income individuals with a chronic medical condition are supported with GP costs.

The following table shows the number of HMAs in use by Income Support households.

<b>Date</b>	<b>Number of claims using an HMA</b>
31/12/2010	1,661
31/12/2011	1,429

At the start of Income Support, the majority of households previously holding HIE status were provided with an HMA, to assist them in the transition to the new system. The number of these households will slowly reduce over time. This will be due to the death of some elderly claimants, as well as younger claimants no longer requiring Income Support. In addition, some households previously with HIE status do not have any ongoing medical needs, and their claims have been reviewed and adjusted to their current status.

If a balance of funds has built up in the HMA (as the household members have not needed as many doctors' visits as anticipated), an HMA may be closed and the remaining balance is then repaid to the claimant. If a claimant in this situation requests that the HMA should remain open, the Department will normally provide for this, in particular, if medical evidence is received to support the continued need for the HMA.

I can confirm that HMA weekly savings can only be made from existing Income Support entitlement, which can include non-clinical cost components where appropriate, as this is the purpose of the HMA scheme. There are no additional payments available on a weekly basis. However, the Special Payments Regulations provide for lump sum payments in respect of a range of expenses, including medical expenses (regulation 3(1)(e)), where the claimant has no other means of meeting this cost. Such lump-sum special payments are used on a regular basis to support claimants who also hold HMAs.

The HMA is an administrative tool to assist claimants who might otherwise find it difficult to budget for the cost of GP visits. If an individual does not wish to use an HMA, there is no requirement for them to do so and they can receive the full value of their Income Support benefit, including any clinical cost components directly.

## **2.16 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE WILCOX REPORT:**

### **Question**

Will the Minister state when he expects to receive the completed report of Professor Wilcox into the social impact of the plan to incorporate social rented Housing provision and will he give an assurance that this report will be made available to members before any Housing proposals are debated by the Assembly?

## **Answer**

Professor Steve Wilcox, working as an Associate for Sector Treasury Services Limited, was engaged by my Department as part of a joint review with the Social Security Department of rent policy and housing component of Income Support.

The Professor's draft report made proposals for changes in the relationship between social housing rents and income support levels which are not being pursued by the Department of Social Security. However, once the Minister for Social Security releases his preferred policy it will probably be appropriate to release the Professor's report, as this has informed development of the proposed rent policy.

It is anticipated that both broad rent policy and income support proposals will both be published later in the autumn.

### **3. Oral Questions**

#### **3.1 Deputy J.A. Martin of St. Helier of the Minister for Transport and Technical Services regarding the loss of parking at Green Street:**

Can the Minister confirm whether his department will receive compensation for the loss of parking at Green Street and, if so, identify how much this will be for, from which revenue budget this will come and whether it relates to just the 91 spaces which will be lost or will it take into consideration the loss of revenue had the car park been extended as planned?

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

I can confirm that early discussions have been held between T.T.S. (Transport and Technical Services) and Treasury regarding the loss of revenue to the Jersey Car Park Trading Account and it is currently proposed, should the police headquarters development proceed, that the Trading Account's annual return to Treasury will be reduced by £100,000.

[9:45]

This sum relates solely to the loss of parking revenue at Green Street Car Park and does not take any account of opportunity of costs relating to any other potential future uses of the site. Should the police headquarters development be approved, responsibility for the land will be internally transferred within the States at its current value as a surface car park to Jersey Property Holdings, when it will subsequently be re-valued as office development land. There will be no impact on the States' finances as a result of this internal land transfer.

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

Just to clarify, will the £100,000 continue until the land is re-valued or continue indefinitely for the 91 spaces?

#### **Deputy K.C. Lewis:**

It will be an annual return to the Treasury. It will be reduced by £100,000.

#### **3.2 Deputy S. Pitman of St. Helier of the Minister for Home Affairs regarding the publication of the affidavit submitted to the Wiltshire investigation by the former Chief of Police:**

Will the Minister explain why he has not yet made public the 62,000-word affidavit submitted to the Wiltshire investigation by the former Chief of Police and advise when it will be published?

**Senator B.I. Le Marquand (The Minister for Home Affairs):**

As a follow-on from previous answers, I needed to obtain specialist legal advice on the issue of libel. That advice was that, as I was not under any legal duty to make the statement - it is a statement, not an affidavit - public, the risks of a libel action were substantial. As a result of this, it became clear that there would need to be substantially more redaction of the document, probably with whole sections being redacted. Indeed I wondered whether it might be better to ask the former Chief of Police to rewrite his statement so as to explain his position while omitting the potentially libellous references. However, during the summer there was a further development with what purports to be the majority of the statement being placed with minimal redaction on a blog site. In the light of this I cannot now properly proceed with this task as originally envisaged because any person reading a fully redacted version could then find elsewhere the full text, which would completely defeat the whole purpose of redaction. I have to say that throughout this process, including the disciplinary process, I have constantly faced a situation in which confidential documents have been put into the public domain and this is yet a further example of that.

**3.2.1 Deputy S. Pitman:**

The Minister has twice, in July 2010 and in March 2011, promised Members that he would release reports of the confidential Wiltshire Report. Despite assuring Back-Benchers that he would also publish the Chief of Police's side of the story, more than 2 years on nothing has happened. Does the Minister for Home Affairs not concede that if the affidavit is not now released in full immediately, despite what he has just said, the only conclusion can be that the Council of Ministers has something very disturbing to hide?

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

I must make the position clear. In relation to this situation, I was not under a duty to do this piece of work. I was urged to do so by the former Scrutiny Panel. I decided so to do, so that alongside the Wiltshire Report could stand, for posterity, the former Chief Officer's statements in a redacted form. Redaction was incredibly important because there were all sorts of allegations contained there that should not be in the public domain: references to individuals. I have to think about fairness to the other individuals involved. Now, the fact is that purported versions of the document now do exist on another website. Frankly, I cannot go ahead. It would simply be totally unfair to the people who should have the benefit of the process of redaction. I do, however, still leave open the possibility of going back to the former Chief Officer, as I have mentioned, and saying to him: "Look, we cannot now do this as originally intended because this has been cut across by the irresponsible actions of people who have put an unredacted form into the public domain but would you like, as an alternative, to have the opportunity to produce an alternative statement which takes out the potentially libellous matters?" That, I think, is the very best I can do.

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

The Minister seems to take very seriously this leak which has made the document public, even though it has not officially been released to the public. What action has the Minister considered taking against the individual who has published this information, on the internet presumably, and will he share with us the legal advice and the current position of the Minister?

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

The cat is out of the bag, frankly, in relation to this one and so legal action would be a substantial waste of time. I can only regret, however, that matters unredacted have been put into the public domain in this way, in an utterly irresponsible manner, which is entirely unfair on those who should have had the benefit of redaction.



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

If the Minister is genuinely concerned, as I am sure he is, about fairness to individuals named in the documents without a response, even though now it is in the public domain, will the Minister be pushing for a full Committee of Inquiry into historic child abuse allegations which will also give the opportunity for this document to be given to whoever chairs that commission so that they can look at the facts independently and, if need be, exonerate or corroborate the allegations within that document?

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

No, of course not.

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

The Minister for Home Affairs talks about irresponsibility. Given that this Wiltshire Report was never intended to be put into the public domain - it was confidential and what the Minister did was unprecedented - does he not think that he was very irresponsible himself?

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

It was absolutely vital that the public know, as best as I was able to advise them, of the information from the independent and thorough report of Wiltshire, what had gone wrong in relation to this particular situation. I am very surprised that Deputy Pitman, who is normally in favour of openness, should be suggesting that I should have suppressed this document.

### **3.2.5 Deputy S. Pitman:**

Given that the Minister for Home Affairs felt able to take the unprecedented step of releasing a confidential report intended only for a disciplinary case, can he enlighten us as to why he refuses to do the same with the South Yorkshire Report into concealment of child abuse at the Sea Cadets? Does he not believe in consistency?

### **The Deputy Bailiff:**

I do not think that arises out of this particular question, Deputy; besides which, I think it is the subject of some other question.

### **3.3 Deputy J.H. Young of St. Brelade of the Minister for Social Security regarding proposals for labour intensive public sector infrastructure projects:**

Will the Minister advise the Assembly whether he has already initiated or is actively considering any proposals jointly with other Ministers for undertaking suitable labour-intensive public-sector infrastructure projects such as the maintenance of our coastal paths and conversation sites in order to open interim employment opportunities and, if not, why not?

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

I am pleased to advise the Deputy that proposals and initiatives are being considered. We are very keen to use any opportunities available to help improve the prospects of people who are currently registered as unemployed. The Back to Work team, the Department of the Environment and the Transport and Technical Services Department have been working together to bring forward pilot schemes, which include working on the North Coast Habitat. My department has already made its commitment to such projects clear in the Back to Work bids in the Medium-Term Financial Plan. £1.3 million will be set aside over the 3 years for the implementation of employment projects which improve the employability of those with significant barriers to employment whose access to private sector work placements is limited. It is important that, as well as benefiting the environment and

the wider community, the projects which are developed meet our core aim, which is to improve the prospects of all our clients securing permanent paid employment.

**3.3.1 Deputy J.H. Young:**

I thank the Minister and that is good news, but could I ask the Minister, please, to clarify when he considers those proposals will come to fruition? Will we, for example, see those projects underway this autumn, particularly in the countryside, bearing in mind that there is already a history of such a scheme working under the Committee of Constables in previous years?

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

The answer to the Deputy's question is that I cannot give an assurance because the leaves are already falling and I suspect autumn is only a few days away. However, we are working not only with the departments I mentioned but also with other charitable organisations. I cannot give too much detail at the moment but work schemes of the type that the Deputy is recommending could involve the third sector and also could be put out by contract if appropriate.

**3.3.2 Deputy J.H. Young:**

Will the Minister be prepared to keep the House informed with progress as those schemes come to fruition, because we do not want to lose the opportunity?

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

Yes. The Deputy and the other Members will be aware that, as soon as the Back to Work team develops new schemes, we do make public announcements. Certainly when and if we launch a conservation-type scheme we would keep everybody informed.

**3.3.3 Deputy G.P. Southern of St. Helier:**

Can the Minister inform Members how many real jobs his initiatives have created in 2012 and, in particular, how many apprenticeships have we seen, in the economy, being created in 2011, 2012 and into 2013?

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

Yes, I am delighted to answer that question. Up to today's date, that is January to August and the first few days of September, the department advise me that we have placed 700 people into paid employment across Work Zone, WorkWise, Advance to Work and Advance Plus. The matter to do with apprenticeships does not come under the Back to Work team. It was previously administered by the Economic Development Department and is now the responsibility of the Minister for Education, Sport and Culture.

**3.3.4 Deputy R.G. Le Hérissier of St. Saviour:**

The Minister seemed to imply that there would be occasions when conservation work was not suitable for people and he spoke in a very guarded way. Could he please identify when it is not suitable and give the reasons why not?

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

The people who are currently unemployed come from various professions with various skills and we are very much concentrating on what we call job substitution. What I mean by that is that there are vacancies in the commercial or private sector which are currently, every year, filled by non-locals; people brought perhaps into the Island to fill jobs. We believe that job substitution is the way to secure permanent paid employment for a lot of the people who are currently unemployed rather than schemes which just give people an experience of work but do not lead to paid jobs.

There is a whole mix of skills among the current unemployed and the work scheme on the north coast would not be suitable for some people.

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

Is the Minister saying that conservation work is a one-off kind of work and that there is no necessary continuity to it?

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

Yes, I think I am saying that. There may be continuity in that it may lead to somebody being interested, for example, in working on the land or with a gardening company, but these are not the vacancies that will be created by a work scheme on the north coast. The opportunity is there to create a paid scheme but that is only really sticking a plaster on the issue of unemployment in Jersey.

[10:00]

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

Dealing with something at the moment; with the apprentices that take on these work schemes that you are referring to, Minister, does the employer get a grant towards paying the wages of these young people and, if so, how long does that grant last? Is it one year, 2 years or longer, for the duration of the apprenticeship?

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

The Constable must be careful not to confuse the scheme that we are running, called the Employment Grant Scheme, with apprenticeships, which is a totally different situation. We launched, earlier this summer, the Employment Grant Scheme to encourage employers to take on people who have been unemployed more than 12 months. The employment grant is a total of £7,500. The majority is paid at the end of that first year of employment or, if it is an 18-month contract, at the end of the 18 months. The matter of apprenticeships, as I say, does not come under my responsibility and I could not go into any detail about how the apprenticeships are set up.

### **3.3.7 Connétable J. Gallichan of St. Mary:**

Does the Minister acknowledge that many reports say that being in work is beneficial to people from a psychological point of view and that setting up interim employment opportunities is valuable in its own right, even if training is not directed at the future employment, simply because those people are employed, are in the routine of work and are kept in touch with society that way?

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

I agree with the premise and the principles of what the Constable is stating there. The issue of whether we should be launching more work-type schemes of the type that we are discussing today, for me, is... The departments, as I said before, have been concentrating on placing people through Advance to Work and Advance Plus in the private sector because that is where the job vacancies will be, where the permanent work will be. States departments creating work schemes will not produce long-term employment for people.

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

I was encouraged by the Minister's response until the last set of exchanges, which I find very downbeat in respect of the importance of interim opportunities. I would like the Minister to tell me, particularly in relation to how much recognition he gives to the importance of the environment, how many meetings he has held with the Minister for Planning and Environment to discuss this aspect of the scheme, please.

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

The honest answer to the Deputy is that I have had no meetings with the Minister for Planning and Environment. However, my officers have had numerous meetings with officers of his department and that is where the work is taking place.

**3.4 The Connétable of St. Mary of the Chairman of Privileges and Procedures Committee regarding the response to a breach of the privileges of the Assembly:**

Despite advising me in writing on 3rd August that the Committee had considered that “a serious breach of the privileges of the Assembly” had occurred, will the Chairman advise why, one month on, the Committee has not even written to Members about the incident and will he confirm the Committee’s stance on this matter and advise how it is championing and defending the privileges of States Members?

**Connétable A.S. Crowcroft of St. Helier (Chairman, Privileges and Procedures Committee):**

The Privileges and Procedures Committee considered the complaint to which the question refers at its last scheduled meeting before the summer recess. Given the particular circumstances of the case, the P.P.C. (Privileges and Procedures Committee) concluded that it should seek advice from Her Majesty’s Attorney General before determining its position on the matter. Accordingly, on 6th August I wrote to Her Majesty’s Attorney General. States Members will be notified of the outcome of the relevant complaint once the Attorney General’s advice has been received.

**3.4.1 The Connétable of St. Mary:**

In fact the Chairman’s letter to me just simply said that there was no real point in pursuing the matter because the information had already been in the public domain for some weeks. Surely this does not back up the importance of having had a leak of privileged information in the first place and the Chairman did advise me that he would be writing to States Members deploring the action. I have yet to see such letter.

**The Connétable of St. Helier:**

I thank the Constable for her further question and indeed the minutes of the meeting to which I have referred do indicate the Committee’s stance that she asked for and indeed it is reflected in the constitution of the Privileges and Procedures Committee that we should indeed champion good procedure by States Members, good conduct and defend the privileges of Members, but I would refer the Constable to the minutes of 25th July, which are quite extensive and set out the Committee’s view. As I say, we felt it was worthwhile seeking Her Majesty’s Attorney General’s views before putting our position in writing to Members.

**3.4.2 Deputy T.M. Pitman:**

Given the continued slide into secrecy in recent years - only today I believe we were due to have an unprecedented top-secret super-injunction hearing next door aimed at crushing the rights of citizens, media and freedom of speech - does the Chairman not believe that the best message to put out now would be for P.P.C. to bring proposals to scrap in-camera debates and move to complete openness, upon from on issues such as national security?

**The Connétable of St. Helier:**

I think to state a view on in-camera debates by the Committee now would be premature. It is not something I have discussed with my fellow members. However, I can advise the States that, following this leak of an in-camera transcript on a blog site, the Greffier, following consultation with the Bailiff, has put in place a much tighter policy for Members’ access to in-camera

transcripts. So I believe that what happened - and which I deplore - will not happen again because it would be very difficult for a Member, unless they have the memory powers of McCauley, to go into a transcript and come away with a full version.

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

Unless my memory plays tricks on me, which it could because of my increasing age, there was a very similar leak from an in-camera debate a few years ago by the *Jersey Evening Post*. Was the same process undertaken then by P.P.C.?

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

I would have to take advice. I was not Chairman at the time.

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

My question is irrelevant as the subject of this serious breach has become apparent to me.

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

The breach occurred at the end of June. The P.P.C. meeting was at the end of July. The letter from the Chairman was on 3rd August. We are now at 11th September. Does the Chairman think that the length of time for which the information has been in the public domain should really be an influencing factor on the severity of the response or is it simply saying that if you are going to breach parliamentary privilege you should do so when the Committee is not due to meet for several weeks?

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

I can only reiterate my suggestion that the Constable looks at the extensive minutes of that meeting in which she will see that the Committee took a very strong line over the leak and indeed the measures that have been put in place will now prevent a similar leak from taking place. So we feel that the delay occasioned by the summer recess and our need to get advice from Her Majesty's Attorney General more than justifies the time taken. I understand that we are going to get a reply to our letter very soon and, of course, I will then write very promptly to States Members as we said we would.

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

Could I just ask the Chairman is that a part B item? Are the minutes published?

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

Yes, that is a part B minute but I do not believe I have quoted from it. I have merely told the Constable what we are doing.

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

The question, Connétable, is it is not easy for the Connétable to read it. That was the point.

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

I will take advice from my committee and find out whether the Constable would indeed be able to read it. I see nothing in the minute which is so sensitive that the Constable, as a previous chairman of the committee, should not have access to.

### **3.5 The Connétable of St. John of the Minister for Economic Development regarding a Tourism grant of £56,000 to the Jersey Rugby Club:**

Further to Economic Development's provision of £75,000 worth of sponsorship to the Jersey Rugby Club before the summer recess, would the Minister confirm whether a further tourism grant of £56,000 has been made and, if so, explain who sanctioned this and whether the grant was supported by the Jersey Sports Council?

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

In June 2012 an infrastructure grant of £56,000 was agreed from the T.D.F. (Tourism Development Fund) as a contribution towards the total cost of construction of a new stand at the Jersey Rugby Club in St. Peter. The decision to support this investment was made by the independent private-sector-led T.D.F. panel. They did not seek advice from the Jersey Sports Council because their remits are separate and distinct. The remit of the T.D.F. is to develop tourism. The remit of the Jersey Sports Council is to develop sport.

**3.5.1 The Connétable of St. John:**

Given the Minister's admission that the Sports Council is not involved, will the Minister confirm that a deal has been done with the rugby club over 3 years for something to the tune of approximately £75,000 a year for a 3-year term? Is that correct?

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

It is partly correct. Yes, there is an agreement for 3 years with a break at one year based on performance. I think I have said to Members before, we are going to assess the benefits that are derived from this sponsorship package. It is entirely different, of course. There should not be correlation between grants to sports bodies and indeed support to the economy and tourism, which is the purpose of the sponsorship deal. But, yes, there is a break clause based on performance.

**3.5.2 The Connétable of St. John:**

Sir, can I follow that up? Given that the Minister, I understand, is a member of the rugby club, is it right - because he has a pecuniary interest here - that the Minister should be answering these questions in the first instance or, in fact, having any influence whatsoever as the Minister for Economic Development who has to finally sanction everything that goes out of States spending? Is it right that he should be in that position and should that not in fact be his Assistant Minister dealing with these particular questions?

**The Deputy Bailiff:**

What is the nature of the pecuniary interest?

**The Connétable of St. John:**

Being a member of the club, he is a beneficiary of that club.

**The Deputy Bailiff:**

It is an interest that is shared with all the other members of the rugby club. Minister, do you wish to say anything about that?

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

It is very difficult to know what to say to that. All I perhaps could add is that I am not currently a member of the club. I was a member of the club last season. I had 2 sons who were members of the academy. Currently that is not the case.

**The Deputy Bailiff:**

Are you asking me for a ruling, Connétable?

**The Connétable of St. John:**

Yes, please, Sir.

**The Deputy Bailiff:**

Very well. I rule that there is nothing wrong with the Minister answering the questions. I do not regard it as a direct financial interest.

**3.5.3 Deputy R.G. Le Hérissier:**

Would the Minister not concede that by giving the grant to the rugby club and by, quite rightly, acknowledging its success he has opened the door to other clubs who do an excellent job of promoting tourism and sport at the same time? There is not, as he is suggesting, a line between the 2 in many cases. Therefore, is he encouraging other clubs to apply on the same basis?

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

The Deputy is right in many respects. I would be delighted to see other clubs reach the same level of success as the Jersey Rugby Club. I think we need to be clear about one point and that point is the fact that the Jersey Rugby Club achieved the position they are in now, playing at the level that they are now, by themselves, by getting private-sector sponsorship. They have been incredibly successful. What we have done is we have ridden on the coattails of the success of the Jersey Rugby Club in order to derive benefit for the wider economy and I think that is a great thing. I would like to see other clubs be as successful.

**3.5.4 Deputy G.P. Southern:**

Will the Minister accept that there appears to be a lack of joined-up thinking between his department and Education, Sport and Culture? Whilst Education, Sport and Culture is reducing grants to athletics, to football and to other sports, and therefore reducing the opportunities for people arriving in this Island on tour, his department is funding tourism through the Tourism Development Fund where Education, Sport and Culture are reducing tourism through other sports.

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

No, I am afraid I do not agree with the Deputy at all. First of all, the Council of Ministers and indeed the Minister for Education, Sport and Culture and I are very joined up on matters such as this. The Deputy may be interested to know that in fact my understanding is that sports grants in total increased in 2011 over 2010, but I am sure that point can be confirmed later.

[10:15]

**3.5.5 Deputy M. Tadier:**

Would the Minister just remind Members what they are getting in terms of value for money by promoting a very successful rugby team in the U.K. (United Kingdom) and what kind of exposure Jersey Tourism is getting for that? Would he also confirm that, if it was not a rugby team that was doing well but rather a football team that was perhaps in the championship in the U.K., he would also make the same decision even though he has no direct or indirect interest in the football team?

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

I do not think the last comment was necessary but, as far as other sports, I think I have made that point. Quite simply, yes; if there is another club in this Island who can reach the same level of success as the Jersey Rugby Club we would like to talk to them. We want to look at the opportunities of ways to promote Jersey in niche markets. What we must remember with the Jersey Rugby Club is they play largely off-season. So we are attracting people to the Island at a time when businesses locally need a boost and they need support and they are getting it. We have seen already from the Leicester Tigers match, 500 people came to the Island. We know 40 have already

booked to come again in January. We know from the Cornish Pirates there were over 400 people. What we also know, which is very important, is that these people are not staying for just one or 2 days, which we initially thought when we were discussing this package. These people are staying for between 3 and 7 days. They are treating Jersey as the most lucrative and exciting destination on the championship round. They are coming here. They are having their holiday or a short break here as well and they are investing in our economy. That is positive. The second part of the question, as far as promotional activity, we are leveraging with the destination where most of the championship clubs come from. So we are advertising those areas and we are driving additional traffic as a result. We have promotional jersey.com on the shirts. There is a range of different packages that are being used to promote the Island as a result of this package.

### **3.5.6 Connétable D.J. Murphy of Grouville:**

The Minister, in fact, has virtually answered what I was going to ask him. I was going to suggest that perhaps the Constable of St. John might like to visit the rugby club when we have a home match here and talk, as I do, to the visiting spectators over here and who are saying that they are really pleased about coming to Jersey. They are happy to come to Jersey and they are planning to bring their families back at a later time.

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

Is the Minister not pleased to hear that?

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

I am very pleased to hear it, Sir, but I understand and agree with it.

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

Given only a small percentage of the £10 million which was originally agreed to be set aside for the T.D.F. in P.70/2001 has been awarded to the fund since that time, why is it, please, Minister, across the board in tourism only a small percentage has been awarded? Can you please explain?

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

I am not sure that is directly related, but never mind. I think the Connétable is referring to the original indication from the States that £10 million would be allocated. It was only an indication. We have sought to have the T.D.F. topped up on a regular basis. It has never been short of funds. The difficulty has been spending the money and that was the reason why I brought a proposition to this Assembly to open up the T.D.F. to allow private sector organisations to become involved. The T.D.F. could not find the projects to spend the money on originally. That is more of a relevant point than having the money and spending it on unwise projects. The important point here is it is a strong, high-quality, independent panel that makes its decisions and I think the decisions it makes are very sound and very good and in the interests of the tourism community.

### **3.6 Deputy S. Power of St. Brelade of the Minister for Treasury and Resources regarding economic growth assumptions contained within the Medium Term Financial Plan:**

Could the Minister clarify how the assumptions on economic growth as outlined in the Medium-Term Financial Plan were calculated? I am referring specifically to page 42 of the plan which sets the States income will grow from £613 million in 2012 to £681 million by 2014, which is over 10 per cent.

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

I am grateful for the Deputy and indeed Deputy Southern with his later question to clarify some aspects of the inaccurate reporting that, unfortunately, perhaps inadvertently, happened over the



summer on the economic projections. The economic growth assumptions were finalised by the States Economic Adviser in March of this year, which fed into the overall income tax forecasting and process that the Treasury has. The original forecast for 2012 was drawn from the previously-published F.P.P. (Fiscal Policy Panel) forecast. As far as 2013 and 2014 is concerned, the approach is exactly the same as that of the U.K. Office for Budget Responsibility and other forecasting agencies. That is that the economy will return in Jersey, as in the U.K., to average performance in that period, reflecting the long-term trends and recent experience. I personally reviewed all of the assumptions when I returned from my own summer break and I was pleased that that, after having looked at them, I maintained the conclusion that the assumptions are absolutely robust. Indeed the most recent monitoring information that has been provided to me by Treasury shows that in the second quarter of this year tax receipts in 2012 are projected to exceed the forecast previously envisaged by £7 million. That is entirely consistent with the forward levels of income set out in the M.T.F.P. (Medium Term Financial Plan). So I am pleased with the progress and I stand by the assumptions, but they will be reviewed by the F.P.P.

### **3.6.1 Deputy S. Power:**

I would like to ask a supplementary. Most economies in the west, including the U.K. and the U.S. (United States of America), are forecasting growth rates of less than or equal to 1 per cent in the next 12 months and not much more than that after that. Would the Minister agree that Jersey seems to be out of sync and would he not agree that projecting growth that may not be achievable factors in increased States spending at the same rate? My question to the Minister really is, based on those 2 questions, is this prudent?

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

I am more than happy to discuss with the Deputy or indeed any other Member on the intensive discussions that we are going to have on the M.T.F.P., to go through the detail of what is built in these figures. It is absolutely important that Members have the same level of confidence that I do about the methodology that goes behind it. I would say that these are done independently by the States' Economic Adviser and they are going to be reviewed by the F.P.P., but I completely understand why they should rightly be concerned about whether we have got our figures correct. I would just point out to the Deputy that I think there is a difference between the downgrading of the economic assumptions in various different eurozone and other economies compared to Jersey both this year and what we expect to happen in the subsequent years. The M.T.F.P. is, of course, looking ahead to what the economic situation will be in 2014 and 2015 and indeed real economic growth this year was previously expected to be 1.4 per cent in Jersey and it is 0.8 per cent now in the U.K. We would expect that our economy would perform better than the U.K. We do not have the legacy of debt. We have been actively involved in fiscal stimulus in a number of areas. So surely we should be at least 0.5 per cent above perhaps that of the very difficult situation of the U.K. Going forward into 2013, we are at the same level of real economic growth and for 2014 and 2015 we are virtually the same and, again, I would expect us to do better than that.

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

Is it not the case that the Office of Budget Responsibility has been downgrading the U.K. forecasts so that now in 2012 it has confirmed it is in double-dip recession and that, despite the Minister's optimism, our own figures should equally be downgraded as well?

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

They may, in this year, be downgraded in terms of economic growth somewhat, but it does not change the income tax forecasts that the Deputy quite rightly said was the most important thing. We look at a number of different statistics when we are looking at our dashboard of numbers for

decisions of the Jersey economy. G.D.P. (Gross Domestic Product) matters and I am going to address the linkage between G.D.P. and income in Deputy Southern's answer. Our G.D.P. numbers are still relevant, we believe, but the most encouraging thing that I can say to Members is that the income tax forecasts - at the end of the day, perhaps the most important thing is whether or not we have got the resources to spend - are up. We were ahead and we were criticised of being ahead last year and we continue to be ahead this year. I am happy to publish and to go through with Members in minute detail, with Treasury officials, exactly what these numbers are. I would like Members to be confident about the numbers and I believe that they will be when they see the facts.

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

In relation to tax income, we are all used, annually, to the Minister for Treasury and Resources finding additional income tax from somewhere, usually after the pay claims have been settled. Are we now reliant in the forecasting on finding sums extra to that which is forecast? Are we reliant on it now? Have we built it into the projection?

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

Not at all. I think the Treasury probably always has a reputation of being cautious and I would prefer that to be the case in terms of forward planning, but I also will be criticised if we are too pessimistic. I repeat that it is not Deputy Noel and I that sit there with a pencil and put in the numbers ourselves. We rely upon our expert officials and this Assembly has the confidence, which other Parliaments have not had, in having the independent F.P.P. who have been working through the summer and putting their own slide rules. They have invited Members to their presentation. I do not see their figures any earlier than any other Member and let us see what the F.P.P. says about what the numbers are. If the facts change, as I have said before, I will change my mind but at the moment the forward numbers in terms of our income look pretty robust to me and this Assembly should have confidence about our plans.

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

It is interesting that the Minister still has not answered the question. We have got a very clear question here from Deputy Power and we are constantly, as usual, invited in private for the Minister's officers to give us figures, but he cannot give any figures publicly and let the Deputies or whoever hold the Minister to account in public. The Minister said that if he was too pessimistic he would come under fire for that. It is not a question about being optimistic or pessimistic. It is just a question of giving the real facts and evidenced analysis into the public domain and to States Members. Does the Minister accept that what he is saying is that it is important to convey confidence in the economy as some sort of self-fulfilling prophecy even if the evidence or confidence is not there to back it up?

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

No, yes and no. I think that confidence can be a self-fulfilling prophecy if we continue to talk ourselves down when the data shows something different. I am not hiding anything. Indeed this is a difficult issue just to simply use my seconds on complicated numbers. I can read the Deputy, if he wishes, what the upper, central and lower forecasts for income tax is for this year, next year and the year after. The upper level is £470 million this year. The central scenario is £450 million. The lower forecast is £425 million. It is £495 million, £470 million and £450 million for next year and £525 million, £500 million and £475 million for the year after. We take the central line of our assessments. They are all in the public domain. I am not allowed to use my iPad but I did not want to bring my file. We have published, I think, the longest report ever published in terms of our numbers about the Medium-Term Financial Plan, including chapters on the build-up of our numbers. We have never put into the public domain such forensic granular detail of our forward

projections. I am happy to be examined here, at Scrutiny, in public or if people want to come and meet me individually. I have invited all organisations in Jersey also to come and meet with me and the Treasury in order to go through these numbers.

**The Deputy Bailiff:**

Minister, no more speeches at question time, thank you.

**3.6.5 Deputy R.G. Le Hérissier:**

Would the Minister not acknowledge that, while people are very much supportive of his optimism, the real issue is the cognitive dissonance which everyone is suffering because of the massive austerity programme which he is running at the same time as saying that revenues are buoyant and everything is looking fairly rosy?

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

I think “massive austerity” needs to be put into some degree of context. When the Portuguese Prime Minister receives 30,000 Facebook messages over the weekend for regretting having to put austerity measures through his parliament I think we need to be relative about austerity. Let us be clear. The comprehensive spending review was trimming States expenditure by 10 per cent to make efficiencies, which we have nearly met, but at the same time - to criticism from the other side of the Assembly - we are spending and investing in our services. The Medium Term Financial Plan, if anything, is expansionary. It is putting more money in the economy; building, as the Minister for Health and Social Services has published today, improvements in our healthcare services. That is quite apart from the fiscal stimulus that we have already done (£44 million), the £27 million of housing projects and all the economic growth matters. Will growth happen by accident? Partly yes but partly no. We need to boost economic activity and we certainly need to say what the facts are rather than the negative issues that we immediately take: U.K. headlines meaning what is happening in Jersey. The situation is not the same in Jersey. No mountain of debt, a deficit dealt with and an economic growth plan which is working.

[10:30]

**The Deputy Bailiff:**

This is question time, not a debate on the Medium Term Financial Plan. **[Laughter]**

**3.6.6 Deputy G.C.L. Baudains of St. Clement:**

In the United Kingdom we have seen predictions on the future of the economy which, only a few weeks after they are given they have been downgraded. Would the Minister accept that regardless of the expertise of his advisers, these predictions are to my mind rather like weather forecasting, an inexact science, and should we really be basing our expenditure on such a situation?

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

There is some art and there is some science in it, and I would again ask the Deputy to look at the facts of what we are projecting in terms of economic growth. We are being quite cautious. This year we are suggesting that Jersey economic growth is around about 1 per cent. The good news for this year is that with inflation being slightly lower than expected at 2.7 per cent as opposed to 3.3 per cent - if I have got that number correct, it is certainly 0.5 per cent lower - that boosts the real G.D.P. number already without having anything done by it. Our forecasts are central, they are not over-optimistic, and I want to go through the detail with any Member to give them the same level of confidence. I will not propose forward projections of income which I do not think are going to happen. That would be foolish. It is never something that we have done before and certainly it is

not going to be something that I am going to propose whilst I am Minister for Treasury and Resources.

**The Deputy Bailiff:**

One supplementary, Deputy Power.

**3.6.7 Deputy S. Power:**

I do note that the Minister for Treasury and Resources said that we are achieving a growth rate of something in the region of 1.4 per cent this year. It is a long way from the projected consolidated growth rate that is projected up to the end of 2015, as in the M.T.F.P. My final question is this, given that we are projecting expenditure of the order of £690 million up to the end of 2015 and there are urgings of caution from bodies such as the Chamber of Commerce in Jersey, does the Minister feel 100 per cent confident that the projections of over £700 million in States income in 2015 is achievable or is there an element of risk to that?

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

There is certainly always an element of risk but we are conservative and realistic in our forward projections. I think the slight double argument of this is that those Members who think that the economic situation is going to be more gloomy going forward, their prescription is to spend more, whereas other people are saying: "If they do not think the economic growth rate is going to be achieved, you need to spend less." I think what the F.P.P. might do if they believe that the short run economic situation is possibly more gloomy is they might want to propose more spending. Now, that is very against what the Chamber of Commerce says. So I am somewhere in the middle of this debate in terms of I am taking a reasonable optimism about our future economy. If it is going to deteriorate, we will probably spend more in the long term. That is going to upset the people who do not think we should be spending because the growth is not there. It is an active debate which is going to run over the next 6 weeks and I welcome the first attempts at having this debate today.

**3.7 Deputy T.M. Pitman of the Chief Minister regarding the election of Jurats:**

Following on from my oral question of 17th July 2012, can the Deputy Chief Minister advise what progress, if any, has been made to review and update the Royal Court (Jersey) Law 1948 to ensure that in future, all those being elected as Jurats are of sound character and judgment and to ensure that any Jurat subsequently found to have demonstrated seriously flawed judgment or behaviour can be removed?

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

On 17th July, the Chief Minister, in answer to an oral question from Deputy Pitman, explained that there was in fact in train a process by which the Legislation Advisory Panel was looking at certain aspects of the terms of Article 3 of the Royal Court (Jersey) Law 1948. The Deputy was then invited to a meeting of the Legislation Advisory Panel on 27th July to discuss this matter, but I understand he was unable to attend because of another engagement. This invitation still stands, so I understand, and the Deputy is welcome to attend the next meeting of the panel at the end of September. I am sure the panel will be very open to taking on board his concerns.

**3.7.1 Deputy T.M. Pitman:**

A supplementary, Sir. I should just point out that I did not attend that meeting and nor will I, because I believe they have a former Crown Officer chairing that who is heavily conflicted in the problems involved. My question is given the reality that for the past 14 years the Government and judiciary allowed the man to sit in judgment of ordinary decent men and women as a Jurat, even

though the Sharp Report reveals that his judgment towards justice was so warped or clearly flexible that he was happy to help conceal child abuse in order to protect the good name of the school in which he was a teacher. Does the Deputy Chief Minister not agree that this is a matter of the gravest concern and urgency? I should say, Sir, to be fair to all the current Jurats, I am obviously talking about former Jurat [name omitted in accordance with Standing Order 160(3A)].

**The Deputy Bailiff:**

No, I am sorry, Deputy Trevor Pitman, that is completely unacceptable. It is out of order. You are not entitled under Standing Order 104(2)(f) to refer to a Jurat where his conduct is not the subject of the proposition or the question and your question is about the Royal Court (Jersey) Law 1948. You are not entitled to refer to him because the use of the name is not unavoidable and it is not directly relevant. I therefore direct you to withdraw that reference.

**Deputy T.M. Pitman:**

I do apologise for breaking Standing Orders. Obviously there will be naming in the proposition I am going to bring about in the Committee of Inquiry as to why this has been covered up, but I of course withdraw that at the present time and thank you for your guidance.

**The Deputy Bailiff:**

I also direct the Greffier to withdraw the reference pursuant to Standing Order 109, paragraph 7. The names are to be omitted from the transcript. Deputy Chief Minister.

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

I understand the concern of the Deputy in relation to this area and I also understand his concerns in relation to a specific matter, but the fact is that there will not be any change unless there is some form of amendment to Article 3. I would urge him, if he feels unable to attend the Legislation Advisory Panel, to write to the panel to express his concerns. There are in existence already certain safeguards. Any candidate for Jurat has to go through a criminal records check, as one would expect, of anybody who was aspiring to be a member of the judiciary and there is an existing process for the removal of Jurats from office either by non-attendance or lack of competence. I am saying that in a very general sense, that would probably be where someone's mental capacity had declined. Indeed, there is a process for the superior member of the Royal Court to petition Her Majesty in Council to remove a particular Jurat. Now, it may be that Deputy Pitman feels that that ought to be tidied up, but as I said, unless there are amendments to that process which is statutory and in Article 3, then there will not be any changes.

**3.7.2 Senator L.J. Farnham:**

Could the Deputy Chief Minister advise Members, if he can advise Members, exactly where political responsibility and accountability for justice does lie within the Island?

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

This is a very good question indeed, and my own view of this is that there is no direct political accountability for justice. Because of the peculiar nature of our constitution, the Bailiff would be viewed as having the overall responsibility in relation to this area. But we do not have the equivalent of a Minister for Justice as such and therefore there is no direct line of political accountability in relation to the areas which could be properly subject to such accountability. That is a hole in our current constitutional position. For that very reason, in recent years, a joint working group has been set up which includes the Chief Minister, the Minister for Home Affairs, the Bailiff and various other officers to try to seek to bridge this gap, but when it is a matter of political accountability, my view is that there is a gap.

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

A supplementary on the back of that answer, Sir. Could I ask the Deputy Chief Minister to undertake discussions, open discussions, at Council of Ministers level with a view to investigating the possibility of the Island having a Ministry for Justice or at least a Department for Justice?

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

I think it is a matter that I can properly discuss with the Chief Minister when he returns. I think it is not a matter for me to initiate on my own account. It is a matter for him to consider and that I will seek to do.

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

It is always good to rely on a faithful Assistant Minister to ask questions of your own Minister. He presumably does not have the same direct access that the Constables have been telling us about to Ministers, which is ironic. The question is, I think - let us phrase Deputy Pitman's question in perhaps a different way - that there have been 2 occasions certainly that I can think of where on this occasion which we are talking about, a Jurat turned a blind eye to child abuse or allegedly turned a blind eye to child abuse, then became a Jurat, and this is before he was appointed. I can remember an occasion when an Attorney General turned a blind eye and assisted in, one would argue, covering child abuse in the honorary system, and that individual then went on to become Bailiff and then Senator. The question to the Minister for Home Affairs is what safeguards should we be putting in place, given that they are 2 fairly high-profile cases where possibly even in the public sector and private sector, a general background check may have removed or barred these individuals from taking those positions? Will the Deputy Chief Minister and the Chief Minister be looking at these issues seriously to make sure that the good name of Jurats and other officeholders in future are not tarnished in this way?

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

I first of all have to rebut the innuendo that I put my Assistant Minister up to asking the question which you have just asked, if there was such a question.

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

No, there was no innuendo.

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

No, okay. I withdraw any suggestion of innuendo and I did not put him up to that. He just gave me warning of this particular issue, which is an issue which has concerned him for some time. The issue in relation to the vetting of people who play public roles is an important issue; there is no question about that. But as with the election of Members of the States, any vetting process is limited in its functionality, and if I can take that as an analogy for a moment, a person only ceases to be a Member of the States if they are convicted of an offence for which they suffer a penalty of 6 months' imprisonment or more. So there you have a parallel situation. There has to be a judgment taken in any individual case if information comes to the attention of authorities as to whether what has come to the attention of the authorities is sufficiently serious to warrant a reference to the appropriate body with a view to disciplinary matters. That will be a matter of judgment in any individual case, no matter who we are referring to.

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

A final supplementary, Sir?

### **The Deputy Bailiff:**

No, one moment, Deputy. One moment, please. Deputy Tadier, in your last question, in your question to the Deputy Chief Minister, you suggested that a former Attorney General who later became a Bailiff then subsequently a Senator had condoned in some way child abuse. That is what I understood the innuendo or the thrust of that part of the question. Did you mean to say that?

**Deputy M. Tadier:**

First of all, I think it is important to remember parliamentary privilege, that we have the right to speak openly and robustly, even though it may not be convenient for certain individuals to hear that. I think if we wait for Hansard to come out, I am quite sure that I also said: "One might argue and one might view that as" and that certainly is a very common opinion that I have heard from constituents and people that I have canvassed when I have been out and about in public. So I am willing to wait for Hansard to come out and if there are any sanctions that need to be taken against me for my freedom of speech, Sir, I am willing to face those consequences, but I am sure that I qualified my arguments and my comments in such a way that they were reasonable, Sir, and I stand by those.

**The Deputy Bailiff:**

I am not seeking to curtail your freedom of speech in any way. I am seeking to ensure that Standing Orders are respected. One of those Standing Orders are that you are not to impute improper motives directly or by innuendo to any Member of the States and I am simply seeking to establish whether you are making any comment yourself that Senator Bailhache - because rightly, that is to whom you were referring - was guilty of condoning child abuse.

**Deputy M. Tadier:**

If the Greffier is willing to take the Chair, and I will be willing to talk to an independent Chair who is free from any perception of conflict of interest, then I will be willing to discuss this issue further. But as it currently stands, Sir, I am not willing to engage further in this conversation.

**The Deputy Bailiff:**

Deputy Tadier, it is not a question of whether you are willing to engage. It is a question of whether you are prepared to deal with questions from the Chair about what you said. Now, the question is are you making any allegation that Senator Bailhache was condoning child abuse?

[10:45]

**Deputy M. Tadier:**

I think this is already in the public domain. I am simply reiterating what is in the public domain, Sir.

**The Deputy Bailiff:**

Are you making any allegation?

**Deputy M. Tadier:**

Allegation of what, Sir?

**The Deputy Bailiff:**

That Senator Bailhache was condoning child abuse.

**Deputy M. Tadier:**

Senator Bailhache was condoning child abuse...

**The Deputy Bailiff:**

Are you making any allegation?

**Deputy M. Tadier:**

I do not think I made that allegation, Sir.

**The Deputy Bailiff:**

So you are not?

**Deputy M. Tadier:**

I did not make that allegation, Sir.

**The Deputy Bailiff:**

So you are not making it?

**Deputy M. Tadier:**

I did not make that allegation, Sir.

**The Deputy Bailiff:**

Well, if you did not make it, then I think all Members and the public who are listening will take it that you do not make it because that is what it must mean. A final supplementary, Deputy Trevor Pitman.

**3.7.5 Deputy T.M. Pitman:**

I welcome Senator Farnham's question because it proves and demonstrates the fact I was going to highlight, that there is no real responsibility taken here and that has been the position for 14 years. So if I could just put it to the Deputy Chief Minister, the reality of why this should be a concern, and this is not just conjecture and innuendo, it is all in the Sharp Report. What I am worried about - and I hope he is - is that an individual was allowed to become a Jurat, having refused to look at video evidence of a colleague and friend abusing children and then writing to authorities to say there may be no case to answer and seeking that colleague be allowed to continue working at the school because that Jurat thought there would be no danger or problem, even though some of those children would be children who had been abused. He also asked if eventually that colleague could be allowed to resign with some dignity, because he had served the school so conscientiously. That is an outrageous situation, does the Minister not agree with me, and it should not be covered up.

**The Deputy Bailiff:**

Deputy Pitman that is not a question that arises out of your question, which is about changes to the Royal Court (Jersey) Law 1948 and not about the conduct of particular Jurats in the past.

**Deputy T.M. Pitman:**

I was trying, perhaps in my clumsy way, to say does he agree that that change must be urgently made so that that cannot happen again? I hope that is relevant.

**The Deputy Bailiff:**

Well, if that is the question, it was very clumsily put. Deputy Chief Minister.

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

I certainly agree that there ought to be a proper disciplinary process for Judges, including Jurats, and that is a matter that clearly falls within Article 3. I certainly hope that that will be looked at seriously, notwithstanding the fact that Deputy Trevor Pitman is not intending to attend upon the committee as part of that review. But I think that it probably does not just extend to Jurats, it



probably also extends to a need to review other judicial officers, and again, I am trying to avoid referring to any specific individual in this context. This is a matter of public confidence that if there are serious issues which warrant a disciplinary procedure that such a procedure take place as early, fairly and appropriately as possible.

### **3.8 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding the teaching of German in the Island:**

Given the increasing importance of German tourists to our economy, what plans, if any, does the Minister have to ensure that German continues to be taught in the Island schools?

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

German is an optional subject and used to be offered in several of Jersey's schools, but I am afraid that there is very little student demand for it, certainly at the moment. In 2011, 17 students took G.C.S.E. (General Certificate of Secondary Education) German and there was a similar number in 2012. The course is run at Beaulieu School, which also hosts an A Level German course and because it is at A Level, it is open to all Jersey 6th form students. There are currently no plans to reintroduce German in other schools. However, as with other subjects, I would support a school that wanted to run a course provided there is sufficient demand and the numbers make it cost-effective to do so. Also, if there is a broader economic case for a particular subject other than German, I would also be interested to hear this.

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

I thank the Minister for his response. Would the Minister comment generally about the trends in modern language tuition over the last perhaps 2 to 5 years as to whether we have seen a move away from the learning of foreign modern languages and what he thinks the reasons for that might be and whether he thinks that is a desirable thing, a neutral thing or a positive thing?

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

Apologies for the slight delay, there was a number of questions in that. I will try to make a quick note of them. As regards the trends over the last 3 to 5 years, my understanding, certainly at G.C.S.E. level, it has remained reasonably constant overall. I can quote the 2011 numbers. Of the total G.C.S.E. cohort of just short of 1,000 - 996 students - 604 took French, 125 took Spanish, 32 Italian, 47 Portuguese, 3 Polish, and last but not least, one Latin. What are the reasons for any changes in attitude towards modern languages? Who knows? I can probably, like most of us here, think in terms of what is going on electronically with learning and whether languages are becoming less important. I do not have a particular view on it, although I know that some other people do. Do I think that it is a bad thing or am I neutral in my thoughts on perhaps the reducing importance of modern languages? My own personal opinion is that I think it is a bad thing and I would like to see that trend reversed, yes.

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

In that context, despite the numbers you just quoted, is it not the case that let us say 6 years ago, there were French, Spanish, German and Portuguese available in 9 schools at G.C.S.E. level and at least that range of languages available to A Level in at least 3 schools? Is the case that that has now been reduced and what steps will he take to improve the access of students to European languages in the near future?

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

It is demand driven. I do not have the numbers to hand for 6 years ago but I will take the Deputy's word for it. I have already said that I think it is a trend that I think could lead to be undesirable in

the future. I have already said that I would support any school that wishes to run courses as G.C.S.E. or A Level as far as was economically possible within the kind of cost restrictions and efficiency restrictions that of course we are all living with. I do not think I can really say more than that, other than I think it is a trend that I would like to examine over perhaps a longer timespan than instantly today.

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

The supplementary is; is the Minister prepared to lift the class size restrictions, which is the driver which has reduced the access of students to languages in schools today? Is he prepared to lift the class size restrictions on languages?

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

I would like to give that some further consideration. I hear what the Deputy says and it is something that I would consider, but I would not be prepared at this point to say whether I would be prepared to do that, but I would certainly think about it, yes.

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

Having a constituent with a daughter who has experienced problems in being able to take up German, I echo what Deputy Southern is saying. But what I would like to ask is given one of the Ministers, I believe, of Chancellor Merkel's, statements - quite an enigmatic statement - that Europe would soon be talking German again, does he not agree that probably if that is going to be the case, an international language, then any moves we can make to encourage such developments will be very, very beneficial and worthwhile?

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

I think any improvement in the ability of Islanders to speak modern foreign languages is desirable, whether it be German or whether it be French, Spanish, Italian, Portuguese indeed, or even Mandarin *et al.*

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

A brief 2-parter, if I could. Firstly, does the Minister consider that part of this problem is inherent because of our 14-plus transfer system, when students are getting taster sessions in the schools and then when they are transferring are finding that the options they have been looking at are not available in that school. Also as a general principle on language tuition - which I support, I think there is no greater gift we can give our children than a second language - will he introduce or consider reintroducing the language assistance and re-evaluate their assistance?

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

I am just trying to remember the range of questions that were there. Let us start with the 14-plus transfer, which I think was the start. Our system is complex. As we all know, we have had many debates in this Assembly about the nature of our education system. There are advantages to the 14-plus system and there are disadvantages to the 14-plus system, our 6th form provisions spread over 5 institutions, the nature of our 11 to 16 fee-paying schools, and indeed the stresses and strains that there are because of the high number or selective nature of our thing. So there are pros and cons, and that may be one of the cons that the Constable is referring to. I cannot remember the rest of the question.

### **The Deputy Bailiff:**

You only have to reconsider them, Minister.

### **The Connétable of St. Mary:**

The reintroduction of teaching assistance in language.

**The Deputy of St. John:**

To teach languages effectively requires specialist teaching. The question of reintroducing... well, the U.K. Government is currently looking at the primary school curriculum. We will have to wait and see what the U.K. decides to do. If, as the Right Honourable Michael Gove has suggested, modern languages are part of that, then we will have to keep a watching brief and see whether we will take the necessary actions to reintroduce more specialist teaching.

**3.8.6 Senator L.J. Farnham:**

Sorry, just a quick one, and the Minister might have already alluded to it. Could he just remind Members, French is still compulsory, I believe, up to G.C.S.E. level, and if not, why not?

**The Deputy of St. John:**

That is a question that I do not know the exact answer to. I do not think it is. I am ashamed to say that I should know the answer, but I do not. I do not think it is compulsory. I think you can see from the numbers, however, that French dominates the modern languages that are taken at G.C.S.E. level.

**3.8.7 Deputy M. Tadier:**

I would suggest that because the total number was 996 and 600-odd took French that it is not compulsory, but I thank the Minister for his answers. Just one consideration is also perhaps that the International Baccalaureate was sat for the first time last year, and that will include language tuition, which does not feed through in the other statistics, so that is perhaps something which is positive. The real basis for this question is the fact that we have heard in recent weeks that German and German tourists are particularly important to a growing section in the tourism sector. Also that we are trying to encourage young locals who are born in Jersey to go into hospitality and presumably that will require some knowledge of a foreign language, whether it is German or for the emerging markets, Chinese, Russian, whatever. Does the Minister agree that if we are to have joined-up thinking between the 2 departments in order to get more locals into work in the hospitality or even into the other sectors that it is important that we provide the necessary subjects at school which will be coming through in perhaps 5, 10, 15 years?

**The Deputy of St. John:**

Yes, I do.

**3.9 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the dependency of the Medium Term Financial Plan on economic growth predictions:**

Will the Minister describe for Members the extent to which the Medium-Term Financial Plan (M.T.F.P.) is dependent on his predictions for economic growth over the period concerned and what plans, if any, he has in place should these growth figures not be achieved?

**The Deputy Bailiff:**

Minister, you may feel that you have already answered the first part of the question, so maybe you should concentrate on the second.

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

I was going to answer the question in French, just as you did not call me for the last question, but I will not, Sir. We have covered this, as you say. The point that I wanted to make - which is an

additional point - is that income tax forecasts are not particularly sensitive to changes in economic growth or its components.

[11:00]

For example, in the M.T.F.P. we include some sensitivity analysis that shows for every 1 per cent change in average earnings or employment, income tax revenues are estimated to fall by between £2 and £3 million. The M.T.F.P. is a medium-term document and we do not believe that as a general principle, on that the basis that we do not take short-term decisions in Jersey, we take long-term decisions. We also do not think that it should be necessarily reassessed on the basis of every single latest headline from principally the U.K. on economic performance. Particularly as the important investments, which I know the Deputy himself would probably be - and I hope - agreeing with and the important investments in our infrastructure are required, quite frankly, however the economy performs in the short term this year and next year. However, if the growth figures are not achieved, our first response will be to allow the fiscal policy to adjust through automatic stabilisers. That means that where less tax is taken because of lower earnings or fall in corporate profits and the elements that our increased spending in terms of more people on income support because of unemployment. Those are the automatic stabilisers that we allow to work. We have time to assess the impact on our economy principally as we have previously discussed because of the lags in our system that we collect tax mostly on a prior year basis. So I will take the F.P.P.'s advice on whether the balance between tax and spending does need to be reviewed. If the facts change, I change my mind, as most reasonable people do, and depending on the F.P.P. advice, there are a number of options which we already have got advance planning from, which is provide further fiscal stimulus, targeted economic growth, helping the Minister for Economic Development even more boldly than the Economic Growth Plan which he brought to the Assembly a number of months ago, and of course we also could introduce budget measures that would be directly targeted on a timely basis and not reoccurring to stimulate the economy, and of course we could use contingencies.

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

I think that answer said that we will maintain the spending priorities contained in the Strategic Plan. Well, the question is, is that the case, and if so, is the Minister prepared even to borrow to maintain that spending or spend some of the strategic reserve to tide us over this particular period?

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

I am unusually perhaps more aligned with Deputy Southern on this than he may believe. I think that if the economic situation was to deteriorate, and I am not suggesting that it will, then I think the policy response might well be for more short-term spending. We would spend more on fiscal stimulus. That might mean that we may need to trim - which is going to upset the Deputy - spending more severely in the longer term, but certainly those policy options are available to us. The United Kingdom and other heavily indebted countries cannot do that. As far as borrowing is concerned, I have always said that I am never against borrowing for infrastructure and investment, and indeed, the discussions that we are having with the Housing Department on the new plan for housing may mean that it is perfectly sensible to borrow in order to put more money in housing, and I am going to answer another question on that shortly. Also, we are looking at the funding options available for the building of the new hospital. That is going to be a very substantial bill and it may well mean that that is an option, to look at borrowing. I can say that the Treasury is now taking advice in relation to the options. I want Members to have all the options available to them. I maintain the view that the strategic reserve should be there as an emergency and should remain intact. If we can borrow because of our economic strength to invest in infrastructure, invest in housing, then that something I am going to actively consider.

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

At a recent presentation of the Medium-Term Financial Plan, I was struck, looking at a graph of income expenditure, where I noticed that without exception, expenditure had grown with income almost pound for pound, especially over the last 8 to 10 years, where income had increased significantly, yet when income sharply in 2010, expenditure did not fall with it. Why is that?

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

The whole debate, I want to really try and raise the level of debate and the quality of debate we have on public spending. We are putting a plan to increase public spending to increase services. If we want a better health service, we are going to have to spend some upfront investment going forward. That is what I believe that our community wants to do. That comes at a cost. We are going to have to find the resources. I have always believed that the resources should come from getting economic growth and I am confident that we are going to get economic growth. There are some positive rays of sunshine in some aspects of the financial services industry; our endeavours in the Gulf and in China are working. They are bringing business to Jersey. We have got a really important debate with Economic Development next week about the digital economy, harnessing the opportunity for high-tech I.T. (Information Technology) businesses for Jersey. We must not sit on our laurels. We must act, we must go out and promote Jersey and get that economic growth. We are a small, nimble Island, and we can do that. But let us raise the level of debate about spending. Spending on capital is good in some areas. Spending on increased services is also good for our community. Making efficiencies is also one of the things that we have to do in tandem.

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

Fine. Well, that was very quick, Sir, but nonetheless, I take on...

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

Seven minutes on average.

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

To take you on to a different tack, the figures suggest that 2.5 per cent growth - real growth - so that is 2.5 per cent over inflation, is achievable. The last time we achieved those sorts of figures in 2006, 2007 we saw an additional something like 6,000 immigrants into the Island. In the balance between population and economic growth, where does the Minister for Treasury place his priorities? Are we going to have population growth along with economic growth?

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

The Treasury is not a decision-maker in relation to the population numbers. I believe that the Statistics Unit are going to be publishing on Monday their latest overall estimate of the population model, which I think is going to help all of us in terms of our decision making. Certainly it is a factor that there has been a highest level of people working, notwithstanding high unemployment. Indeed, we got to the highest level of people in employment that we had ever had, and that is one of the factors that is the reason why our income tax forecasts have remained so buoyant and things have happened. We cannot dissolve the debate, they are one and the same, but I believe the Treasury is working within the agreed policies of the net amount of increased migration that we have. If we are going to develop things like the digital economy, we have to be open to at least allowing some I.T. experts to come to Jersey in order to start catalysing this industry. Our prior economic performance has been based on indigenous Jersey people matching skills from elsewhere and growing the economy and that is why we are in a very strong position. We need to learn the lessons from the past and do it again and I believe there are exciting opportunities in the digital

economy.

**3.10 Deputy M. Tadier of the Minister for Transport and Technical Services regarding the movement of seaweed on St. Aubin's Bay and other beaches:**

Would the Minister advise how much it costs to move seaweed on St. Aubin's Bay and other beaches and clarify what purpose it serves to move it to the low waterline only for the sea to move it back up the beach?

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

The cost of removing vraic and green sea lettuce around the priority beaches of the Island has been £21,650 so far this year. The degree of effectiveness of removing the seaweed down to the low waterline is to a large extent dependent on the tides and weather. We try to undertake the work when we think the prevailing currents will take it out to sea, as happened just before the Bank Holiday weekend.

**3.10.1 Deputy M. Tadier:**

So is the Minister saying that the seaweed does not come up the beach? The seaweed that I have been seeing recently - and I am sure other Members have been seeing - on what one would think was a football pitch if one did not know it was a beach, is not coming up the beach? How effective would he say that the policy is that the seaweed does get washed out to sea and that it does not come back in?

**Deputy K.C. Lewis:**

It is not possible to say but inevitably some does return. It is very dependent on weather, wind direction and strength, temperatures *et cetera*. However, our cleaning regime is such that we normally only clean after a spring tide so that each day the high tide mark is lower than the day before, reducing the result of newly deposited weed at the top of the beach. We only do this type of weed removal when it is absolutely necessary and then only from the top of the beach.

**3.10.2 Deputy S. Power:**

I wonder, does the Minister know or can he answer this question, how many tonnes of seaweed has come up on St. Aubin's Bay this summer, and has he considered any other possibilities, such as using a barge, a flat-bottomed barge of some kind to load 100 or 200 tonnes at a time, take it 6 miles down, 6 miles south, which may be a more effective way of removing it and might answer some of Deputy Tadier's...

**Deputy K.C. Lewis:**

Not in any great detail. We have looked at barges but not in any great detail. In addition to any significant logistical cost of doing this, we believe we would need a licence from the Department of the Environment under the Food and Environment Protection Act 1985. We would also need an F.E.P.A. (Food and Environment Protection) licence which controls the consent to dredge and deposit dredged material. There have been suggestions in the past and recently in the local press regarding the use of barges filled with weed, towed out to a suitable dumping area at sea. Just one of the problems to be overcome would be the positioning of the barge for filling on the beach when the tide is falling from spring tides and leap tides. There would need to be a narrow window of opportunity so that boats with a shallow draft could pull the barge off the beach, possibly late at night.

**3.10.3 Deputy S. Power:**

It seems to me that the Minister and his department are duty bound to investigate all options. The Minister has not answered the question with regard to what sort of tonnage came in this year and I think he is overstating the problems with regard to using a barge on spring tides because it seems to me that it is a fairly simple option and the States have a very valuable tug. Would he not agree that he and his department are duty-bound to investigate all options?

**Deputy K.C. Lewis:**

Indeed we are exploring all options. We are working with our colleagues in the Department of the Environment to find a solution to this. Using the States tug I do not think would be a particular option. I certainly would not want to run it up on to the beach but we are looking at all options. As for the tonnage, I am not sure of the exact tonnage, but if we had all the licences in place, we would have to be very careful where we dumped it at sea, bearing in mind the ecology of the area and indeed our local fishermen.

**3.10.4 Deputy S. Power:**

Just to correct the Minister, I was not implying that anyone run the States tug on to the beach. I was implying that the barge be put on the beach at a low tide and the tug pull it off when it floats again.

**Deputy K.C. Lewis:**

This is indeed something we could look into.

**3.10.5 Deputy M. Tadier:**

I was just interested by the word “remove” because normally what that means, it means to take away and one would usually use the word “move” in this context when you are taking seaweed from one part of the beach to another part of the beach. Would the Minister give serious consideration about perhaps obtaining a licence from the Department of the Environment? I am sure it is not that difficult, and if he has got difficulty perhaps talking to the Minister, I could do it for him, because I sit next to him. Would he consider getting the various licences that are needed and finding a long-term efficacious solution to the actual removal of the seaweed and putting it to better use, as perhaps the Minister has already suggested, for agricultural purposes, which I am sure would not be too difficult to do in Jersey.

**Deputy K.C. Lewis:**

I talk to my colleague in Planning and Environment on a regular basis, not a problem. The sea lettuce is a totally different consistency to vrac, which is used on the land. I am not sure of the exact analysis but I am not sure whether it is suitable to be used as a fertiliser. As I say, it is an ongoing situation, my discussions with the Minister for Planning and Environment, and I am sure we will find a solution to this.

**3.11 Deputy T.M. Pitman of the Chairman of the Electoral Commission regarding the authenticity of submissions to the Electoral Commission:**

Given the financial cost of promoting genuine public engagement by submissions to the future reform of the States and in light of the concerns I have expressed to the Commission regarding bogus submissions using false identities, can the Chairman advise how many of the submissions made to the Electoral Commission were by email with no address to confirm authenticity?

**Senator P.M. Bailhache (Chairman, Electoral Commission):**

When the Electoral Commission launched its consultation at the end of May, it was keen to encourage Islanders to engage as easily as possible in giving their views. We therefore set up a

website with a special electronic form to enable submissions to be made and we encouraged people to make their submissions by email. Although we also made it clear that submissions could be made by post, I am sure that Members will not be surprised to know that the vast majority of the 340 or so responses to our consultation came electronically. Submissions received have been published on the Commission website, as long as the person making the submission has given a name, and in the case of an electronic submission, an email address.

[11:15]

I accept that in this digital age, there is potentially a possibility that someone might give a false name in making an electronic communication. I cannot judge how many of the submissions fall into that category, but if Members take the trouble to have a look at the website, I am sure that they would agree that the overwhelming majority of the submissions are serious submissions and are genuine.

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

A supplementary, Sir. I have to say, I am quite amazed by the answer. I have probably got more than one question. What I would firstly like to put to the Chairman then is Deputy Maçon, who is for the first time I can ever remember not in the Chamber - perhaps we should have a vote on something quickly to catch him out - as Chairman of the Scrutiny review into Tasers, he has managed very quickly and easily to identify more than 200 fake submissions on whether or not we should have Tasers introduced. Is the Chairman really telling us, the Assembly, that he and his colleagues on the Commission cannot display that same level of professionalism on such an important issue, just to check these matters out? What I would like to put to the Chairman is that surely it is better to have 10 genuine submissions than 290 false ones, because I have already identified 2 which were malicious and used stolen identities.

**Senator P.M. Bailhache:**

I do not think that the Deputy should seek to ventilate his private family squabbles on the floor of this Assembly and I do not propose to deal with the second part of the question.

**Deputy T.M. Pitman:**

That is outrageous.

**Senator P.M. Bailhache:**

I do not propose to deal with the second part of that question. So far as the first part is concerned, I have already said that the Commission is entirely satisfied that the vast majority of the submissions that have been made to the Electoral Commission are valid submissions and sensible submissions and indeed useful submissions. The Commission's limited resources would not be well-used by seeking to discover whether one or 2 or 3 even of the submissions that have been made have been made in a false name. I should perhaps add for the benefit of Members that the Commission is not taking these submissions as some kind of opinion poll or survey. The Commission is taking these submissions as an indication of the views of members of the public and the fact that one or 2 submissions may have been made in false names would be completely immaterial to the conclusions of the Commission.

**Deputy T.M. Pitman:**

I must ask that you request the Senator to withdraw that totally unsubstantiated suggestion of family squabbles or I will have no recourse but to call him a liar.

**The Deputy Bailiff:**



Senator, the suggestion that Deputy Trevor Pitman has used this Assembly to ventilate a private family squabble is capable of being an imputation on his motivation. Is that what you intended?

**Senator P.M. Bailhache:**

That is not what I intended, Sir, and if it can be construed in that way, then I shall withdraw it. There are matters which lie underneath the questioning of the Senator which I do not think are appropriate for discussion on the floor of this Chamber, and I will leave it there.

**3.11.2 Deputy G.P. Southern:**

Has the Chairman conducted any checks in order that he can state that the vast majority of the submissions are accurate and correct and from genuine, bona fide representatives of the Jersey population?

**Senator P.M. Bailhache:**

There was one complaint of which I am aware, which resulted in my having direct email correspondence with the individual who had made the submission and I was satisfied that it was a valid submission.

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

Just in pointing out that my question has nothing to do with any family matter. I have referred them correctly to 2 individuals who are no relation to me whatsoever, quite in contrast to the Senator's words. Does he not agree with me that it has to be a problem when we have malicious stealing of identities, and one of these gentlemen has already been in touch with the Commission; another is the stolen identity of a 14 year-old child, yet the Chairman is going to leave it. Is he that desperate to have submissions that support his preconceived ideas of electoral reform?

**Senator P.M. Bailhache:**

I think I have already answered that question.

**3.12 The Connétable of St. John of the Minister for Treasury and Resources regarding a review of quangos and the use of 'sponsorship' to circumvent Treasury directives to reduce public spending:**

Following the decision of the Minister for Economic Development to sponsor the Jersey Rugby Club when other sporting clubs have seen their grants from the Jersey Sports Council reduced, will the Minister undertake to review the various quangos that spend taxpayers' money, and especially the use of sponsorship to circumvent Treasury directives to reduce public spending?

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

Sponsorship of the rugby club is of course, as previously answered by the Minister, a matter for the Minister for Economic Development. Departments are responsible for achieving value for money from their funds allocated to them by this Assembly. The Treasury's role is to ensure proper controls are in place, principally in the form of financial directions and oversight by the Treasurer with accounting officers and these operate correctly. Controls are designed to ensure that value for money for all spending is achieved. Some grants are made by States departments to other organisations. These bodies will have their own governance arrangements too. The ultimate accountability remains with the accounting officer, in this case of the Minister for Economic Development department. These arrangements are across all States departments subject to both external and internal audit as well as oversight by the P.A.C. (Public Accounts Committee) where they wish. So I have no reason to believe that a review is necessary and indeed, if I may say, I have

discussed the matter of the rugby club with the Minister for Economic Development and if I was him, I would have made the same decision. I think it is a good decision and good for Jersey.

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

Back in 2001, £10 million was agreed in this House for a Tourism Development Fund. Can the Minister tell us how much of that money has been spent over the last 11 years, and from records it would appear very little? That being the case, will the Minister review the way he allows this money to be spent, because if the restrictions are so tight that the applicants cannot get to this money, will something be put in place to assist the tourism industry to be able to get to this funding more easily?

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

I hope the Connétable has had a good summer. I do not know whether or not the summer has dulled his memory a little, because it was this Assembly that of course extended the remit of the T.D.F. to allow exactly what he is asking for. Indeed, that was something that also the Minister responded to himself. I think perhaps if anything after the summer's event on sporting endeavour and aspiration and the real fantastic environment that has been created by the London 2012 Olympics and all of the Paralympics as well that sporting endeavour, quite apart from the economic benefit, is something that we want to also promote in Jersey. We want to inspire our own generation for sport. We want to have more volunteers in terms of the wonderful Games makers. We want community spirit. We want things that build the nation's pride, quite apart from the health benefits. I think that he should be supporting what has been I think one of the most fantastic things that has happened in Jersey in terms of the rugby club, quite apart from the Minister's pure view that this is going to boost tourism, spread our name in towns and cities across the U.K. and bring people to Jersey. It is fantastic, is it not?

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

Could the Minister answer the question, how much of the £10 million invested 10 years ago, or supposed to have been put aside 10 years ago, has been spent?

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

I did not answer it because we have already been through all of that. I have not got my notes on the T.D.F. in front of me because it was not part of something that was to be answered in the original question and it is not the matter for the Minister to do. He supported 2 parts of sponsorship, as I understand, some from his own budget from Jersey Enterprise, which I thought the Connétable wanted to ask. If he wanted to ask about the T.D.F. matter, then he could do that too. We have previously rehearsed the T.D.F. lots of times. If he wants to have a chat over lunchtime, I am happy to revise the numbers and get them to him, but I think he knows them.

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

I think we have been subject to another husting speech. Is it not the case that the Minister for Treasury and Resources would find some funding for German in schools if Germany was a significant rugby playing nation?

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

I am sure both the Minister for Economic Development and the Minister for Education, Sport and Culture have those monies. The Treasury is not the repository for all Members, and indeed the Minister for Treasury and Resources own pet projects and things he wants to do, but I think that Germany is very important. I think that German sport is very important, and if there is an economic case to do that, then I am sure the Ministers will want to do that. But there is a serious

point, which is that after the summer we should be looking at a sports strategy for Jersey which links both the economic benefit and also the benefit of the legacy of sport as well.

**Deputy G.P. Southern:**

I will take that as a yes.

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

Can the Minister do better, please?

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

I always get up every morning saying that I have got to do a better day's job than I did yesterday, so yes, if it pleases the Connétable.

**3.13 Deputy G.P. Southern of the Chief Minister regarding the involvement of Atos in the reform of the public sector:**

Will the Minister describe for Members his vision for the public sector and state how the involvement of Atos will contribute to the achievement of this vision?

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

The Chief Minister's vision for the public sector, as outlined at the States Members' briefing on Tuesday of last week and articulated in a Strategic Plan, is that it is responsive to the needs of customers and flexible to change. It must be as efficient and effective as possible, provide good value to the taxpayer and needs to engage and empower staff to improve services. Furthermore, it is vital that the organisation is based on key values of honesty, integrity and trust so both our customers and staff are respected and respectful. One aspect of the reform programme is to further enhance customer services. The States has multiple processes that operate in many areas where we interact with businesses and the public as a first step on the road to reform. Atos have been engaged to map all the ways the States connect with its customers and make recommendations for potential improvements to simplify and streamline the way in which the States provides its services.

**3.13.1 Deputy G.P. Southern:**

The States are about to spend a third of £1 million on the consultation from Atos and yet according to the written question 2 in the other Members' desks, we are not to see the tender document, the terms of reference or any specification of what we are getting for that third of £1 million. Will the Assistant Chief Minister agree to release the terms of reference under which Atos are being paid a third of £1 million of taxpayer's money in order that we see what we are getting for that money?

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

I am the Deputy Chief Minister but I think that is a matter for the Chief Minister to decide and certainly I will refer that back to him.

**3.13.2 Deputy G.P. Southern:**

Secondly, in the absence of having seen the terms of reference, the fact is that Atos has a substantial stake in the privatisation of the service delivery in the U.K. - significant, hundreds of millions of pounds that it makes its money from – and we are taking advice from them. Are we not paying them to tell us to privatise particular services in order that they can bid for their own advice?

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

As the written answer makes clear, Atos does a very wide range of things. They have been contracted here to provide a report on specific areas. Frankly, whether or not they are involved in

privatisation elsewhere as part of their organisation does not seem to me to be relevant to the issue as to whether at the end of the day when decisions are made what will be the best way of delivering services which is consistent with the social policies of the Council of Ministers. I do not think the 2 really tie in together.

**Deputy G.P. Southern:**

If I may, a supplementary.

**The Deputy Bailiff:**

A final supplementary.

**Deputy G.P. Southern:**

The questions are very short today.

**The Deputy Bailiff:**

There will be plenty of more questions in quarter of an hour.

**3.13.3 Deputy G.P. Southern:**

The answer provided to the written question suggests that privatisation is one of the options to be considered. If Atos recommends privatisation of particular services, will that advice be followed?

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

An evaluation would have to be taken. The issue as to what services might be appropriate for privatisation is a complex decision in any given case, because it is not just a matter of whether we can get things done more cheaply, we also have to take into account social factors.

[11:30]

We cannot have a situation where by privatising services we will effectively be getting them done by people who are going to come into the Island, thus displacing people in the Island who have existing jobs. All those factors have to be taken into account. It is a complex decision in any given matter but I am not sure that Atos is going to make recommendations as to any method of delivery. As I have said before, they have simply been asked to map the different ways in which things relate. I do not know that recommending that it would be better to provide by prioritisation would be relevant to that.

**3.14 Deputy J.H. Young of the Minister for Planning and Environment regarding alternative uses for redundant historic buildings:**

Will the Minister inform the Assembly of the alternative uses for redundant historic buildings, particularly redundant churches, which he prefers and encourages when applying the historic buildings policies of the Island Plan 2011 and advise whether he considers these policies to be sufficiently flexible to ensure viable use of such buildings, and if not, will he be making appropriate amendments?

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

It is not for the Minister to express preference for any type of use to which a redundant historic building might be put, but rather to assess whether proposals put forward by applicants are acceptable and appropriate, having regard to the Island Plan policies approved by this Assembly and the international conventions that the Island has signed up to, committing it to safeguarding its architectural heritage. I consider that both the Planning Law and the Island Plan policies provide me with sufficient flexibility to deal with proposals that affect historic buildings, to ensure that

viable uses for important old buildings can be found. I do not consider that the Island Plan policies requirement amendment at this present time.

**3.14.1 Deputy J.H. Young**

Could the Minister clarify his answer, please, on what he means by: “viable uses for important old buildings”? Does he not consider that residential use of such premises is an appropriate use?

**Deputy R.C. Duhamel:**

I do consider that residential use is or could represent a viable use, but there too are a host of other viable uses to which important historical buildings could be put to.

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

At a Scrutiny hearing last week, I put the question to the Minister in response to the Island chapel. In response, he said he had met trustees of the chapel regarding its possible use but he did not enlarge on what he had told them. Since then I have heard in the media that he is supposed to have said that the chapel could be used for a theme pub or theme park type venue. Could the Minister confirm or otherwise that that is exactly what he did say, please?

**Deputy R.C. Duhamel:**

That was among the advice that was given to the representation that I met onsite, and in doing so I was referring to a practice that is undertaken by the Methodist circuit in the U.K. It should be known to Methodists in Jersey and indeed to all Islanders that around 100 Methodist central halls were built in major towns and cities across Britain between 1886 and 1945. Of those, only 16 halls are still being used by Methodist churches as churches in their original form. Others have either been demolished or converted into themed pubs or converted into other forms of places for entertainment with the agreement of the Methodist movement. It was in that context that a potential alternative use was suggested. In addition, a letter was written to the circuit suggesting that alternative potential types of use for the church could be considered and that included class A, shop; class B, food and drink premises; class C, office uses; class E, warehouse; class F, accommodation, which includes residential; class G, social purposes; class H, leisure, with the exception of swimming baths, or class I, entertainment.

**3.14.3 Deputy J.H. Young:**

Would the Minister not consider that members of the public listening to his answers would consider such explanations entirely woolly, ambiguous and without providing sufficient clarity for the trustees of these church buildings and does he not think that they need guidance and advice rather than sort of an academic treaty on why it might be possible in such buildings?

**Deputy R.C. Duhamel:**

No, I think the public, certainly with the further explanations, would not think that. I have to make the point that the latest offering of a Methodist central hall to the entertainment industry has secured an investment of £1.8 million in Bodmin by the company JD Wetherspoons. I think it is very clear that if we are trying to achieve a betterment of these buildings or indeed a future use, then these things should be considered, but in considering them, I think they must be considered across the board. I have not stated that this is the only acceptable use. I have highlighted all the other uses within the planning laws that would find a suitable or sympathetic Minister in considerations that are put forward to use the building for further purposes.

**3.15 The Connétable of St. Mary of the Minister for Planning and Environment regarding the treatment of injurious weeds in accordance with the Weeds (Jersey) Law 1961:**

Is the Minister aware of areas of public land where injurious weeds, and specifically ragwort, are endemic and if so, is he satisfied that there are sufficient resources available to ensure that these are dealt with in accordance with the Weeds (Jersey) Law 1961?

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

The department controls the spread of injurious weeds, and that includes ragwort, in accordance with the Weeds (Jersey) Law 1961. Complaints are received from the public and officers and we monitor known hotspots. This provides the department with an understanding of the problem areas. The department does not have the resources to prevent the spread of all ragwort occurring in all areas in the Island and it is not the intention of the injurious weeds law to do that. In order to target resources and control measures, the department revised its weeds policy in 2009. The new policy means that areas are actioned in situations when landowners are concerned about neighbouring infestations, seeding and spreading on to their land, particularly those infestations that may spread on to agricultural, horticultural or grazing lands. As such, marginal lands and/or scrub areas with ragwort are separately assessed according to the risk of spread and the ecological value of the surrounding land. The department however has insufficient resources to control ragwort according to this revised policy. This year, the department has spent more than 100 man days controlling ragwort. The problem this year is that the weather has been ideal for ragwort growth and this therefore might require more control next year with a corresponding increase in resources. If the Connétable is aware of any problems in her Parish, I will be happy to forward that information to my officers.

**3.15.1 The Connétable of St. Mary:**

A supplementary, Sir? Thank you. If public land is not being kept clear of ragwort, as the Minister has said he has not sufficient resource, how can the department really expect to be able to enforce the Weeds (Jersey) Law on private land if they are themselves at fault? I have got instances - and I am not talking about St. Mary here - where areas have been cut by the department up to 3 times, and they are being cut when ragwort is in seed and that is causing the spread to neighbouring properties, the policy itself. Does the Minister think this is appropriate?

**Deputy R.C. Duhamel:**

The department are researching alternative ways of dealing with ragwort control. The methods so far involve, as the Constable suggests, cutting the plant or pulling it out, including the roots, or indeed the use of herbicides in specific ways to try and reduce the problem. There is also a suggestion that perhaps there might be an opportunity on States-owned land to introduce a sheep grazing policy or goat grazing policy in order to allow the ragwort plants to appear more distinct so that more mechanised methods of uprooting these plants could be undertaken. As I said, the plant is not perhaps as dangerous as people think. It certainly can be harmful to animals if they do ingest it, but on the other side, I was recently in a conference with the British Irish Council, where we were discussing the importance of non-native invasive species and people should record that the ragwort supports some 60 species of invertebrate, not including pollinators or nectar feeders, and this represents a significant plant and animal biodiversity. So perhaps it is not a case of just exterminating the ragwort but indeed allowing it to flourish in places that do not have an overriding human or animal use.

**3.15.2 Connétable S.W. Rennard of St. Saviour:**

I do not believe I have just heard that.

**Deputy R.C. Duhamel:**

Would the Constable like me to repeat it?

**The Connétable of St. Saviour:**

If that is not parliamentary language, I again apologise. As a farmer, I have to deal with ragwort. It can only be dealt with correctly by pulling it out to get rid of the weed and get rid of the root. You do not cut it, because you spread it, and it is dangerous; it is very dangerous to horses. If I am going to pull out the ragwort and kill a few little other bits of life, they will just have to find somewhere else to survive. Do you know this whole thing is just stupid. Ragwort is dangerous. I have been fined for having it in my field, so I pulled it out and paid the fine. Now I am being told by the gentleman in charge of the environment that it is okay to have it and he is going to have areas put aside for it so these little creatures can live on it. I am sorry; I would like to know if you are going to be allowing this, can I allow it to grow on my farm without being fined so I can help these little animals as well? **[Approbation]**

**The Deputy Bailiff:**

Minister, I do not think you have responsibility for that last part of the question, but Connétable of St. Mary, have you got a final supplementary?

**3.15.3 The Connétable of St. Mary:**

Yes, Sir, I do; just that does the Minister not agree that the law is the law that has been passed by this Assembly and adopted, and if the law says that injurious weeds must not be allowed to spread the department must lead by example and not allow these weeds to spread from public land? Thank you.

**Deputy R.C. Duhamel:**

No, I would wholly agree and it is the spreading that is the important thing and not the total eradication of the plant within those fields that contain it. Indeed, it is open to members of the public under the law to make complaints to the department and the department will then action the law. That clearly is not changing and that is how we deploy our officers.

**3.15.4 The Connétable of St. Mary:**

May I have one last little supplementary, Sir? Quickly. When the department is responding by cutting the ragwort in seed, does the Minister not agree that that is leading to spreading, which is the specific thing the law seeks to prohibit?

**Deputy R.C. Duhamel:**

No, I do not, because it is not just cutting that is the method for eliminating the plant in a particular field. It is uprooting the whole plant and disposing of it in a sensible fashion and this is one of the controlled measures that we operate, right? It is not just cutting.

**3.16 Deputy S. Power of the Minister for Treasury and Resources regarding the importance of growth in affordable housing and social housing sectors to stimulate the economy:**

I am sorry to say that this will not provide any entertainment. Does the Minister consider that the growth in the affordable housing and social housing sectors of the Jersey economy are of vital importance to stimulate the economy, as stated by the U.K. Government last week that - and that was that George Osborne - the relaxation of regional planning laws and a major investment in affordable housing was a key component of U.K. economic recovery.

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

Yes, social housing projects are important, valuable and can be very effective in stimulus to the local economy when undertaken in a timely and targeted manner. This is particularly true when the

construction industry itself is under pressure and has spare capacity to absorb that extra business, as indicated by the recent Business Tendency Surveys which show that approximately 60 per cent of construction firms state that they are operating below capacity. I would remind the Deputy, and I know he supports this, that I had brought a proposition to the Assembly last year to allocate an additional £27 million for projects such as the La Collette high-rise refurbishment and other projects which I will not repeat. These are important projects that can help support jobs locally directly in the construction industry but also the wider economy, but with further economic benefit from the increased activities which flow through. I am happy to continue to keep this under review if more is needed.

[11:45]

**The Deputy Bailiff:**

Well, that brings that part of the question time to an end. We now come to questions to Ministers without notice. The first question period is for the Minister for Economic Development. Deputy Tadier.

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

**4.1 Deputy M. Tadier:**

This relates to written question number 10, and I would like to ask the Minister, given the importance of German tourists to our economy and the fact that German tourism is growing and becoming more important, why are we cutting the tourism budget allocation for advertising in Germany, which we have seen from question 10, has already gone down from, I think, £157,000 in 2010 to £91,000 in 2011 and will go down even further. Is this not counterintuitive and counterproductive?

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

At face value, I agree with the Deputy, yes, it is. What in fact we have been doing is working very closely with the airlines and the direct airline links that are bringing tourists from Germany - high-spending tourists, I might add - and the numbers are increasing. We have had an increase of 14,000 projected for this year, which is very encouraging. So we are being more effective by targeting the money we have got and getting a better return on the investment that we are making, but we are continually reviewing the opportunities that exist. Germany is a good, strong market and if we can improve further on that, then we will look to divert further funds into exploring and developing the German market, but we are getting a very good and increasing response at the moment.

**4.1.1 Deputy M. Tadier:**

Just a supplementary. I take on board what the Minister says about targeting efficiently, but the question should be certainly the bare minimum is to keep the budget the same and target better, not to cut the budget when we have a growing market share which is continuing to emerge. Will the Minister give serious reconsideration to increasing the budget allocation for German publicity? If not, he may face an amendment in the forthcoming budget.

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

What I am saying, as I have just said, there is an increase in the number of visitors from Germany with the money we are spending, so I am pleased with that. That said, it is continually under review as we move through a season and yes, I do agree with the Deputy that of course the department will continue to look at allocating money, if needed, in particular markets to get even greater returns if we possibly can, so yes.



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

I am sure the Minister would agree that when fishing licences were first issued to members of the local fishing industry that this was done to help preserve stocks and to protect our waters and our local fishing industry itself. Would he agree with me that the wording of those licences now needs to be modified, as currently our stocks are coming under increased pressure from non-local fishermen, who are finding ways around the current legislation?

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

Yes, I would, and I appreciate the sensitivity around this particular subject. We do need to continue to look at revising the licence arrangements. There have been some changes with regard to the registration arrangements for fishing vessels which in some respects have helped where with ownership of such vessels, there have been some questions as to ownership rights and suchlike. We have changed that to ensure that vessels must be operated and managed from within the Island, which is helpful. But the point the Deputy raises is a good one. We are continually looking at it and I know it is a sensitive issue that needs further work.

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

Will the Minister outline to Members how incorporation of Jersey Harbours will in and of itself produce increased revenue to the Harbours?

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

I think we have got a lengthy debate coming up this afternoon on that particular point, but as far as I am concerned, a considerable amount of work has been done over a long period of time with regard to the ports of Jersey. That work identifies clearly that by putting commercial rigour into the operation of the ports and giving them more flexibility and agility, the opportunity to move quickly and capture commercial opportunities will drive additional revenue in the longer term. The figures have been presented. I think some of those figures were available and I am sure if the Deputy went to any of the presentations over the summer period, he would have been made well aware of the opportunities that exist.

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

With the demise of George Troy and Sons stevedores some months ago and the new company having been put in place to run the stevedores, could the Minister tell us how many of the original stevedores were re-employed and in fact how many have lost their employment?

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

Yes, I can, and I am pleased to say that that process appeared to work out extremely well. Solent Stevedores have been appointed, having gone through a tendering process, and indeed, of the George Troy and Sons stevedores, I understand that 22 have been taken on by the new company. I believe - and I stand to be corrected on this particular point - that 5 may not have been taken on, although I believe 2 of those were indeed retirements, but further details can be supplied to Connétable if he requires them.

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

Of the 3 who have lost their job, has any help been given by Harbours in finding alternative employment?

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

They are not employees of Harbours clearly, but yes, I understand there has been some assistance given, the details of which I do not have to hand, but yes, there has been some and I am happy to go back to the Connétable on those points.

#### **4.5 Connétable J.L.S. Gallichan of Trinity:**

Would the Minister agree to examine how to encourage more direct flights to Jersey to increase tourist numbers?

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

The short answer is yes, but I should add that we are continually doing that. Certainly the airports are continually working with airlines to look at opportunities to drive new routes. We do have in summertime something like 50 routes flying to or connecting the Island to not just the U.K., but also into Europe. For an island jurisdiction of our size, I think that is a remarkable network, but we are continually looking to improve on it.

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

Could the Minister advise the Assembly the current state of play with the impact of losing the L.V.C.R. (Low Value Consignment Relief) on business closures and redundancies and if he feels it is going to get even worse in the coming months?

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

Yes, I can to a degree. What I can say is that certainly to date, although it was only some months ago that this matter was settled, it is very early days in terms of the life cycle of a business, in terms of changing its arrangements due to the loss of L.V.C.R. What we have seen is that just in excess of 400 people appear to have lost their jobs as a result. There have not been so far businesses that have shut down, although I think there is one possible loss, a small business did close, but generally speaking there have not been businesses closing down. They have been realigning their arrangements but jobs have been lost, as we anticipated. We further anticipate that over the coming 6 to 12 months, there is likely to be further losses as a result of L.V.C.R. closing.

#### **4.7 Deputy S. Power:**

The Minister will be aware that over the years, many operators in the port of St. Helier have expressed concern about the level of port charges, both for the handling and discharge of freight, and indeed for the handling of passengers as they come through the port of St. Helier. Has the Minister given any thought that perhaps by reducing the freight rate charges and passenger charges, we might increase sea traffic to the Island?

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

I mean, at face value that seems to be an obvious point. What we have seen over the last sort of 12 to 18 months is that the freight rates have dropped quite dramatically due to competition to almost an unsustainable level at the moment. I think the interesting point is that we are not seeing that passed on in consumer prices, as we have noticed recently. So just reducing charges and harbour dues, does not necessarily drive through to consumer prices, which is perhaps where the Deputy is coming from. I would also add that there is a correlation between some of the operating costs within the harbour, for example, the coastguard service, which is typically funded separately in other places and other ports, but that is funded by commercial dues, so there are other cost considerations, just as a point.

#### **4.7.1 Deputy S. Power:**

May I be allowed a supplementary on that? If, as the Minister has said, that freight rates have dropped, is it not therefore appropriate that port charges should also be reviewed and considered in

the light of the difficulties that particularly retailers and operators in the tourist trade and the hospitality and retail industry have in Jersey at the moment?

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

I can see how it is tempting to align those 2 particular points. I think where there are difficulties within the economy with different sectors, I think we need to look at ways in which we can most effectively support and assist those particular sectors. I am not convinced necessarily that dropping rates, harbour dues or landing dues for the airport, for example, are going to feed through and directly affect prices and therefore encourage more consumers to spend and assist businesses that are indeed struggling at the moment. So I think it is the most effective way that we can target assistance to business, which is obviously going to have the effect of supporting employment and encouraging greater employment is absolutely critical, but I think we have to be more targeted.

**4.8 Deputy J.H. Young:**

Could the Minister please advise us of the cost, the estimated cost of administration of the new G.S.T. (Goods and Services Tax) exemption scheme for high value goods for tourists, and also an estimate of the loss of the revenue and the benefits, please?

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

The short answer, I am afraid, is I cannot. I believe it is a matter for the Minister for Treasury and Resources. I am afraid I do not have those details but I will ensure that they are supplied from the Minister for Treasury to the Deputy.

**Deputy J.H. Young:**

And to Members.

**4.9 Deputy T.A. Vallois:**

I have had a large amount of concern raised with me over the summer recess with regards to unfair competition in the telecommunications industry. Could the Minister advise whether there are currently difficulties with importing the competition law?

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

Not specifically, but if the Deputy has specifics she would like to raise, I am happy to hear what those might be. I mean, the telecommunications market is one where there are sensitivities. It is certainly an area which is now more competitive than it has ever been since it has opened up. I am desperately keen to see that we have a competitive telecommunications market. It is absolutely critical for the economy that we do, and I will continue to work with the regulator to ensure that they have everything necessary at their disposal to fulfil their obligations under the law and ensure that that is achieved.

**4.10 Deputy S. Power:**

Following on the theme of the port of Jersey, does the Minister feel that there is a tension between the shipping companies, those are the companies that own and operate ships, and the freight forward companies? Does he feel that the comments he made about freight rates not being reflected in the end user in Jersey is not being caused by the shipping companies but it is being caused by those that use the shipping companies?

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

There could be a number of outcomes from the question that the Deputy raises. He is talking about the supply chain and there are many parts to that particular chain. I was merely making the final link to the consumer. There is a problem. Prices in some areas, as has been well documented in the

Island, are too high. We want a competitive economy. We want to make certain that prices are at a fair and reasonable level. That is not always the case but there is not a simple answer as to why that is so.

**4.11 Deputy G.P. Southern:**

Will the Minister state what estimates he has for the total tax revenue generated by those companies registered in Jersey in the gas, oil or mining sector?

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

Not off the top of my head, but if the Deputy would like that information, I am happy to supply it to him.

**4.12 The Connétable of St. Mary:**

Is the Minister aware whether any additional Freeview T.V. (television) channels are likely to be made available in the Island in the foreseeable future?

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

Not in the foreseeable future, as far as I am aware, but certainly it is an option that has been considered and I believe is being worked on, but I could not give the Connétable a particular timeframe.

**4.13 Deputy M. Tadier:**

The question again relates to freight. Will the Minister give consideration to looking into individuals who use their vehicle as their only form of transport which happens to be a van and are being charged perhaps unfairly for being charged a freight rate when they go on holiday, even though the van may be empty, save for personal possessions?

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

Again, if the Deputy is prepared to give me some more details, I am happy to have a look at it. I cannot say much more than that.

**The Deputy Bailiff:**

No other questions for the Minister for Economic Development? Then that means we will go on to the second question period for the Chief Minister.

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

**5.1 The Connétable of St. John:**

As the Senator has been Acting Chief Minister, acting E.D.D. (Economic Development Department) Minister and Acting this other Minister, *et cetera*, over recent weeks, how has he managed his own department, given he has certain statutory responsibilities? I note a delay in reply to correspondence from the Minister to my own Parish in relation to gun licences.

**The Deputy Bailiff:**

Connétable, that is not a question to the Chief Minister. It is a question to the Minister for Home Affairs, who may be the only person ...

**The Connétable of St. John:**

It is one and the same, Sir.

[12:00]

**The Deputy Bailiff:**

Well, it is not something to which he can respond to. If you turned it the other way round and asked him how he is coping as Deputy Chief Minister, that would be allowable.

**The Connétable of St. John:**

Well, I will put it the other way around, Sir. [Laughter] How are you coping with all the stresses of being the Chief Minister, Acting Chief, *et cetera*? My other question still remains, thank you.

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

Well, it has certainly been very interesting. I did find myself in charge of 4 departments, it could be 5, for a fortnight during the summer and that took me into areas that I have not been into before which was most interesting. But as things were very quiet at that time in my own department I did not find this created excessive pressure on me. I have found it much more difficult dealing with particular Minister's questions both written and oral, and indeed trying to absorb the extraordinary degree of detail which I have here, much of which I do not understand at all, in relation to my brief for today. I do not think this has any bearing on any matters to do with guns, which I think would be directed to the police force, not with myself.

**5.2 Deputy J.H. Young:**

On the theme of the Deputy Chief Minister's role in recent weeks, could the Deputy Chief Minister outline for us please what arrangements the Council of Ministers made during the recess to keep Government going and what arrangements have been made to make sure that Ministers who were absent were fully covered and our Island Government did not grind to a halt during this period?

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

First of all, the Chief Minister and myself managed to correctly co-ordinate our dates at this time perfectly so that there was never a situation where both he and I were away. Secondly, the Chief Minister set out a programme of substitutions for ministries during the relevant period. So there were other Ministers who were substituting for others, for instance from memory the Minister for Housing was substituting for the Minister for Social Security, and the Minister for Treasury and Resources at times was substituting for Health and Social Services. There was an agreed programme but where there is specific delegation of that nature, the responsibility reverts to the Chief Minister to take overall responsibility and thereby when he is away it reverts to me. That is where the situation arose where there were quite a number of ministries. I would hasten to add that in practice what comes up are barely matters which require a Minister to approve, such as matters to be lodged before the States and things of that nature. The departments will carry on running themselves quite nicely without any political oversight in other matters.

**5.3 Deputy G.P. Southern:**

In his role as Deputy Chief Minister, the Minister has suggested that there would be a review of the level of pension increase this year, has that meeting of the Council of Ministers taken place, or if not when will it take place and will the Deputy Chief Minister return to the House with some conclusions?

**The Deputy Bailiff:**

That is 2 questions. Has it taken place and when will it take place?

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

Of course a number of important Ministers were away at the time, the Chief Minister himself. I was correct in indicating that when he returned he would want to be involved in a review process in

relation to this but the other key Minister, of course, who was away at the relevant time was the Minister for Social Security. Clearly now he is back and clearly there is work in progress looking at what can be done in relation to the issue of the shortfall as between the increase in the earnings index and the cost of living which affects pensioners again for this year, but there is work in progress taking place.

**The Deputy Bailiff:**

You asked the Minister when the meeting was likely to take place.

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

I am sorry, I cannot recall what meeting, Sir.

**The Deputy Bailiff:**

The meeting with the Minister for Social Security, I think.

**Deputy G.P. Southern:**

The Chief Minister.

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

There have already been some discussions but I am not aware of a formal programme of meetings as yet but certainly it is on the Chief Minister's agenda. It is clearly on the Minister for Social Security's agenda. At the moment, I think, we are waiting for proposals from the Minister for Social Security.

**5.3.1 Deputy G.P. Southern:**

When might we see some conclusion to those discussions?

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

I am looking at the Minister for Social Security and his hand gestures indicate there is no certainty of time frames.

**5.4 Deputy S. Pitman:**

In setting out the Council of Minister's priorities earlier this year, the electoral reform was one of them, can the Deputy Chief Minister clarify if the Council of Ministers are unanimous on the fundamental principle that all people in the Island should have an equally weighted vote in elections?

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

No, I do not think we have discussed that and, of course, there is plenty of room for argument as to what that means in practice on the ground.

**5.5 Deputy J.M. Maçon of St. Saviour:**

With the resignation of the Auditor General, this has left an important gap in the Serious Concerns policy also known as the Whistle Blowing policy, is the Minister able to inform the House which independent body has been appointed in order to facilitate this role while the Auditor General post is free and, if not, will the Acting Chief Minister make this a priority?

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

My understanding is that it is a priority of the Chief Minister that an interim person be appointed at this role. That is because the length of process normally involved with a full appointment is such that there would be a gap and that would have certain consequences in jamming up certain aspects

of the system. I believe that he has been talking to the chairman of the Public Accounts Committee on that. I am hoping that that is so. Certainly that was his intention. If that is not so then that is certainly a matter that he should take up on his return to the Island but he is very keen that we have an interim appointment because of statutory and other issues which arise.

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

Would the Deputy Chief Minister advise whether the Chief Minister has given any further consideration to the suggestion of accepting Ed Marsden of Verita's invitation to come to Jersey at a similar time to Mr. Andrew Williamson to present his report and terms of reference for the proposed Committee of Inquiry into historical child abuse?

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

I have had some discussions in this area with the Chief Minister before he left for Sri Lanka and my understanding is that he is not intending that that should happen. That is my understanding from that conversation.

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

Sorry, supplementary. Will the Chief Minister advise whether there is any scope for other States Members independently to bring over Mr. Marsden who has already expressed a willingness to come over and be able to present his report? Does he not feel either personally or speaking on behalf of the Chief Minister's department that it would be of benefit, for a report which is commissioned on behalf of the States of Jersey and paid for by the taxpayers, that the report should be made public, and that the individuals that produced the report should be given the same opportunity as Mr. Andrew Williamson who has also been commissioned to look into the same issue?

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

I am sorry, I am not aware of the status of that report. The question implies that that report is not in the public domain. I am afraid I am just not aware of that.

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

Should I clarify and maybe give the Minister some points of information? My understanding from the Chief Minister, from the emails, is that neither the Verita report nor Mr. Williamson's report have been made public. They have not been published yet and I would ask for those to be made public. I had copied Senator Le Marquand into those emails. My question is quite simply will he give serious consideration to bringing both individuals over to Jersey, to talk to States Members so that we can have a level playing field to compare the 2 documents and to be able to compare them as quickly as possible so that we can look into those and be prepared before the presentations take place?

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

I have given my theory as to what I think the Chief Minister is thinking in relation to bringing over Mr. Marsden but I do not know what his position is in relation to the Verita report, but I would be surprised if his position was other than that should be made public. I must say I do not know the precise answer to that.

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

Following on from Deputy Tadier really, given that the democratic deficit in Jersey, and this issue of historical abuse saga is a key element of that, is about to resurface in the international media, certainly in America and the U.K. this week, can the Deputy Chief Minister advise whether the Council of Ministers feel that those at the centre of this and the Jersey Care Leavers' Association,

*et cetera*, have been kept fully involved as they should with this process as it has now reached, and if not does he have any plans to try and engage them further to try and put some minds at rest?

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

It is difficult for me to answer these questions because the Chief Minister has been dealing with these issues personally. I know that when challenged in the past in questions he expressed a wish to do better as it were, to be better in terms of ensuring that different groups were kept informed and I believe that he has been trying to do that. As I say, because he is dealing directly with these matters himself it is difficult for me to comment.

**5.8 Deputy G.P. Southern:**

Will the Minister assure Members that the solutions for customer service enhancements arrived at following consultation with Atos will exceed the standards currently met by the Social Security Department which has high levels of dissatisfaction with the customer service it delivers and yet is proposed by the Chief Executive Officer of the States as the model for forward thinking?

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

I think that clearly there are different opinions as to how good the Social Security system is but clearly whatever system we come up with we want to make sure it is as high a standard as we can achieve within available finances.

**5.9 Deputy M. Tadier:**

Will the Deputy Chief Minister confirm whether he has seen Mr. Williamson's recent report and which other members of the Council of Ministers have also seen that report?

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

I can confirm that I have seen the report. I am trying to think who else was present. I do not think there were any other Ministers present at that time other than the Chief Minister who decided it was right to show me the report, so I am not aware of who else in the Council of Ministers might have seen it but certainly myself and the Chief Minister have.

**5.9.1 Deputy M. Tadier:**

Can I ask why Senator Le Gresley - as I believe - has not been given a copy of the report given that promises were made in the past that not only he but all of the stakeholders including myself and the former Deputy Bob Hill, who I appreciate is no longer a States Member, would be kept in the loop when decisions were made because this promise seems to have been reneged on by the current Chief Minister?

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

I am aware that when I had discussions with the Chief Minister that he had the intention of speaking to Senator Le Gresley in this area. Senator Le Gresley tells me that he has not seen the report and I am not quite sure what has happened here. There was a very tight time period between the return of the Chief Minister from holiday and him going off, and I suspect that this has somehow been sidelined but I know that it was his intention to do so as soon as possible.

**The Deputy Bailiff:**

Are those all the questions for the Deputy Chief Minister? That part of question time and question time generally now comes to an end. I would draw to the attention of Members, the Minister for Treasury and Resources, R.111 Land Transactions under Standing Order 168(3) has now been lodged.



## **PUBLIC BUSINESS**

### **6. Draft Residential Tenancy (Amendment) (Jersey) Law 201- (P.67/2012)**

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

We have nothing under J or K. We now come to Public Business, the draft Residential Tenancy (Amendment) (Jersey) Law 201- lodged by the Minister for Housing, and I ask the Greffier to read the citation of the draft.

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

Draft Residential Tenancy (Amendment) (Jersey) Law. A Law to amend the Residential Tenancy (Jersey) Law 2011. The States, subject to the sanction of her Most Excellent Majesty in Council, have adopted the following Law.

#### **6.1 Deputy A.K.F Green of St. Helier (The Minister for Housing):**

As Members will be aware, the Residential Tenancy Law is an important piece of legislation which sets out a modern frame work for the rights and responsibilities of both landlords and tenants under one law. Before really getting into the bones of this, I wish to pay tribute to the work of my predecessor, Deputy Power, who was then the Assistant Minister who first brought this law to the Assembly in 2009. Members may be aware and indeed concerned about the delay we have faced in getting where we are today with the Residential Tenancy Law. The law was adopted by the States in July 2009 but was not sanctioned by the Privy Council until November 2011, a delay which came about when the Ministry of Justice legal advisers queried whether some of the provisions were entirely compatible with the European Convention on Human Rights. Following discussions with the Law Office and Ministry of Justice legal advisers, it was decided to propose some amendments to the law to address the European Convention on Human Rights compatibility issues.

[12:15]

The Ministry of Justice therefore agreed to progress the principal law for the Royal Assent on the understanding that the legislation would not be brought into force until amendments rectifying these concerns were brought into force. The amendment before the States today is therefore a result of the work that has been carried out to give effect to the necessary changes put forward by the Ministry of Justice as well as introducing additional amendments that will assist when carrying out the principal law into effect, which I will come on to explain in a minute. The recent figures from the census showed that one third of the Island's population lived in rented accommodation. With this in mind, I believe putting in place the Residential Tenancy Law is more important than ever. I am confident that if the States approve this amending Law today I will be able to come back to the States early next year with the Appointed Day Act for Residential Law, subject, of course, to the timely progress of this amending law for Royal Assent. I will now seek to explain to Members the purpose of the amendments and the principles behind them particularly in respect of ensuring the human rights compatibility of notice periods and eviction processes. In respect of notice periods, the principal law specifies that the landlords must give a tenant 3 months' notice to terminate a periodic tenancy but it also gave the Minister an order making power to enable him to vary the notice period. However, the Ministry of Justice believes this provision giving the Minister power to vary notice periods is not entirely compliant with the European Convention on Human Rights because the power to vary the notice period could, in practice, mean that a week or a few days could be prescribed by the Minister. This does not provide the tenant with security of tenure and thus might convene Article 8 of the Convention guaranteeing the right to respect for family and private life. Of course, I hope Members would agree that I would not propose such an order but the Minister's order making provisions have nevertheless been amended so there is a period of not less than one month's notice can be prescribed. The second amendment recommended by the Ministry

of Justice relates to eviction orders carried out by the Viscount. This amendment brings the law into line with current practice of the Viscount's department and simply clarifies the procedure that the Viscount must follow when gaining entry to the property, removing an evicted tenant's furniture and other belongings. The final amendment that I am bringing forward in response to the Ministry of Justice's concerns relates to the process for handling money raised from the sale of any evicted tenant's discarded property. The enacted laws allow the Viscount to credit proceeds from the sale of the evicted tenant's unclaimed property to the States' consolidated fund subject to the Viscount paying any costs associated with carrying out his function and the landlord recovering any costs that they might have. The process remains the same but an additional provision has been added to accord with Article 1, Protocol 1 of the European Convention on Human Rights in respect of the protection of property. This amendment now assures that the Viscount takes reasonable steps to provide an evicted tenant with the remaining balance of any proceeds from the sale of their property before it is credited to the consolidated fund. Moving on to other changes that are being brought in the amending law, during the time the principal law has been awaiting sanction there has been further progress in connection with the general programme of work on landlord and tenant legislation. As a result of this work, there is a need to make additional amendments to the principal law along some minor tidying up and clarification of terminology. In June this year I published my response to the consultation on introducing a number of standard forms for the use under the Residential Tenancy Law. These included the introduction of a standard tenancy agreement, condition reports and form of notice in addition to further obligatory provision to be included in the residential tenancy agreement. This amending law therefore includes some revisions in order to add clarity to the terminology used to facilitate the introduction of these provisions by regulation and by order. Members might like to refer to the consultation document to see my full responses, but from the findings of the consultation I intend to make it compulsory for a landlord to complete a condition report as part of the tenancy agreement. A condition report records the state of repair of a property at the commencement and the termination of a tenancy and I believe it would be helpful for landlords to have one when deciding on the return of a tenant's deposit. The amending law will allow us to achieve that. It is my intention to make compliance with the Residential Tenancy Law as straightforward as possible and the law should be viewed as a framework of rights and responsibilities on which landlords and tenants can build their own tenancy agreements. In recognition of this, although the amending law allows regulations to be introduced to make it compulsory to use specific standard forms, for instance a standard form on condition reports, a standard form on tenancy agreement and a standard form of notice when terminating periodic tenancies, it is not my intention or wish at this time to make the use of these standard forms compulsory. I will make available standard versions of these documents which will be optional for the landlord to use and landlords will still be allowed to use their own documents so long as they are compliant with the Residential Tenancy Law. This does not mean however that I will not, at some time, make it compulsory in the future and the amending law gives us the option to do that. Members, I am sure, will be particularly pleased to know that the amending law before us will enable me to bring forward a tenants' deposit scheme by way of regulation in the near future. I have made my views clear that I believe we need a tenants' deposit scheme and in fact the States has asked that I put one in place. I recognise that though the majority of landlords are good and treat their tenants fairly, we cannot rely only upon goodwill. I am very concerned about the number of complaints I receive about landlords unreasonably refusing to pay back tenants' deposits on rented accommodation but currently there is little I can do to help these people and I hope by introducing a tenants' deposit scheme we can improve that position. This amending law firstly defines what a deposit is and what it represents. This means that when it comes to managing the deposit scheme there will be clear definition that a tenant's deposit may be used to account for the performance of any obligation or liability of the tenant, for instance unpaid rent or damages to the property when the tenancy has ceased. The provision will further clarify the rights and

responsibilities of landlords and tenants and will better protect the interests of both parties. The amending law also extends provisions to allow regulations to be introduced by the States to give effect to the tenants' deposit scheme. A framework for the deposit scheme is still being worked but the amending law will allow the States to establish a deposit scheme and set out the way in which deposits must be held. It will also, among other things, allow the States to make it an offence for landlords not to pay into such a scheme and set out how disputes involving deposits will be resolved as well as allowing the Minister to exempt certain classes of person, accommodation and residential tenancies from the scheme should that be deemed appropriate, for example a tenancy of less than 3 months. In the light of these amendments, I hope to bring forward the draft tenants' deposit scheme within the next few months so that we can move forward and provide tenants with greater assurance that their deposits are managed fairly and transparently. I will take Members through the key provisions of the amending law as we move on to the second reading, but overall I believe this amending law means that we are now a step closer to introducing a piece of comprehensive legislation that will meet the legitimate expectations of Islanders involved in the rental of residential accommodation whether they be landlords or tenants. I am confident that we have here a set of principles that will provide strong legal bases for the development of fair, transparent and well regulated tenancies between landlord and tenant. I am therefore pleased to recommend the principles of this amending law to the House. I hope Members will support them so that we can introduce these long overdue improvements as soon as possible.

**The Connétable St. John:**

As a landlord, can I declare an interest and should I retire or [Laughter] [Approbation] can I stay in the Chamber?

**The Deputy Bailiff:**

As in all things, Connétable, the choice is yours but I do not regard it as a requirement that you should withdraw from the Chamber.

**The Connétable of St. John:**

Thank you.

**The Deputy Bailiff:**

It is an interest which is shared, in general, with a number of other people and therefore it is perfectly appropriate for you to speak, and if necessary you wish to vote on this matter.

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

Sir, should all declarations be made at this stage in relation to...

**The Deputy Bailiff:**

It is probably sensible for all those who are current landlords.

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

I certainly have family interests which do have deposits.

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

I am a landlord of residential accommodation.

**Senator S. Power:**

Sir, I have the same declaration.

**The Deputy Bailiff:**

The Greffier is noting as we go. Deputy Young, Deputy Power, Senator Farnham.

**Deputy M. Tadier:**

Sir, I am a tenant and I believe there are other tenants in here who are also likely to benefit indirectly from this hopefully.

**The Deputy Bailiff:**

That all goes to show how general the interest is. Does any Member wish to speak? Senator Routier.

**6.1.1 Senator P.F. Routier:**

Very briefly, I think that today is a great day for people who are tenants in rented accommodation. I think the work that was carried out previously by Deputy Power, who started this off, and the work that has been continued by the current Minister is first class and I think we should congratulate everybody who has put in the work to get us where we are today, and I hope everybody is going to support it.

**6.1.2 Deputy S. Power:**

I will be as brief but not as brief as Senator Routier. I was privileged in 2009 to be asked by then Senator Le Main to bring this through and it was a fairly weighty and lumpy piece of legislation, and I thank Deputy Green for his kind remarks, but what I would like to comment on is this. From the enactment by the States on 14th July 2009, to it coming back from the Privy Council as a principal law on 16th November was 2 and a half years and I have to say that I find that unacceptable. The reason I find it unacceptable is we seem to have what I would regard in this Assembly as a competent authority that can enact legislation, draft legislation and vote on it either for it or against it and I find it unacceptable that another authority can hold this up for 2 and a half years and then tell us that there are minor amendments which need to be made. I do believe that the principle of the law that was approved in July 2009 was effective. I do also believe that Deputy Southern's amendment was equally effective and I am glad that Deputy Southern brought that amendment because it made it a better law, and I thank Deputy Southern for that. But I do think that the delays that this Assembly and this Chamber have experienced and are experiencing now with the Draft Control of Housing and Work Law are unacceptable. I do not know why it is taking another authority in the U.K. to pencil check what we do in this Chamber but I do think that the Council of Ministers and particularly Senator Bailhache should investigate this. I see no reason why this Assembly cannot be regarded as a competent authority and I see no reason why the Privy Council should change what we have approved in the States. On that basis, I request that at this stage of this debate in this Chamber today that the Council of Ministers note what I am saying and that Senator Bailhache particularly notes what I am saying and we make sure that this does not happen, that these delays do not happen again and that we are accepted for what we do and what we say and what we approve in this Chamber.

**6.1.3 Deputy G.P. Southern:**

I too remember the debates over this particular principle and how the then Minister was so unenthusiastic about what it was proposing that he managed to lose to me, to my amendment. Nonetheless, unlike the previous Minister, I am not concerned that the Ministry of Justice should hold up something if the Ministry of Justice finally gets it right in terms of human rights applications, and I am rather relieved that they have raised these particular elements.

[12:30]

The prospect of a Minister, not this Minister, ever giving somebody a week's notice because he felt like it and because he could is a prospect that I am surprised was not cut out in the first place. The

first question I want to ask is of the Attorney General. How did we arrive at a position which was so different to the Ministry of Justice on some fundamental human rights conditions and what the arguments and the balance was there? I would be grateful if the Attorney General could speak to that particular question. Secondly, I note in the press recently in the U.K. that agents of landlords, not the landlords themselves, are introducing all sorts of charges, a charge for a credit check and a charge for a condition report, and I wonder whether the Minister can justify that not making his format compulsory, allows agents to start introducing other charges, other than a deposit, in order to queer the pitch. Would he not be better to make his particular standard and format compulsory rather than voluntary to avoid any possibility that agents may want to charge or charge tenants for particular services that are not chargeable or should not be chargeable. Finally, I want the Minister to talk to us briefly about how close we are to setting up the body that holds these deposits and in what sort of timescale would we expect to see this, not just in principle functioning but actually functioning with deposits going into a central reserve and being paid out appropriately and disputes resolved appropriately. What sort of format do we have and how close are we to achieving a working actual piece of law?

#### **6.1.4 Senator P.M. Bailhache:**

I would like to follow Deputy Power because I agree with much of what he has said in relation to the length of time which it has taken for the Projet de Loi to be considered and ultimately sanctioned by the Privy Council. I think that I would be grateful, like Deputy Southern, for advice from the Attorney General upon this. I assume that the fact that the Privy Council has sanctioned the law that alleged infringements or potential infringements of the European Convention on Human Rights are not so serious that sanction could not be given. In other words, there was nothing in the law itself which infringed upon the human rights convention. It was simply that the possibility that the Minister might do something by exercising his order making power that would infringe the human rights convention that led the Ministry of Justice to make these observations. I would like to know from the Attorney General whether he accepts the opinion expressed by the Ministry of Justice that this law in itself might have caused a breach of the human rights convention. It is an important matter and I certainly do not wish to put the Attorney General on the spot in any sense because I am all too well aware of the fact that lawyers can reach different conclusions, perfectly reasonably, upon the same set of facts and on the same legal issues, but this Assembly relies upon a statement from the relevant Minister each time a law is debated that the law conforms with the Human Rights Jersey Law 2000, and that opinion by the Minister is almost invariably informed by legal advice from the Law Officers' Department. I think it is important that the Attorney General should clarify for the Assembly what his position is in relation to this matter.

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

Is this something you would like to deal with now or would you want to deal with it after the adjournment?

#### **Mr. T.J. Le Cocq Q.C., H.M. Attorney General:**

I think I might try and deal with it now if that would be suitable for the Assembly. The United Kingdom is ultimately responsible for Jersey's position in international law. The Ministry of Justice and therefore the Ministry of Justice's lawyers advise the Minister as to whether or not there are any issues in their view that would cause any risk to the United Kingdom that Jersey might be, in some manner, in breach of international law. Of course, the European Convention of Human Rights is one of those things that they must take into account. Queries raised by Ministry of Justice lawyers about Jersey legislation do not, of course, amount to a determination that there is anything wrong in human rights terms with our legislation. They are queries only. I do not agree with all of the matters put forward by the Ministry of Justice lawyers in connection with this legislation but I

see absolutely no harm in the amendments to put the matters beyond any doubt. To deal perhaps with the specific query raised by Deputy Southern, the law as currently drafted does not require, for example, the Minister to make any particular order or indeed to make an order which reduces the period of notice to zero or to one day or to 2 days. It remains a theoretical possibility only, and a Minister in making any order must already act in a way which is compliant with the human rights law. He cannot make an order which is not compliant. He is a public authority. Any order that he made would be, for example, subordinate legislation only and therefore the courts in Jersey, if he overreached himself, would strike that down as offensive under Article 8 of the Human Rights Law. So to my mind it is out of an abundance of caution putting the matter beyond any conceivable doubt and avoiding the necessity of invoking the Jersey courts that have led the Ministry of Justice to raise that particular matter as a concern. I do not think that the legislation would have been non-human rights compliant had it remained in its present form but, as I have mentioned, I do not think that there is any difficulty with these amendments because they do place matters beyond doubt.

**Deputy S. Power:**

May I ask a question of the Attorney General, another question?

**The Deputy Bailiff:**

Arising? Yes.

**Deputy S. Power:**

Yes, arising from his response to Senator Bailhache and Deputy Southern. Can I ask the Attorney General what his view is in lieu of the fact that it has taken 2 and a half years for this to come back to Jersey, not this Assembly, what is his view on that delay and given that in his view these amendments were largely unnecessary what do we do next? How do we fix this problem if we are being given amendments that are not largely needed in his opinion? Would he care to comment?

**The Attorney General:**

I can only agree that it is obviously an extremely long delay between this law being submitted and the response from the Ministry of Justice. I cannot, however, comment on the reasons for that without making further inquiries as to why it has taken so long. It is not a law that I was originally involved with. As to going forward however, it is fair to say that in my view there is an entirely new way of doing things within the Ministry of Justice. My understanding is that all outstanding Jersey legislation that was before the Ministry of Justice's lawyers within the last few months, in other words nothing that has been passed very recently, is likely to reach the approval of the Privy Council in its meeting in October or at least be placed before the Privy Council. It seems to me that there has been a great deal of updating. Of course I cannot guarantee that to Members but that is my understanding. There is a new regime for the approval of law which will, I think, result, when it beds down, in a great increase in the speed of the passage of our laws through the Privy Council. In part, that is to do with the creation in Jersey of legislation project teams which will be in a position to accelerate the move through the domestic legislative process but also to provide much more information at the Ministry of Justice end which should accelerate matters towards Royal Assent. I am as confident as reasonably I can be without giving any guarantee that we will see a very material improvement of legislative assent in the near future.

**Deputy G.P. Southern:**

May I seek clarification from the Attorney General also? My understanding of the way that the Human Rights Law works is that the balance between the Government's right to govern and individual human rights is made by individual challenges through the courts as to what is

appropriate, what is fair and what is not. The Attorney General seemed to be suggesting that every order made by every Minister has to be sanctioned in some sort of automatic way at some stage to be human rights compliant. Is that happening automatically or how does that happen? Is every order going through his department to achieve that? It seems to me that that is what he was implying.

**The Attorney General:**

I am not sure I entirely understood the question. If the question is, do we see every order? Does my department see every order made by a Minister? I am sure that we are consulted on any order that could conceivably have any human rights aspects to it. Certainly we would advise any Minister who had made an order that we did not view as human rights compliant that we had material concerns about it.

**Deputy G.P. Southern:**

If I may push it a bit, so then the possibility that the Minister makes an order saying: "I want this person out within the week", is obviously unreasonable and an infringement on that tenant's rights. How does that get assessed as being inappropriate? Does the Minister have to ask your department or what? How is that supposed to happen?

**The Attorney General:**

My understanding is that the Minister will not consider making an order in connection with an individual matter. He will make general orders relating to the kinds of periods that might be appropriate, the minimum periods that apply. If there is such an order then it is capable of being challenged before the courts on the basis that it is not compliant with the Convention and at that point, of course, we will be advising the Minister precisely on it. If it is put to us beforehand, we will give the Minister advice as to whether an order of that nature may have difficulties in human rights terms, and I will be very surprised if a Minister was advised that there was a problem from a human rights perspective with a proposed order that that order would in fact then be made.

**Deputy G.P. Southern:**

Is the Attorney General saying that we now have this month minimum in place but he still says that it disagrees that it is necessary to put that there because of some way in which anything less would be automatically struck out? That seems to be the position that the Attorney General has taken and it seems to me that that does not match the statement that the month minimum is, in any case, irrelevant. We have it there and thankfully it is but he considers that it is still not relevant.

**The Attorney General:**

I did not mean to suggest that the month minimum was inappropriate or irrelevant. It is a month minimum and it prescribes the extent to which the Minister can make an order and there is nothing at all wrong with that. If that month minimum had not been there, any lesser amount to the extent that it was offensive in human rights terms was susceptible to being challenged. That is all I really meant to say. As it could have been challenged and redressed and a Minister has to act in a human rights compliant way then I am confident that the law could have stood without that particular amendment.

**Deputy G.P. Southern:**

Finally, if I may, just to clarify for my own understanding that that would have required a tenant or somebody to go to the court in an individual case and say: "My human rights have been ignored and I am taking this to court." Is that the reality?

[12:45]

**The Deputy Bailiff:**

That has already been raised on the floor of this Assembly.

**Deputy S. Power:**

One last, very quick question for the Attorney General if I may? The Attorney General referred to the fact he did not know the reasons why it took 2 and a half years for this law to come back, and I would like to know if the Attorney General could find out why it took 2 and a half years and perhaps the response from the Ministry of Justice could be made known to this Assembly.

**The Attorney General:**

I am happy to inform myself as to what the reasons are for the apparently very long delay as to what I might make available and feel able to make available to the Assembly. Of course I would have to find out what there is.

**The Deputy Bailiff:**

Very well. I am sure someone is shortly going to propose the adjournment. Before that happens can I just announce that there is lodged P.83 The Jersey Police Complaints Authority: appointment of chairman and members by the Minister for Home Affairs.

**LUNCHEON ADJOURNMENT PROPOSED**

**The Deputy Bailiff:**

The States will resume at 2.15 p.m.  
[12:45]

**LUNCHEON ADJOURNMENT**

[14:15]

**The Deputy Bailiff:**

I am afraid we are still not yet quorate; I make it 25.

**Connétable of St. Mary:**

Roll Call, Sir?

**The Deputy Bailiff:**

Roll Call? Very well, we will take the Roll Call in the usual way, Greffier. **[Laughter]** We appear to be quorate so it may not be necessary to take the Roll Call any longer. So we return to the Draft Residential Tenancy (Amendment) (Jersey) Law lodged by the Minister for Housing and I have it down that Deputy Maçon wishes to speak.

**6.1.5 Deputy J.M. Maçon:**

Most of my points have already been addressed by the other speakers. I am just hoping that the Minister is able to explain to the House how he will ensure that whatever form is proposed at the end of this, that it is user-friendly so that the “man on the street”, as it were, would be able to use it because what does happen from time to time is that what makes clear sense to a regulator is not necessarily always user-friendly. I am just hoping that the Minister can reassure my concerns and explain how that will be achieved.

**6.1.6 The Connétable of Grouville:**

May I ask the Minister - we understand of course that this law does not apply to non-regulated premises or non-qualifying premises - is he bringing in any legislation to affect those and, if so, will



he make sure that he has dealt with the Planning Department in order to try and rationalise the restrictions on non-qualified accommodation?

**The Deputy Bailiff:**

Does any other Member wish to speak? Then I ask the Minister to respond on the principles.

**6.1.7 Deputy A.K.F. Green:**

I will not - I am sure Members will be pleased - go over the explanation that the Attorney General gave around the delays and the human rights aspects of it because I think that has been adequately covered. Just picking up on the charges from Deputy Southern on the charges for condition reports, while I take on board Deputy Southern's comments, I have not yet got so far as to deciding whether or not for the condition reports, whether I would forbid a fee or not allow a fee. It certainly was not my intention to allow one, but I will look at that when we design the form and when we put the system in place. With regard to the deposit scheme that Deputy Southern asked about as well, we are quite advanced in the procurement process of this and have created a shortlist of 3 potential scheme providers by advertising; 2 applicants are on Island and one off Island and we will finalise the appointment following the approval of the States by regulation. I will bring the regulation to the States following the Privy Council approval and registration of the main law. In the meantime we just have some minor legal and drafting issues pending and I expect to see the regulations coming to the States earlier in the new year. With regard to the Constable of Grouville, this current law would not apply to the non-qualified sector - I think is what he was asking me about - but when the Control of Work and Housing Law comes in then it will because at the moment this applies to anybody that has the right to have a lease, and unqualified tenants under the current law do not have the right to have a lease, but they will have the right for a lease under the Control of Work and Housing Law. So these conditions will apply to the deposit scheme and the like. With regard to Deputy Maçon's question, are we going to keep it simple, well, I am a simple soul so if I can fill the form in I think everybody else will be able to, so I am sure we will keep it simple. But all jokes aside, we will consult obviously with the main landlords and their agents and any tenants that wish to give their views. We will keep it simple for all concerned. I think I have answered all the queries. This is an important amendment to the law and I commend it to the House and ask that we go to the appel.

**The Connétable of Grouville:**

Point of order, Sir. I am sorry, when I asked my question I asked if he would be kind enough to liaise with the Minister for Planning and Environment in order to ensure us that in fact there will be no differences between the interpretation of planning regulations and housing regulations which have happened in the past.

**The Deputy Bailiff:**

Well, that is not quite a point of order.

**Deputy A.K.F. Green:**

I missed that one. Because this law is covering condition reports, tenancy agreements, periods of notice and deposits, well, of course I will speak to the Minister for Planning to try and ensure that there are no ambiguities around who this law applies to.

**Deputy G.P. Southern:**

Point of clarification, Sir, for me. I asked the Minister to take under consideration charges for producing a condition report and also the fact that in the U.K. agents are charging for credit checks exorbitant fees and will he take this into consideration as well? He did not address that.

**Deputy A.K.F. Green:**

Yes, of course.

**The Deputy Bailiff:**

Very well, the appel is called for and the vote is on the principles to the Draft Residential Tenancy (Amendment) Law and I will ask Members to return to their seats and I will ask the Greffier to open the voting. If all Members have had the opportunity of voting I will ask the Greffier to close the voting.

<b>POUR: 36</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier		
Senator A. Breckon		
Senator B.I. Le Marquand		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of Grouville		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisier (S)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy E.J. Noel (L)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		

The Chairman of the Scrutiny Panel, you do not wish to scrutinise the legislation. Thank you.

**6.2 Deputy A.K.F. Green:**

I am entirely in the hands of the Assembly as to how we do this. I can give the short version [Approval] or I can give the detailed longer version.

**The Deputy Bailiff:**

It seems as though you might be encouraged to take it *en bloc* and do the short version.

**Deputy A.K.F. Green:**

Well, Members do have on their desk a copy of the current law and the alterations that I made with it, so hopefully that will cover most of it. I suggest therefore we do Articles 1 and 2 followed by Articles 3 and 4, shorten the introduction and then the others respectively. I would like to propose Articles 1 and 2 of the amending law. Article 1 is to do with the interpretation. It simply defines the Residential Tenancy Law 2011 as the principal law for the purposes of amending the law. Article 2 of the amending law is new definitions for deposit and money to the principal law in order to add clarity to the provisions of the Residential Tenancy Law. With that, I move Articles 1 and 2.

**The Deputy Bailiff:**

Are those articles seconded? [Seconded] Does any Member wish to speak on Articles 1 and 2? Those Members in favour of adopting them, kindly show? Those against? The Articles are adopted. Articles 3 and 4, Minister.

**6.3 Deputy A.K.F. Green:**

Articles 3 and 4; Article 6 of the principal law relates to notice periods under the periodic tenancy and requires the landlord when serving notice on a tenant to quit the property to do so at least 3 months before the termination of the tenancy agreement. What the new law will do is to remove the right of the Minister to vary that below one month and we have already had quite a lot of discussion on that this morning. Article 4 very simply amends Article 7.3(f) of the principal law to insert a missing “the” before the word “Minister”. So, with that I move Articles 3 and 4 of the amending law.

**The Deputy Bailiff:**

Is it seconded? [Seconded] Does any Member wish to speak?

**6.3.1 Deputy G.P. Southern:**

I just wonder, while I am content that 3 months’ notice would be the norm, under what circumstances does the Minister envisage using his power to reduce this to a month or thereabouts?

**The Deputy Bailiff:**

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

**6.3.2 Deputy A.K.F. Green:**

I hope that we would not use this very often, but it may well apply in, for example, short-term tenancies of less than 3 months.

**The Deputy Bailiff:**

Very well, all Members in favour of adopting Articles 3 and 4, kindly show? Those against? The Articles are adopted. Do you wish to propose the remaining Articles 5 to 9, Minister?

**Deputy A.K.F. Green:**

Yes, Sir.

**The Deputy Bailiff:**

Is there any background to it or are you just proposing it?

**6.4 Deputy A.K.F. Green:**

Not unless Members wish to have background, Sir.

**The Deputy Bailiff:**

They are not showing any indication for it. Seconded? **[Seconded]** All Members in favour of adopting Articles 5 to 9, kindly show?

**6.4.1 Deputy J.H. Young:**

Can I raise an item on Article 7, please? Article 7 amends Article 23 of the law previously agreed. The issue for me is the one of compulsion for all tenancies to adopt a standard form of agreement. Obviously what we are doing here in this Article is giving the Minister power by order to make these decisions and the Minister told us that it was not his intention, but we could not rule out the fact that he should do so. My concern is that I would guess that most tenancy agreements are already in place and that therefore there is certainly a cost implication of imposing that requirement. My worry also is that whilst I can live with a requirement that says tenancy agreements should comply with certain minimum conditions, when it comes to imposing a form and imposing a precise form agreement by a government dictat I think that is a worrying step for me in terms of imposing bureaucratic processes. So, I do have big reservations about that and I am very, very cautious about giving that power to the Minister, particularly as the Minister says we cannot rule out the fact that it is going to be used and so I look forward to hearing what he says.

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

While obviously - because I voted for this proposition and it has my support - this is nevertheless qualified because I do have a few concerns mainly on Article 8. I would like the Minister to fully explain (a)(1)(j) from what I can see: "Fees in relation to payments into and out of such a scheme", I presume that does not mean that the deposits are going to have operational fees removed from them and also obviously there are bad landlords just as there are bad tenants. So, what I am not clear about is how when there is a disagreement over whether the repayment of a deposit is in order or part of a deposit is in order how are these disagreements going to be resolved apart from going to court, which could obviously be quite expensive?

**The Deputy Bailiff:**

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

**6.4.3 Deputy A.K.F. Green:**

Dealing first of all with Deputy Young's query, I do not intend at this present time, as I have said before, to make it compulsory to use the standard forms that will be available on our website, but I do intend to make it compulsory that rather like the Employment Law that certain things should be mentioned as part of a tenancy agreement. If I find that is not working then I would reserve the right to come back or not to come back to the House, but to use my order making powers to make it compulsory to use the standard forms of tenancy and so on. So, it is just an option there. I do not intend to do it at the moment but I want to have the option there that I can do that and of course the Attorney General very adequately explained this morning that if people are not happy with the Minister's orders then there are ways to redress that. So, I am fairly comfortable about that and I urge Deputy Young to support it. With regard to the deposit scheme under Article 8, of course there is more detail yet to be worked out, but there will have to be, as part of the system, a robust and fair system for both landlord and tenants so that both get treated fairly that if there is a dispute about the amount of rent outstanding or the condition - and this is where the condition reports will help - but if there is a dispute on that and therefore requiring the non-return of the deposit or only

partially return the system will be put in place to ensure that that is done independently and fairly. I think I have covered the points, but if not, I can pick up on them.

**The Deputy Bailiff:**

Very well, the vote is on whether to adopt Articles 5 to 9. All Members in favour, kindly show? Those against? The Articles are adopted. Do you propose the Bill in Third Reading?

**6.5 Deputy A.K.F. Green:**

Yes, Sir.

**The Deputy Bailiff:**

Seconded? [**Seconded**] Thank you. Does any Member wish to speak in third reading?

[14:30]

**6.5.1 Deputy G.P. Southern:**

Once again I rise to my feet having heard a Minister say that: “I will bring orders to the House or to the Assembly.” In fact orders do not come to the Assembly. They are just ministerial orders as such and can be enacted at any stage. If Ministers have serious reservations that material will not be acceptable they should do so in regulation which does come to the House and can receive the acceptance of the House. So, the question by the Deputy behind me over a particular issue that he had will not come back if it is an order, but might if it were a regulation.

**6.5.2 Deputy E.J. Noel:**

I just would like to thank the Minister and officers for producing this schedule of amendment which I think is extremely helpful and has helped the debate and I would urge other Ministers when they bring in legislation changes to do likewise.

**6.5.3 Deputy M. Tadier:**

I am encouraged that this has finally come back and I think the arguments about Privy Council, *et cetera*, go both ways in some ways because we are fortunate in one sense to have had the scrutiny of another, if you like, legislative scrutiny chamber provided free of charge with all their expertise, but it seems sad that it has taken so long. So, in some ways I am sure that when issues are raised perhaps locally by individuals either who have got expertise from the public or who just have a direct interest, it is perhaps wise to take those things on board, especially when it transpires that the Privy Council is picking up on those issues that they raise and taking the human rights implications perhaps more or, let us say, they are interpreting them in a different way to which we might. I think also that while the law is good, in reality when dealing with tenants and landlords there is an element of vulnerability insofar as individuals who are taking on new tenancies perhaps in a competitive market and do not always necessarily know what their rights are. They will not necessarily refer to the law as we are doing in great detail here and so it might be worth the Minister for Housing considering a very user-friendly guide that should be made available in his department or relevant outlets that would inform landlords and tenants of their rights and responsibilities so that they can have that handy and presumably made available at Parish Halls as well. I think the issue of a standardised form is a double-edged sword again. I understand the Minister and other Members may not want an overly bureaucratic system, but it seems key that sooner or later that tenancy agreements should be standardised one way or the other, and one way to do that may be to phase it in so when new tenancies are agreed the new format should be used. At least as a template it could be added to, but the bare minimum should be incorporated otherwise it is very difficult perhaps for landlords and especially for tenants to be able to look at a form and to know what is there and what should not be there. There is often an asymmetric power relationship

there. So, I do welcome this legislation. I welcome the fact of course it is not just the current Minister who has been working on this and I hope that we will continue to strengthen tenancy rights, not simply for the qualified sector but also for the unqualified sector which is more of a complex issue, but also a very acute issue.

**The Deputy Bailiff:**

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

**6.5.4 Deputy A.K.F. Green:**

Of course Deputy Southern is absolutely right in what he said, but I also corrected myself when I was making that statement that the House can hold me to account if I bring an order or any Minister brings an order that they think is not at all appropriate. I thank Deputy Noel for his comments. There was a lot of work for the officers to put that together but I hope that it helped with the smooth passage of this law through the Assembly and I would like to add my thanks to the officers for their support and work that they put into this. Finally, I take on board Deputy Tadier's comments about a user-friendly guide. I think that is common sense and that is something that I will discuss with my officers. I will try and get something together when this comes in and also explain the deposit scheme so that everybody knows their rights and where they stand and I think that is useful. I think I have covered all the comments picked up by Members and I move...

**The Deputy Bailiff:**

Members in favour of adopting the Bill in Third Reading, kindly show? Those against? The law is adopted.

**7. Committee of Inquiry: resignation of the Comptroller and Auditor General (P.68/2012)**

**The Deputy Bailiff:**

We now come to P.68 Committee of Inquiry: resignation of the Comptroller and Auditor General lodged by Deputy Baudains and I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion (a) to agree that a Committee of Inquiry be established in accordance with Standing Order 146 to inquire into a definite matter of public importance, namely the circumstances surrounding the resignation of the Comptroller and Auditor General and (b) to request the Chief Minister (i) to take the necessary steps to select a suitable Chairman (who is not a Member of the States) and 2 States Members to undertake the inquiry and to bring forward to the States for approval the necessary proposition relating to their appointment and (ii) to bring forward for approval by the States detailed terms of reference of the Committee of Inquiry.

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

In recent times we have noticed several senior civil servants and other appointees leaving office, which seems to have become something of a habit which would not normally bother me because while we have some absolutely excellent civil servants there are probably one or 2 that in the past it has not been my view that they have been giving us value for money. But what bothers me about this particular dismissal is the fact that it gives the impression of being a constructive dismissal. It does not appear to have been attributed to any discernible protocol and while I realise that protocol for problems such as these are a little bit thin on the ground at present and they are being looked into, one does get the impression that people are being removed for political rather than performance reasons and that does worry me.

**The Deputy Bailiff:**

Deputy, forgive me for interrupting you, but when you are talking about a dismissal are you talking about the resignation of the Comptroller and Auditor General?

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

I am talking about the resignation of the Comptroller and Auditor General, yes, Sir.

**The Deputy Bailiff:**

Right, but I understood that he had resigned and not that he had been dismissed. That is just why I want to be sure that we are talking about the same thing?

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

Yes. Well, I am speaking generally, Sir, but sort of laying the ...

**The Deputy Bailiff:**

No, I understand.

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

Which brings me to the resignation of our very capable Comptroller and Auditor General; an independent watchdog whose, I believe, incisiveness and ability to scrutinise public spending for almost a decade has served us very well. A great loss to this Island, in my view, but what I would like to do before I go any further and before Members start making notes for speeches they may make, I would like to make it clear what this proposition is not about. It is not a revisitation of the so called Lime Grove fiasco where, just for the record, I would probably have done the same as the Minister for Treasury and Resources. Neither is it an analysis of why the States Chief Executive or any other public servant has recently left their job. Nor is this an exercise in kicking the Minister for Treasury and Resources who I happen to think is doing a good job in the very difficult circumstances we find ourselves at the moment and which I have had conversations with him about. I touched on those issues in my opening comments merely to highlight the fact that losing our Comptroller and Auditor General was not a one-off but appears to be part of a series of events. Will there be more resignations? We do not know. It does appear - and I put it absolutely no more strongly than that - that political obstacles are being removed and if that is the case we really do need to find out why because that is not a very savoury situation. So, the purpose of my proposition is exactly as it says under part (a): "To determine the circumstances surrounding the resignation of the Comptroller and Auditor General." Nothing more or less, so I hope any Member who speaks on this proposition will limit him or herself to that. Now, losing the services of a capable and effective scrutineer of public expenditure would be a worrying enough circumstance but to lose him through resignation in circumstances which are unclear I believe makes it imperative we get to the bottom of it. The delivery of a letter criticising his Lime Grove Report and purporting to come from a retired temporary Treasurer just a matter of hours before a States debate on a censure motion against his former boss, not only that, but by rather an unusual route it was quite amazing. Was it solicited; was the author the person claimed to be? We have no proof. Indeed on reading the letter one is struck by 2 relevant comments; namely the first paragraph the author states due to work pressures he did not have the opportunity of reviewing the Comptroller and Auditor General's report in any detail at the time. In other words the Comptroller and Auditor General is correct when he says he had sent it off, his report, to the ex-temporary Treasurer for comment. It was the ex-Treasurer who had failed to respond in a timely manner. But the second comment that jumps out is where he states: "I am informed that sections from the report have been quoted for political purposes." Apart from the fact that is exactly what one might expect, the words that interest me are: "I am informed." I ask, who by and when and what about the timelines? The

Comptroller's report was received by the ex-Treasurer on 21st May albeit embargoed until 22nd May. The censure motion with the Minister for Treasury and Resources was lodged on 12th June with debate due on 10th July. Given the letter of criticism from the ex-Treasurer that was dated 21st June and delivered to Members just shortly before the censure motion was due to go ahead, one must assume that the censure motion was the trigger for that letter in which case one could be forgiven for believing the whole situation was contrived. I was therefore quite annoyed when some Members urged that we drop the issue and move on presumably in the hope no one would look into these unprecedented events and it would all soon be forgotten. This matter is, in my view, extremely important and the only way to move on is to establish the truth behind the many conflicting aspects. What is the truth? There appears to be only really 2 possibilities. First of all the Comptroller and Auditor General made a complete "pig's ear" of his report into Lime Grove or perhaps persons unknown decided to rubbish not only his report, but his reputation as well. So, if we look at the first option, anybody can make mistakes, but given the Comptroller and Auditor General's credentials, the fact he has given us so many in depth, incisive reports over several years without controversy and in fact he warned 6 months before his Lime Grove Report was published and to quote his comments exactly: "To avoid the consequences of a critical report it was likely an attempt would be made to discredit the report by discrediting the author" that was 6 months before the report was published, I ask Members does it seem likely given those circumstances he would embark on an exercise that was not objective and evidence-based? He would have to take leave of his senses to do that and on the couple of occasions I met him in my capacity at that time as a member of the Privilege and Procedures Committee I did not get the impression that he was given to such lapses of concentration. In fact he came across to me as a very intelligent and capable person, one we will be struggling to replace. In the light of his letter of Friday 18th May - which should be on Members desks - what happened when his report was published was exactly as he had predicted the previous November. So, I invite Members if they still have that document on their desk to study and in particular page 1 and then page 2, the last paragraph under the heading "The legal advice", page 3 the second paragraph under the heading "Process" and page 4 "Security" where Members will note the extraordinary measures that he adopted in anticipation of attempts to sabotage his report. As I have said, Members will note his attention was drawn to the possibility the report would be undermined 6 months before it was released. I believe that clearly demonstrates the second of my possible scenarios is the most likely that persons unknown rubbed the report because basically they were not prepared to accept the criticism in it which makes in my view the recent comments by the Council of Ministers irrelevant. The arguments that appear to revolve around: "Well, there are a couple of different people that have got different views and we will never resolve that issue" I believe misses the point entirely. I have to advise Members if that was the case I would not be wasting this Assembly's time with this proposition and I certainly would not be wasting my own time.

[14:45]

It is far more complicated than that and it is far more serious than the Council of Ministers would have us believe. Maybe there are more skeletons in the cupboard than we realise because clearly the only way to get to the bottom of this and establish the truth is with a Committee of Inquiry. Only they have the power to compel witnesses to appear before them, to demand papers, other information; maybe even demand service providers to hand over records of texts, emails and mobile calls and so forth because ultimately I believe that is what is going to be required to resolve this. The matter is not, as some would have us believe, simply an errant accountant messing up a report. The only logical conclusion to be reached from the evidence available to date is that there is some sort of conspiracy. I clearly hope this is not so, but if it is we need to act quickly and eradicate it. If we have a Committee of Inquiry look into this there are 2 possible outcomes. They will find there is a problem and we can rectify it or they will find there was no problem and then we



can all relax. If we do not have a Committee of Inquiry these rumours and innuendos will continue for some considerable time. If we do not act there is a possible risk of whatever is going on going undetected and public perception of government will sink even lower just when a change of Chief Minister has brought us a fresh start. I hope I have shown that this is far from a minor matter. It requires resolution. The Committee of Inquiry is the only vehicle with the power to achieve that. Members will note the financial and manpower implications at the foot of the report; my report accompanying the proposition. Of course as we all know that statement is required on all similar propositions, but I would advise Members that I consider that the figure quoted to be a considerable over-estimate. It is also a pittance compared with the cost of compensating retiring civil servants. How much did the States Chief Executive cost us; about £500,000, if I recall. If this Committee of Inquiry saves us just one more resignation it will have paid for itself several times over. In conclusion, my choice of membership of the proposed Committee of Inquiry, some might think we should have more members, some less. Others might want all States Members, others none. I have tried to strike a balance. An outside chairman so that suggestions of a “whitewash” are avoided, but with some States Members on board so the committee at least has a basic understanding of the issues and does not have to start from square one, thereby saving time and resources. I must also point out this is an “in principle” proposition. It concerns only whether or not we want to create a Committee of Inquiry. If we do then the Chief Minister carries out his responsibility under part (b) of the proposition and it will come back to this Assembly for approval of the membership and the terms of reference. It will then be open to any Member to lodge amendment should he or she so choose. So, to be brief, I will make the proposition and ask Members to remember this debate is not about Lime Grove or what the Minister for Treasury and Resources may or may not have done or anybody else for that matter. It is solely about the circumstances surrounding the resignation of the Comptroller and Auditor General. I will ask Members to look again at the letter from the Comptroller and Auditor General dated 18th May, I think, and to study the contents of it because it really is quite concerning.

**The Deputy Bailiff:**

Is the proposition seconded? [**Seconded**] Very well.

**7.2 Committee of Inquiry: resignation of the Comptroller and Auditor General (P.68/2012) - amendment (P.68/2012 Amd.)**

**The Deputy Bailiff:**

We have an amendment which is in the name of Deputy Le Fondré and I will ask the Greffier to read to amendment.

**The Greffier of the States:**

Page 2, paragraph (b): “After the words ‘Chief Minister’ insert the words ‘in conjunction with the Chairman of the Public Accounts Committee’.”

**7.2.1 Deputy J.A.N. Le Fondré:**

Firstly I would obviously like to be very clear I am supporting the main proposition and, as Deputy Baudains has stated, that should really be the place for most of the debate I would hope to take place. As I have said in my report I consider this to be a very simple amendment. Within the Public Finances (Jersey) Law 2005 and a number of matters concerning the post of Comptroller and Auditor General - C.A.G. - rightly require the joint agreement of both the Chief Minister and the Chairman of the Public Accounts Committee - obviously the P.A.C. - including appointment and removal. It therefore seems reasonable to me that the Chairman of P.A.C. should be involved to the same extent as the Chief Minister in any Committee of Inquiry regarding the establishment of the

terms of reference in determining the membership of that committee. What I do just want to dwell on briefly is why is the proposed inquiry such an important matter and on that basis why is it also important that this should be set up under the oversight of more than one pair of eyes and that is kind of the decision on this part of the debate.

**The Deputy Bailiff:**

Deputy, I was about to say to Members after you proposed the amendment that we are not going to have 2 debates on this subject. It is an amendment to paragraph (b) and therefore that assumes that paragraph (a) has been adopted, so Members need not address the Assembly on whether there should be a Committee of Inquiry because the assumption if one is voting on paragraph (b) is that there is one. I hope that is clear?

**Deputy J.A.N. Le Fondré:**

I seek clarification. Have we debated paragraph (a) then, Sir?

**The Deputy Bailiff:**

No, we will return to that after the amendment has been dealt with, but for the purpose of the debate on the amendment, the amendment only makes sense if there is going to be a Committee of Inquiry, so one assumes that there is going to be a Committee of Inquiry for the purposes of your amendment as to whether or not the Public Accounts Committee Chairman should be added into the Chief Minister.

**Deputy J.A.N. Le Fondré:**

Okay, Sir, is it acceptable to put it into context?

**The Deputy Bailiff:**

Yes, of course you can, but I want to be clear with other Members as well as with you.

**Deputy J.A.N. Le Fondré:**

Do not forget, as it has been stated, this originally started as a scrutiny review but they found that they had uncovered a wide range of issues far wider than their remit and indeed given the timing of matters the time available to perform that review, so they referred it to the C.A.G. The C.A.G. has spent around 6 months, has interviewed just under 50 people and, I understand from other comments made, it has gathered approximately 60 files of evidence and that is a pretty thorough investigation. When he resigned he stated the discussion had centred on issues of process which had obscured the issues raised by the report itself and he has also confirmed that he stood by his report. Now, I do want to quote just one example because the report obviously exposed some quite awful demonstrations in there, but there is one document in particular which I think is germane to this because it is demonstrating the seriousness in matters and therefore why we should have 2 pairs of eyes setting up the terms of reference, *et cetera*. That was a report produced for Treasury by the interim Director of Finance in January 2011 and which is directly referred to in the Lime Grove Report. Now, I will ask Members to listen quite carefully to this and to put themselves into the position of being on the receiving end of it either as a reader or as one of the subjects and that document read, and this is from the report: "There is some evidence on file of an unhealthily close relationship between J.P.H. (Jersey Property Holdings) [and I will not name them, but you can track them down through the Scrutiny reviews] and the local firm acting as the agent for the vendors of Lime Grove House with inappropriate references to rather generous hospitality at an expensive restaurant being accepted by J.P.H. staff while negotiations were being undertaken. The relationship between J.P.H. and the international firm of valuers also appears questionable with documentation missing that should be in place e.g. written instructions for valuations and evidence to support assumptions; also substantially amended valuation reports and the lack of involvement of

any other independent valuer. There is an impression from reading the file that the international firm of valuers were told what the valuation had to be with assumptions provided by J.P.H. and what should or should not be in the supporting report and so that is what was provided. It does not look like an independent valuation!” Now, the only inference that can come from that paragraph is some form of collusion or corruption at various levels in the Treasury Department. This draft was circulated to a number of civil servants including various senior ones. It may also have been communicated to at least one senior politician. Now, it may have been amended in the final version but by which time the damage had already been done. Now, for absolute clarity, the C.A.G.’s report, which I hope Members have read in detail, refuted all of the key parts of that January report and cleared the names of all those who were wrongly impugned, but the credibility of his report now appears to be in doubt, and that appears to be the view of the Council of Ministers through their lack of action and so how do you move on from that? Now, the C.A.G. report was of such importance and standing and so damning I would have thought there were very few options available to the Council of Ministers. For example, they could have stated: “There is insufficient information at this time to conclude therefore we need to request or seek further investigation.” There is precedence for that in the past or: “We categorically refute this report because of matters X, Y and Z” or: “We accept the report and the following actions are to be taken.” But nothing of substance happened. There has been no tangible investigation or acceptance or rejection of the significant issues in the C.A.G. report. There was no action. The report was dismissed pretty well in the weekend. No action over one of the most critical reports produced by the States independent watchdog is in itself a political statement. It is a political statement implying we are not interested in the comments raised or the findings of our independent auditor and therefore the comments of this proposition from the Council of Ministers which cover the amendment regarding the politicisation of this issue completely overlook the fact that politicisation of the published report effectively started with them. That is why it is critical that there is more than one pair of eyes involved in identifying the terms of reference and the membership of the committee for the proposed inquiry. I think it is relevant just to remind people of the credentials of the C.A.G. He was a past President of the Institute of Chartered Accountants in England and Wales which presently has 140,000 members worldwide. Locally there are individuals who dealt with him in that capacity and the feedback I have received is that he was very well regarded.

**The Deputy Bailiff:**

How is that relevant to the amendment?

**Deputy J.A.N. Le Fondré:**

It is putting the status in place in the context and that is saying why the gentleman’s credibility is of such high level that it is important that the Committee of Inquiry is robust and therefore that there are 2 pairs of eyes.

**The Deputy Bailiff:**

For the purposes of this amendment the States have notionally resolved that there will be a Committee of Inquiry so you do not have to say that any further. The question only is whether or not the Chairman of the Public Accounts Committee should be named with the Chief Minister to take the steps in (b)(i) and (b)(ii). That is the only question which we are considering under this amendment.

**Deputy J.A.N. Le Fondré:**

Okay, Sir. I shall skip forward. I will just summarise that by saying that in my opinion then the credentials of the C.A.G. are of the highest level. Now, that is why the process of how the proposed Committee of Inquiry is put together is critical. Now, I do have to say as a matter of

understanding it has not been pleasant for me to have to go through this yet again, but there is a huge level of seriousness attached to this and whether they permeate through senior levels of government or not. Now, to summarise then it is in the Island's interest that this matter is resolved. The establishment of a Committee of Inquiry needs to be robust. The terms of reference and the members need to be established under the same controls applied to the appointment or removal of the position of C.A.G. itself, i.e. with reference both to the Chief Minister and to the Chairman of P.A.C. and part of that is hopefully illustrated by the context I have used in my earlier parts of my speech. So, now, I hope Members will support that view and I also do suggest that the immediate focus can be retained on the amendment and no doubt you will keep us on course.

**The Deputy Bailiff:**

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

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

Deputy Le Fondré has reminded the Assembly of the way that the Public Finances Law set out the responsibilities of the Public Accounts Committee Chair and indeed other matters. I know all that, I am afraid to say, because I was responsible for setting up large parts including this part of the Public Finances Law. I am very well aware of the important difference between Scrutiny and P.A.C. and the responsibilities of the P.A.C. Chair and with the joint appointment of the C.A.G. by the Chief Minister and the P.A.C. and there are lots of good reasons for that. It is quite clear that in the attempts to justify this additional part of this amendment, Deputy Le Fondré - and I do not impugn any improper motives - has got a very clear track record in relation to these whole matters. He mentions his own difficulties. I have had an *annus horribilis* of a horrific nature dealing with this. I have been subjected and was subjected to month after month of personal attack from all sorts of different sides. I had to cancel holidays from this time last year onwards. It has been an absolute nightmare and everybody is entitled to a fair hearing and to a fair process which has to have an end.

**The Deputy Bailiff:**

Senator, I am sorry to interrupt you. The amendment is whether or not to add the words "in conjunction with the Chairman of the Public Accounts Committee."

[15:00]

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

I will be very brief and say that nothing in those remarks by Deputy Le Fondré give me any confidence that there is a good reason to support any aspect of this proposition. Is he saying that, in the event that the Assembly wants to go forward with this, that there is some sort of conspiracy theory against the Chief Minister in relation to putting forward a terms of reference? We constantly hear innuendo and other matters that have been raised in this matter for months and I did not hear any justification. I will be arguing and I will return to the main subject of this debate on this issue. He did not give any reasons really in his arguments and you pulled him up, Sir, in relation to this. Are there any aspects of the Chief Minister... in the event that the States wants to do which is now a conspiracy against the Chief Minister in relation to this matter? There is not. I urge Members to reject this amendment and let us get on to the major bit of the debate and reject the overall amendment first of all because frankly these things have got to stop once and for all in my case.

**7.2.3 Deputy M. Tadier:**

A couple of interesting speeches there and I think it is always very difficult in these kinds of speeches to get the demarcation correct. This first amendment here seems completely common sense and it bears no relevance to whether or not we have a Committee of Inquiry; that is to be

debated in a moment. I have some sympathy for Deputy Le Fondré because in one sense it might have been easier in a parallel universe in the States to have decided part (a) first, let us find out if we want a Committee of Inquiry and then afterwards let us have a debate because this debate could turn out to be completely futile in the teleological sense if we are judged after the event. But there are commonsense grounds as to why we should have “belt and braces” here because... let us take it back a further step. In an ideal world we probably would not want either the Chief Minister or the Chairman of P.A.C. having anything to do with appointing the Chairman for this Committee of Inquiry. We would not want that because clearly the Chief Minister and his close associates have come out with statements in the House over what has become a politicised issue. We will debate in a moment how and why that became politicised. Similarly P.A.C. because of their very nature have been closely involved with the Lime Grove Report and certainly were closely involved in perhaps the repercussions that came out of the Lime Grove Report and have worked closely with the Comptroller and Auditor General. So, in an ideal world, we would not want either the Chief Minister or the P.A.C. Chairman, not because either lack any integrity but because of the perception in this matter being involved. But that is not an option because when we ask for a Committee of Inquiry to be set up it falls to the Chief Minister as the, if you like, nominal head of this Assembly, to carry out the charge of what the Assembly charges him to do. So, we are simply saying because there will be suspicion pointed at the Chief Minister, if we agree, and I will explain why; because the Minister for Treasury and Resources seems to be saying: “Why, why?” because it is common sense. The Chief Minister if he were here today would vote against the Committee of Inquiry as I know the Deputy Chief Minister will vote against the Committee of Inquiry because that is where the demarcation, the lines have been drawn and so it would be completely ridiculous to ask the Chief Minister to set up a Committee of Inquiry which we know that he did not want in the first place and that is what we are doing. So, simply to make things fair we say: “Look, if we are to have a Committee of Inquiry let us at least have 2 pairs of eyes looking at that. We know it has to come back to the Assembly for approval anyway but it is an extra barometer, if you like.” I will digress slightly for a moment. On the machinery of government review that we are looking at, at the moment there is an amount of concern about things that we are discussing, but it helps to have a couple of people who say: “Well, you know when this comes to the States Assembly this is going to be brought up, that is going to be brought up and it will be unacceptable” so you avoid unnecessary contention before it comes to the States and it saves everybody a lot of time because behind the scenes, if you like, common sense is being applied. So I think this is a “no brainer” if you like. It does not “tie the hands” of the Assembly to go on and automatically mean that we have to have a Committee of Inquiry. We will debate that on its merits in a moment but I really think we are making heavy weather of this. We did not hear anything from the Minister for Treasury and Resources which gave substantive reasons as to why we should not adopt this amendment. Simply he is saying we should not adopt anything that has to do with the Committee of Inquiry which is not a logical position to take. So, I would encourage Members perhaps not to necessarily speak on this issue although we can do. Let us pass this and let us get on to the main debate, but certainly do not reject it. There is no logical reason that I have heard yet for rejecting this amendment.

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

I will try and keep to the amendment. I think as Deputy Tadier says it is not just common sense. It is in the comments on the whole proposition from the Council of Ministers. The paragraph before financial and manpower implications - whatever you may think or whether we should have the inquiry - states that the Chief Minister and the Chairman of the Public Accounts Committee are currently recruiting for a new Comptroller and Auditor General. Now, if they are working together - well, I get a different impression from the Chair of the Public Accounts Committee, but I am going by what I am reading - if they are going together and recruiting for a new Comptroller and Auditor General - and I wish you good luck with that - for an independent non-political

Comptroller which is what they are hoping for with this cloud hanging over them. So, I will leave it there. It is a no brainer. If it is going to go to the Chief Minister it needs to go to the Public Accounts Chair as well and then we can get on with the big debate.

#### **7.2.5 Senator P.M. Bailhache:**

I do not think that Deputy Martin or Deputy Tadier have been listening to what you said at least once which is that the assumption is in debating this amendment that the States have agreed to set up a Committee of Inquiry. I find this amendment very slightly insulting. What is the Chief Minister being asked to do? He is being asked to take the necessary steps to find a suitable Chairman and 2 States Members to conduct the inquiry and then the Chief Minister is going to come back to the Assembly in order to have those names approved. Now, the implication from this amendment is that the Chief Minister cannot be trusted to perform that simple function. I will not have anything to do with that and I will vote against the amendment.

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

I was thinking today how pleasant it was to see the Minister for Treasury and Resources so content this morning and so full of energy and enthusiasm for his post but he has just reminded me of something from a *Carry On* film. I think the line is: "In for me, in for me, they have all got it in for me" and the "they" includes Deputy Le Fondré apparently. On the assumption that we are to proceed with a Committee of Inquiry, I believe, that we have to trust the terms of reference and the mechanism by which we set up that inquiry and I believe this amendment gives this House, which after all is responsible for the actions of the C.A.G. or the C.A.G. is responsible for his actions through P.A.C. to this House. So we have to be content it is being set up in the right way. This particular amendment is, I believe, it may be called "belts and braces", but I think it is absolutely correct that we should adopt this amendment so that we have the correct terms of reference and the correct mechanism for setting up the terms of the inquiry that we can all have faith in. I urge Members to vote for this.

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

No other Member wishes to speak? Then I call on Deputy Le Fondré to reply.

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

I do have to thank those who have spoken and I do have to respond obviously to one common theme. There is certainly no intent to insult anybody's intelligence and there is certainly no intent to doubt the ability of the Chief Minister in any shape or form. In fact I will remind those who said that, I sat next to the Chief Minister for 6 years and I still regard myself as trusting him. What I will say is that the largest industry on the Island - the finance industry - has for many years had the 4 or 6 eyes principle which means that there is oversight and that is basically the principles I am going for, i.e. there is a process of oversight. Why should this not be any different given that this applies to one of the most important controls - or at least we have assumed that there is going to be a Committee of Inquiry - a look into one of the most important independent controls we have. So, the key point here, to reiterate, is not for the purposes of this debate, but we are assuming that a Committee of Inquiry is going to happen. Obviously we are now going to revert I presume to whether we are going to have one or not, but if that succeeds do we want one pair of eyes setting up the terms of reference or propose the Members and then bring it back to the Assembly or do we want 2 sets of eyes; namely Chief Minister and the Chairman of the Public Accounts Committee because most of the matters concerning the Comptroller and Auditor General require the interaction of those 2 parties. I would therefore submit that it should be the process that is applied here. That would be the norm for good governance purposes and that is the nub of the argument. It does not matter whether Members support when we get to the main proposition or not. It is whether they

think the matters are of such importance the process should be more robust or not. You could say “belt and braces”. I hope Members will be supporting my stance. I thank Members who are keeping this part fairly short and I call for the appel.

**The Deputy Bailiff:**

The appel is called for. The vote is on Deputy Le Fondré’s amendment and I invite Members to return to their seats and I will ask the Greffier to open the voting. If all Members have had the opportunity of voting I will ask the Greffier to close the voting.

<b>POUR: 21</b>	<b>CONTRE: 20</b>	<b>ABSTAIN: 1</b>
Senator A. Breckon	Senator P.F. Routier	Deputy T.A. Vallois (S)
Senator F. du H. Le Gresley	Senator P.F.C. Ozouf	
Connétable of Grouville	Senator A.J.H. Maclean	
Connétable of St. Lawrence	Senator B.I. Le Marquand	
Connétable of St. John	Senator L.J. Farnham	
Deputy R.C. Duhamel (S)	Senator P.M. Bailhache	
Deputy R.G. Le Hérisssier (S)	Connétable of Trinity	
Deputy J.A. Martin (H)	Connétable of St. Peter	
Deputy G.P. Southern (H)	Connétable of St. Ouen	
Deputy J.A. Hilton (H)	Connétable of St. Brelade	
Deputy J.A.N. Le Fondré (L)	Connétable of St. Martin	
Deputy S. Pitman (H)	Connétable of St. Saviour	
Deputy M. Tadier (B)	Deputy of Grouville	
Deputy T.M. Pitman (H)	Deputy of Trinity	
Deputy J.M. Maçon (S)	Deputy S.S.P.A. Power (B)	
Deputy G.C.L. Baudains (C)	Deputy E.J. Noel (L)	
Deputy J.H. Young (B)	Deputy A.K.F. Green (H)	
Deputy S.J. Pinel (C)	Deputy of St. John	
Deputy of St. Martin	Deputy J.P.G. Baker (H)	
Deputy R.G. Bryans (H)	Deputy of St. Mary	
Deputy of St. Peter		

**The Deputy Bailiff:**

Very well. We now return to the proposition as amended. It is now open for...

**7.3 Committee of Inquiry: resignation of the Comptroller and Auditor General (P.68/2012) - as amended**

**Senator L.J. Farnham:**

I do not wish to speak. I just want to, in line with Standing Order 84 paragraphs (1) and (2), just give notice that I intend to bring at the relevant time after one hour has lapsed a proposal to close the debate. The Standing Order says that at least one hour must have lapsed and a Member must give at least 30 minutes’ notice, Sir, and I wonder if you could rule when that could be?

**Deputy M. Tadier:**

I could not hear from this side of the Chamber. Was Senator Farnham trying to close the debate before it has even started because that is what it sounded like from here?

**The Deputy Bailiff:**

He was giving notice of intention to propose a motion in an hour’s time.

**Senator L.J. Farnham:**

Yes, Sir, Standing Order says a Member must give at least 30 minutes' notice, but at least one hour of the debate must have lapsed and I am giving plenty of notice so that Members can be mindful that if the Chair allows it there will be a vote to close the debate in one hour.

**The Deputy Bailiff:**

Right, does any Member wish to speak? You seem to have frightened everyone, Senator.

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

I was grateful for Deputy Baudains about the nice comments that he made about me and he said that he would make the same decision as I would in relation to Lime Grove and he thought I was doing a good job as Minister for Treasury and Resources. Deputy Southern also said that I was on good form this morning. I will not dwell on this, but I do want to say that there has been an enormous personal cost to me in relation to the last 12 months. Whilst Deputy Baudains said nice things about me, he then went on and his report does of course go on to further speculate about matters that I could not or may not have done and I have to say to the Assembly that I hoped over the summer after the nightmare of inquiry after inquiry and of course there was both a Corporate Services inquiry, then there was a C.A.G. (Comptroller and Auditor General) inquiry that lasted a long time, then there was a threat of a potential vote of censure, then a vote of no confidence lodged in this Assembly, then withdrawal, then a vote of censure and all the rest of it. I am only human, but of course that does have its own impact on myself, my ability to do my job and, I am sorry, but I do have a view that at some point you are entitled to have closure and I thought that closure had been reached. I have important responsibilities, as we all do, in this Assembly to serve the public in terms of the things that really matter. I know the issues of Lime Grove are held extremely sensitively and personally by some people.

[15:15]

But basically you have to move on and if you are going to carry on investigating there has to be an enormously important reason to do so set against the other issues because of course we are dealing with a very difficult time. I am not asking for any special pleading but certainly there are massive issues that we need to get on to and inevitably another inquiry, the media circus that inevitably happens with things being played out into the public domain will have an impact and it will have an impact on me and, frankly, I do not look forward to having to go through another issue having been through another inquiry. I have read the proposition and I have tried to understand whether or not there is a real case for having a Committee of Inquiry with all the full legal force, with 2 States Members as well as an independent chairman, for the fact that an individual resigned. There are, of course, always conspiracy theories about things. In some cultures this is part of what goes on in day-to-day life; people sit on street corners and speculate. In Jersey innuendo and rumours have their own perhaps cultural part of our own political delight but they are incredibly destructive. I have not been part of the Council of Ministers' comments, in terms of their discussion at Council, and they have come up with their own conclusions. I believe that if a Committee of Inquiry is carried out in the way that it has been set up, it offers little chance of a reasonable, fair and appropriate solution, relevant to the scale of the issue. I think that there have been enormous lessons learnt in the whole issue of the investigation into Lime Grove and all of those other issues. There have been lessons learnt in a number of different respects and if there have not then they are matters for the P.A.C. to hold up and they are also issues for the new Comptroller and Auditor General to deal with. The proposition does not mention me by name. I am again not impugning any improper motive on Deputy Baudains, because he has said some nice things, but the clear implication is that some of these issues are about the conduct of the Minister for Treasury and Resources. I need to respond because it is in the report. The first matter mentioned is the departure



of the previous Chief Executive. This implies that I indirectly cost taxpayers £500,000. I would draw to the Assembly's attention the report of the Public Accounts Committee, which I was grateful for, on compromise agreements and the Chief Minister's statement on 29th May. I had no part in putting in place the agreement concerned. The P.A.C. and Chief Minister have acknowledged that improvements do need to be made with relationships with Ministers and senior officials and that work is going on. The new Chief Minister and now appointed Chief Executive are making good progress. I agree with that view and I see no reason for Deputy Baudains, if I may say so, to refer to this matter in the report because those issues have been investigated and they are part of his justification for the report. This is equally true to the references for the departure of other senior officials. Again Deputy Baudains mentions this in his report and he mentioned this in his opening remarks. This matter is clearly central to the differences of opinion that I may have had with the report of the former C.A.G. There is no, I repeat no, object evidence for what was asserted in the reports that were put around. I frankly take it very personally. I find it frankly scurrilous that there are suggestions that have cast aspersions on me over a very long period of time over these issues. Once again, after they have been reviewed, discussed, ventilated and laid before in various different reports or at least the suggestion that they could be but they are not in all of the reports, they have again cast aspersions on my character. The matter of the departure of the Comptroller and Auditor General; the proposer asks in his report whether there is evidence that the C.A.G.'s report and the process he used were flawed. I did have issues with the way the C.A.G. put his report together. I have not published, as he or other people indeed have done, in public my problems with the way that that report was put forward. I have not put into the public domain the very issues, the fact that recordings were not made, other issues in relation to that report, and I believe that I had a fair point. I have written to the Chief Minister and I have copied to the Chair of the P.A.C. in relation to the way that that report was compiled. I was critical of the way that that report was compiled and I believe that any objective assessment would mean that I had reasons to do so. Of course I needed to be alert to draft reports because they were career wrecking. They were reputation-wrecking issues which were unfair to me. There has been a great deal said and I thought whether or not it would be a good idea to play a tit-for-tat game and to put my own comments about the reports of the way in which the processes of the various different Lime Grove reports were done into the public domain but it serves as no purpose whatsoever. I believe that matters have moved on. I do believe fundamentally that it is important to have an authoritative, professional C.A.G. now being appointed in place. He or she has an absolute vital role in ensuring that the P.A.C. is advised and that it highlights matters of public importance. The C.A.G. resigned. There were issues with that report but we need to move on and certainly the P.A.C. themselves need to move on. They need to move on to appoint a new Comptroller and Auditor General in relation to discharging those functions, and if there is any issue about the way in which the C.A.G. was dealt with or there are deficiencies in the previous report, then the new C.A.G. will be able to look into that. That is the right way, for an individual office post-holder to do it. What would be wrong, even if Members believe that the new C.A.G. should review the procedures of the previous C.A.G. then what must not happen and what must be unfair is, and I mean no disrespect to any Member of this Assembly, the purposes of the C.A.G. is rightfully that it is not political. The unfortunate situation that the C.A.G. found himself in was that he was asked to answer and adjudicate on essentially political questions by the former Corporate Services Panel. Now what we are asking is for politicians to then start judging the political interventions of the C.A.G. It is absolute nonsense. The C.A.G. should be preserved and not be political. He was drawn into a political debate and he then wanted to exit it. Let us leave this to the new C.A.G. under a proper appointments process to look into any matters and for it to be the C.A.G. to conclude whether or not he or she can open any inquiries into whatever they want to do. They have massive powers under the law. We put in place significant abilities for the C.A.G. to call evidence, to hold emails, to effectively have the full powers and more of a Committee of Inquiry. It must be for that

individual to decide whether they open up any of the issues of the previous C.A.G. reports or indeed that last one. I do not relish the opportunity of having to put my side of what is an issue which has commanded man years, woman years of time and effort over the last 12 months. All I wish is that I could have invested half the time that I spent in having to answer questions on Lime Grove and other issues into the important functions that I have, which is getting the public finances of Jersey better managed, the spending arrangements that we have better managed, and to assist ministerial colleagues in their own problems and in terms of getting our economy moving, not having spent now another tens of hours, quite apart from the emotional stress which has been imposed on me and other people in a public forum, again in relation to this matter. I urge Members to think very carefully. I fully accept Deputy Baudains' arguments about not wanting to effectively have a go at the Minister for Treasury and Resources but other people want to continue to look into the Lime Grove issues and continue to have them investigated when we need to move on. We need to move on quite apart and solve the policy issues quite apart from another inquiry. I urge Members, for my benefit, not for any special treatment but for fairness and for non-politicisation reasons to not approve this proposition, certainly not with 2 States Members, and leave it to the new C.A.G. to resolve matters.

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

Hopefully I can set an encouraging precedent for everyone and we can speak very briefly on this. I am quite fond of this issue because it is around this issue that the Minister for Treasury and Resources and I became "bestest friends", at least according to the *Jersey Evening Post*. Now I have a lot of sympathy for him in the situation in which he finds himself, however, what concerns me is that when we hear: "Move on, move on, move on", as we all know that is Council of Ministers speak for never hold anyone accountable, let us cover up all the mistakes and basically that is dumbed-down democracy. Having said that, I do have some sympathy for the Minister because this has gone on too long but what I would suggest is that given all the distrust that seems to be around and the allegations and counter-allegations and one side is unhappy with one committee and someone else is unhappy with this person, I think what Deputy Baudains is offering us, amended by Deputy Le Fondré, is a good way forward. It should take out all those feelings of distrust I would hope, so I think I will support it but what I would say in fairness to the Minister for Treasury and Resources, is this needs to be done quickly and not drag on another 3 months or 6 months or whatever. I will leave it there, thank you.

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

Let us start with, I think, the strongest arguments. From what the Minister is saying, and clearly it is not our place now, because we do not have all the facts, to try and hold people to account in a way that a Committee of Inquiry could do because they would be allowed access to all the facts, is that if the Minister has been so hard done by, as may well be the case, surely one would want a Committee of Inquiry with a recognised, independent chair chosen by not simply his mate, the Chief Minister, as some members of the public may put it, but also another independent set of eyes, the head of P.A.C., presumably whose integrity we also trust as a States Assembly. Presumably it is not simply the Chief Minister who has integrity, it is also the Chairman of P.A.C. because she was elected by this Assembly, then surely that is the ideal scenario for the Minister for Treasury and Resources, to take it out of the political hands, to give it into an independent Committee of Inquiry so that they can look at it independently, away from the alleged increasing politicisation. That seems the first point. If I were Minister for Treasury and Resources in this position I would be knocking down the door to have this independent Committee of Inquiry set up so that I could put my position to the Committee of Inquiry in whichever forum that took place, which may need some kind of confidentiality or privacy around it but obviously to make it publicly accountable at the same time. So I do not think that is a valid argument; certainly I would use that argument to come

to a completely different conclusion. I would ask States Members, because it is not simply an issue for P.A.C. or for the Council of Ministers, I would remind us all that we are here of course as representatives of the public. We all have varying-sized constituencies and we are here to represent the public interest, so the question we need to be asking in this is how is the public interest best served and by which outcome of today's debate will the public interest first of all best be served in reality and best be perceived to be served. Because it seems to me that although this has been dragging on for a long time that that is undeniable and I think the processes that have been engaged in the votes of no confidence, the "shall we have a censure" motion, "shall we set up a Scrutiny", "shall we let P.A.C. look at this"; I do not think were particularly well-organised. I do not think it did anybody any favours and it is partly because of the kind of system we are in that it was unclear what was happening there. So this seems a clear way forward and I would ask are we any nearer the truth, even though this has been dragged out? I do not think we are any nearer the truth today than we were when the Comptroller and Auditor General first resigned. Remember, I do not think it is an overstatement to say that the resignation of a C.A.G. in Jersey is unprecedented, certainly in these kinds of circumstances and certainly for a Comptroller and Auditor General who seems to have been, I think, universally if not widely seen to be a man of integrity.

[15:30]

I did not really meet the man myself but certainly I know from individuals in the States whom I respect from a whole variety of a spectrum of political views and of different experiences and different lengths of terms that they did not have a bad word to say for him. I want to know, as I am sure members of the public and any States Member in their right mind would want to have the vital questions asked, why was such a Comptroller and Auditor General of what appears to be unimpeachable integrity, put in such a position that he felt his position untenable and that he felt he had no choice but to resign, presumably in circumstances which he would not have normally wanted to do? I do not accept the position that it is because the Corporate Services Panel were making this a political issue. I do not think that is case. I think it is much more complicated than that and it would be very interesting for the Comptroller and Auditor General to be able to give those opinions to an independent Committee of Inquiry. The suggestion that the first job of the new Comptroller and Auditor General, once he has been selected - if he has not been put off from coming to Jersey in the first place - should be to take a look at the old C.A.G. and find out what he did wrong and to produce a report into it is completely ridiculous because that immediately politicises the position of the new Comptroller and Auditor General from day one, and it would be that report which should be subject to media scrutiny. There would be all sorts of allegations flying around depending on what the content was saying that the new Comptroller and Auditor General has done a hatchet job on the old Comptroller and Auditor General; he is just a puppet for the establishment as they will call it in the media and on the blog sites. It is completely ridiculous to suggest that should happen. We should also take a lesson out of what happened when the former Police Chief resigned or was suspended as was the case; a new Acting Police Chief was brought in to look at him and then that was completely discredited and confused and muddied the whole waters. We are still dealing with the consequences of that today, so that is certainly not the way to go. It seems to me that the completely sensible way, now that we have established a way forward in selecting this independent Committee of Inquiry, should be to follow it through. We should not let individual alliances and misplaced allegiances to any Ministers or any other individuals get in the way here. We have to remember how we are going to best serve the public interest. It is my feeling that if we continue to ignore difficult issues - and it seems that this and the previous Government have ignored serious issues for so long that rather than resolving the issues they brush them under the carpet - the public become so fatigued by it all that, okay, the issues do go away little by little because they become less topical and less current, but I think that every time that happens a little more of the esteem of our Assembly gets eroded and the public just think: "Oh, here

is another cover up by our Government, no surprises there. I could have predicted that this Committee of Inquiry today would be rejected because they do not want us to know the facts that are going on.” So I think we have a chance early on in this States Assembly to show that we are committed to democracy, to transparency and openness, in a completely unpartisan way and to let an independent Committee of Inquiry find the facts whereby all of the major stakeholders can make representations to them and be exonerated or otherwise. I would add finally it is not about a blame game. This idea tends to polarise people, saying it is not about allocating blame, we need to move on. It is not about blame at all but it is about accountability and without accountability and transparency in Government we may as well all go home because that is what the public expects in a modern, functioning democracy.

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

A lot of what I wanted to say has probably been covered by the last 2 speakers but I would just like to add the Minister for Treasury and Resources speaks of his horrible past year and there are other people involved and not least the ex-Comptroller and Auditor General. His integrity has been completely impugned, as we would say, and I did read 100 pages of report which, as Deputy Baudains has put it very succinctly, was turned around on one email sent to all States Members - well, a letter in a form of an email - the day before a debate of a censure. We are told from the Minister for Treasury and Resources that the Comptroller and Auditor General became political. There was nothing in that report that I found to be political. It was, to me, based on facts. Now whether you like those facts or you do not like those facts or you can interpret facts in different ways probably, I found that report very, very helpful. It was a very long report and as I said we then decided to overturn everything that was said in not even an A4-side of an email from someone who was an interim Treasurer months and months and months ago. Apparently whatever he said was the truth and hundreds of pages of documented argument were complete fabrication. So we do have a big question. The Minister for Treasury and Resources says, like Deputy Tadier says, he has picked up papers today and he wants to put his side. Well he had his side put when he was on the report. Now if he is impugning the ex-Comptroller and Auditor General, he did say he wants to put inside how the report was presented. Now, I think we would all be interested in that, because how was the report presented? He says it became political. In the comments you, as a judge - I find these comments absolutely amazing - second or third paragraph: “Ministers are of the view that it is unlikely that a Committee of Inquiry would resolve disputes of fact between individuals.” Well, that is what Jurats do, that is what judges do and that is what a Committee of Inquiry would do. I want to know the facts. I want to know why suddenly one day we had a Comptroller and Auditor-General and the next day he resigned after saying months before: “I can assure you after I write this report I will be criticised.” So I think there is enough reason to do this. If the Minister for Treasury and Resources is right, if the Minister thinks this was a politicised report it will come out of the Committee of Inquiry surely. I have grave concerns that we are supposedly out to recruit a new Comptroller and Auditor General with this stink hanging in the air over Jersey. I would not take the job and I do not have any appetite for the new C.A.G. to oversee what the old C.A.G. did either. So it does not wash with me. I think it is a no-brainer. It should be a short report on the facts; was it political, why did he resign? Let us talk to the ex-post-older and let us clear the air once and for all.

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

I was going to speak much sooner but I must confess I was a little taken aback by Senator Farnham’s comments to try and thwart a debate before it has even begun. I would defend any Member’s right to speak or bring propositions forward. That having been said, I do not agree with this proposition and I am not going to vote for it. It would remind Members what many of the public are feeling out there. This is a recession we are in, the worst recession in living memory.

People are concerned about their jobs, employment, mortgages, high rents, food that has increased by 41 per cent. We have learned that is what people are concerned with. We have had a Scrutiny report about this issue. We have had the Comptroller and Auditor General's report in May. Both reports were very full and frank reports and I believe people who have read those reports have made up their own minds. They have taken their own positions about what did or did not happen but it is time to move on. I really do not see how this Committee of Inquiry is going to serve the public. It is going to cost money. Another report will be produced and I would like to know what people are hoping to get out of it. I do not really have much more than that to say so I will leave it there. Let us just deal with the issues that matter at this moment in time.

### **7.3.6 Senator P.M. Bailhache:**

Before a Committee of Inquiry can be established the States must be satisfied that there is a definite matter of public importance into which to inquire. Members need to be clear what matter of public importance is in question. All the warnings given by the proposer of this motion at the start seem to have been ignored by many of those who have spoken so far. We are not holding people to account for Lime Grove. We are not inquiring into whether Lime Grove should have been bought or should not have been bought. What Deputy Baudains says is that the matter in question is the resignation of the C.A.G. and that is the discrete issue the inquiry would be concerned with. In his report Deputy Baudains says that Senator Ozouf and I mounted an attack on the now-resigned Comptroller and Auditor General, accusing him of writing a report that was inaccurate and unfairly critical of the Minister for Treasury and Resources. It is true that I did criticise the report of the C.A.G. but I did not mount an attack upon him. On the contrary, I said that the C.A.G. had acted correctly and honourably in tendering his resignation and in saying that it was in the interests of his office to do so. Deputy Martin says that the C.A.G.'s integrity has been impugned but she did not say by whom. His integrity has certainly not been impugned by me, so far as I am aware it has not been impugned by the Minister for Treasury and Resources, and so far as I am aware, indeed it has not been impugned by anybody. I do not know the former C.A.G. well but he had an extremely distinguished career. He produced many excellent reports during his term of office and for my part I think there is nothing to be said against his character whatsoever. Unfortunately the Lime Grove report was an exception. I examined the report very carefully in the context of the censure motion which was brought by Senator Ferguson but withdrawn. The inquiry which the Comptroller and Auditor General agreed to carry out for the then Scrutiny Panel was always going to be a difficult inquiry. On the face of it the Government of the Island has not performed well. An offer had been made for Lime Grove House following which there had been prevarication and delays and ultimately the vendors had concluded a deal with another party. Either an opportunity had been lost as a result of the Minister for Treasury and Resources intervention and millions had been lost or a bad mistake had been avoided and money had been saved. With the benefit of hindsight we know now that the second is much closer to the truth than the first. The police are very happy with the new proposal and financially it seems that we are going to be better off than we would have been under the Lime Grove scheme. But that was not known at the time when the Scrutiny Panel referred the matter to the C.A.G. A scrupulously fair process was therefore necessary because it was obvious that there were 2 opposing political factions. There was the former Assistant Minister for Treasury and Resources, Deputy Le Fondré and Senator Ferguson, I regret to say my own Connétable perhaps on the one hand, and the Minister for Treasury and Resources on the other. I do not think that this political controversy was a matter for the C.A.G. at all. I doubt that it is within the terms of reference for the office-holder in the Public Finances Law. The crucial question was whether the collapse of the Lime Grove sale was or was not in the public interest.

[15:45]

This was a political question on which people will have different views. That is exactly what the C.A.G. said. At paragraph 9 of his conclusions in the short report he states: "Consideration of what is or is not in the best interests of the States is a matter for political judgment and is not suitable for technical assessment. It is not my function to consider the merits of such political judgments and I have not done so on this occasion." That is what the C.A.G. said. He was right but unfortunately he then went on at paragraph 10 of his short report to ask himself another question which he had not been asked, in fact, by the Scrutiny Panel. That question was, and I quote: "The more technical issue of why the proposed acquisition of L.G.H. (Lime Grove House) failed". But that was essentially to do exactly what he said he was not going to do. I ask Members to think about it. To ask why the proposed acquisition failed implies that there was a failure. But if it was not in the best interests to acquire Lime Grove House it was not a failure. To assume that it was a failure and the question that you ask yourself is to usurp a political judgment. Exactly, in fact, what the C.A.G. said he was not going to do. Worse than that, the assumption that it was a failure put the C.A.G. into the camp of those who argued that it was a mistake; the former Assistant Minister for Treasury and Resources and Senator Ferguson, and in opposition to the Minister for Treasury and Resources. Not surprisingly, the Minister for Treasury feels that he has not had a fair crack of the whip. The odds in this inquiry were indeed stacked against him from the very start. My real complaints about the C.A.G.'s Lime Grove report are, however, different. First, the C.A.G. did not comply with the rules for the investigatory approach that he himself laid down and set out in Appendix 2 to his report. That states, among other things, that each first interview of a witness will be recorded so that a transcript can be prepared. This is a quite correct procedure and indeed very important because any report of this kind must be based upon an agreed factual matrix, or if it is not agreed then the disagreements must be explained. For some reason a number of interviews were not recorded and the shambles over the evidence of Mr. McGarel-Groves, if I may be permitted to use the name, was one of the results. Secondly, it is very important that if criticisms in a report of this kind are going to be made about the conduct of individuals, those criticisms should be clearly and precisely expressed and the person criticised should be given a reasonable opportunity to respond before the report is published. I have seen dozens, if not hundreds of investigatory reports of this kind over my professional life and I am afraid that this is not a good example. One of the allegations in Senator Ferguson's censure motion was that the Minister for Treasury and Resources (I am looking at paragraph (b) if anyone has the text here) to censure Senator Ozouf and I quote: "... for authorising a review as set out in paragraphs 496 to 499 of R.64/2012 which was intended to be used as the basis for obliging the former Director, Jersey Property Holdings, to leave the employment of the States without compensation by threatening his reputation and for seeking the removal of the Director of Jersey Property Holdings without following due process." This is an immensely serious allegation. Members probably do not have, unfortunately, the text of the censure motion in front of them but if they can hold in the memory what I have just read out. The Minister for Treasury and Resources obviously would have done nothing wrong in authorising a review of Jersey Property Holdings by Mr. McGarel-Groves.

**The Deputy Bailiff:**

I wonder, Senator, if you would refer to him as "the former Interim Treasurer".

**Senator P.M. Bailhache:**

Former Interim Treasurer, thank you... in authorising a review of Jersey Property Holdings by the former Interim Treasurer. As a matter of fact it was not the Minister for Treasury and Resources who had authorised the review. This was a Civil Service matter; it had nothing to do with the Minister and it was the Acting Chief Executive who put the review in motion. A nasty allegation, however - I describe it in that way because it is a nasty allegation - was that the review, and I quote: "was intended to threaten the reputation of the former Director of Jersey Property Holdings so that

he could be dismissed without due process.” So who, according to the report of the former C.A.G., had that intention? Senator Ferguson suggested in her censure motion that it was the Minister for Treasury and Resources but that is not what the report says. The report says nothing about whose intention it was and what it says at paragraph 499 is that: “I therefore question the former interim Director of Finance on his expectation of the actions that would follow circulation of report he told me that: ... (4) as an alternative approach, the review was intended to be used as the basis for obliging the Director, J.P.H. to leave the States without compensation by threatening his professional reputation.” When I realised that the report was ambiguous in this respect, I wrote to the former C.A.G. and I said to him: “In the context of the censure motion involving the Minister for Treasury I have been looking more closely at R.64 and I should be grateful if you could supply me with some further particulars in relation to paragraph 499(4). The summary of your interview with the former interim Director of Finance states that ‘the review was intended’ without making it clear whose intention was in question. Clearly the context of these remarks of the Director of Finance is critically important and I wonder if you could tell me whether there is a transcript or a tape recording of the interview in existence? If there is, may I please have a copy of the transcript or listen to a copy of the tape?” The Comptroller and Auditor General replied to me saying: “Senator, thank you for email. I will give your request careful consideration and try to assist. In the meantime I would be grateful if you would indicate the capacity in which you are making this request.” I replied to that email saying: “I was not aware that I had asked a question that needed careful consideration but thank you for indicating that you will try to assist. I am writing both as a Member of the States and as a Member of the Government of Jersey.” There was no reply to that email and later we had the resignation of the Comptroller and Auditor-General. So this non-specific and very serious allegation smears everybody within reach; the Minister for Treasury and Resources, the former Director of Finance, and the Acting Chief Executive of the States. This was not fair. We now know that the Acting Director of Finance denies making this suggestion in any event. It may be that on this long, unrecorded, trans-Atlantic telephone conversation - because the Acting Director of Finance was then in post in the Caribbean - there was a misunderstanding. Be all that as it may, there was undoubtedly a failure on the part of the C.A.G. to follow good practice and as a result there was a complete clash of evidence between the C.A.G. and the former Director of Finance on a matter of vital importance. If the Minister for Treasury and Resources had conspired to oust the former Director of Jersey Property Holdings in this way it would have been a scandal and he would have had to go. I have no doubt about that whatsoever. In fact, there is not a shred of evidence, not a shred of evidence to support the allegation, and indeed the evidence of the Acting Director of Finance and the Acting Chief Executive of the States goes completely the other way. The Comptroller and Auditor General resigned because, as he said in his resignation letter, it was “in the interests of his office” that he should go. He was right. Ironically, if Members support the proposition of Deputy Baudains they would be doing exactly the opposite of what I believe the former Comptroller and Auditor General intended. It would, as the report of the Council of Ministers states, be an inquiry into an inquiry. It would be likely to drag the office of the C.A.G. in the mire and that, it seems to me, is not in the interests of the Island, in the interests of the office or in the interests of this Assembly. Members should accept that the former Comptroller and Auditor General made an honourable but correct decision in resigning his office and leave it at that.

**Deputy R.G. Le Hérissier:**

A point of clarification; the speaker mentioned that there was an allegation that the Minister for Treasury and Resources had conspired. Where did he get the word “conspired” from and who was he conspiring with?

**Senator P.M. Bailhache:**

The Deputy is being a little bit pedantic. It is true, the word “conspired” does not appear anywhere in the reports; this is my summation of what the allegation was.

**Deputy J.M. Maçon:**

If I may ask a point of clarification of the previous speaker; I did not want to interrupt him while he was speaking. He read a series of emails; I wonder if he would be so kind as to indicate the dates along with those emails please?

**Senator P.M. Bailhache:**

My first email to the Comptroller and Auditor-General was sent on 15th June 2012 at 2.28 p.m. He replied on 19th June at 9.53 a.m. and I replied to that on 19th June at 10.03 a.m.

[16:00]

**7.3.7 Deputy R.G. Le Hérissier:**

I must congratulate the previous speaker for his forensic analysis but in some ways I am afraid it does spectacularly miss the point because it was a very clever mélange of forensic analysis with, as I have just indicated in my little comment, words like “conspiracy” and “shambles” with quite emotive words interlaced there also. In a way that sums up this whole issue; that it is very emotive. We do ratchet up issues so they get politicised very quickly and although, as the Deputy of Grouville was saying, this has gone on an awful long time, yes, they do go on an awful long time but in a rather stagnant way. Whether “going on a long time” equals “we are getting nearer to the truth” is fairly unlikely. Believe it or not, my comments are supportive of Senator Ozouf. He may be quite surprised because I think this matter has to be cleared up. It is quite obvious it has become politicised but not necessarily by the people who are accused of doing this. I think what happened, if we note the progress of this issue, it started off and it was set on a disaster course by the Chief Minister’s statement that the Minister for Treasury and Resources was under stress and that he needed more training. This attempt - which was a dis-service, I should add, to the Minister for Treasury and Resources because he is a highly-experienced individual and the notion that he would do something sort of unconsciously because he was being driven by other forces is sadly, I do not think correct - to close down the issue so quickly inevitably led to hares running in various directions, because we then had the next version of events where people like the Constable of St. Peter - fine fellow that he is - and Deputy Noel -fine fellow that he is - they then started putting the line that Senator Ozouf was the victim of a great miscarriage of justice which, in a sense, is what Senator Bailhache has continued with. So we had 2 versions of events. We had this attempt to close things down which immediately got people very worried and then we had this notion that the Senator was the victim of a gross miscarriage of justice. I think that is why people have become very, very worried. Senator Bailhache mentioned the conspiracy that it was totally unconscionable that Senator Ozouf should be accused of having conspired to get rid of the former Director of Property Holdings. But ironically, one of things I hear as I go around is people tell me they have no problem with civil servants being held robustly to account and they think Senator Ozouf in that sense is doing a good job. But what they also say is it has to be reasonable. That was the issue and that is a very, very difficult issue to investigate. It happens the C.A.G. came to a conclusion on that issue, rightly or wrongly, so it is a much more nuanced situation that perhaps some of us are portraying it as. But what really worried people was that the C.A.G. is very much part, in fact is a crucial part, of the checks and balances and he is a very unusual part of the checks and balances because he is totally independent. He does not come with baggage, he does not come with a history, he is not related to 500 people on the Island, *et cetera*. He is, in that sense - I know he was seen as perhaps being friendly with certain politicians, I have heard that accusation and so forth - but in many respects it could be argued he was truly one of the foundations of our checks and balances and that is what worried a lot of the general public; that those checks and balances were



being undermined. As, I think Deputy Tadier and Deputy Martin said, by so quickly closing down his report it got people very, very worried. I think the feeling was, here is a man of extraordinary eminence, he is not a God-like figure, there is no reason to say that everything he says cannot be questioned and Senator Bailhache is quite right to question it, he is not a God-like figure but he plays a very important role and if a process of rubbishing, if a lot of the jungle drums start beating out a certain message, you have to be very worried that there are attempts to close him down. That does not mean, as I said, he is beyond criticism, that does not mean that he may have had a “bad day at the office” as Senator Bailhache was implying, and that this was a questionable report. But the issue is this should be open to examination because we have got now 2 versions of events. One is that the C.A.G. produced a poor report, he did not work according to the usual evidential standards and so forth, and there are answers, for example, interviews were recorded first time round but on the jungle drums people got to hear that there were adverse conclusions being drawn and they asked for further interviews. That was outside the experience of the C.A.G. but he sought to accommodate those people, for example, or those requests. So is it that or is it the fact that because he was getting into very sensitive territory people were going to sort of try and undermine him? If they were, I hope they realise that they were undermining one of the major checks and balances in the system. Criticise the details of the report, perhaps like Senator Bailhache has done, take a forensic attitude, but realise that behind it there is a much bigger issue and it is one that the public continually worry about; that the checks and balances do not operate well in Jersey and why have we, for good or for bad, or why has a person like the C.A.G. felt compelled to resign? So, to summarise, I do not think people like Senator Ozouf need fear anything. This will exonerate them in the sense that it will be put out there, as nothing so far has done, and people will get the chance to look at all the evidence. At the moment there is a standoff and that is what is again and again demeaning this Assembly.

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

May I make a point of clarification? Deputy Le Hérissier said that the Chief Minister had simply said that there was stress and needing to be retrained. The Chief Minister I believe, and I believe Hansard will accurately reflect this, is that while it is being reported in the media he said there was enormous stress of big decisions at the time of Lime Grove, including Zero/Ten and all other matters. That was what he said and he also said that training in relation to what is bullying and what is not bullying he wanted to see. That is not related to only me but across the public sector so that assertive management was not bullying. I had wanted to make those points because I think that they have been repeated on a number of occasions and there are hare running which is not what he said.

**The Deputy Bailiff:**

What you are asking the Deputy to do is to accept that clarification, which I am sure you do, Deputy?

**Deputy R.G. Le Hérissier:**

Yes, I accept that. I will obviously revert to Hansard.

**7.3.8 The Connétable of Grouville:**

I think that most of us now know the inside and outside of this problem intimately and I will just go now on to the perceptions that have been created by the various protagonists. Firstly, can I say that the Council of Ministers have acted to me in a very intemperate way in that they have been seen to circle the wagons and to just say: “Righto, lads, we will now protect our own. We are not going to have anything to do with the criticism coming at us from all over.” They just said: “No.” We, as Senator Bailhache so rightly said, I was one of the signatories for the motion of censure - sorry, I

beg your pardon, the other one - and he also referred to the shambles of Mr. McGarel-Groves' interview. Well, I saw Mr. McGarel-Groves yesterday and that to me was a shambles as well. I would like to know why we were not allowed firstly to talk to the previous Director of Property Holdings, because he was forbidden under the terms of his contract, not to talk to us and even the *Evening Post* ran a headline saying: "Chief Minister refuses to lift the gag on the deal." Also I would like to know how Mr. McGarel-Groves got to hear of this situation, who invited him to send the letter, and I would like to see perhaps if there is an email trail on this I think that should be shown to the public. Those are just 2 of the points; I have a lot of others I could bring up at this stage but I am not going to because we are taking up time here. The only way we are going to get to the bottom of this is by having an open public inquiry. Let us unbalance the wagons, let us get open and let us talk to people and let us tell the public of Jersey exactly what happened. We do not know because we have been restricted in our inquiries and the things we want to know about what happened in the background here. It is not fair on the public. The Minister for Treasury and Resources has spoken a lot about fairness; what about fairness to the public of Jersey and to the Members of this House who have asked questions which have not been answered?

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

I would like to start by commending the proposer of this proposition for the very measured way that he put his proposition to this Assembly, in particular reminding us that what he was asking was for an inquiry into the resignation of the Comptroller and Auditor-General. He was not seeking, as other Members perhaps who have spoken have chosen to do, to reopen the Lime Grove debate and discussions and the matters concerning the Minister for Treasury and Resources. It is a great shame that we have already gone down that route in the number of speeches. I rise to speak because I have to distance myself from the comments of the Council of Ministers. I did dissent to these comments and it is recorded in the Council of Ministers' minutes that I did so. I am standing to tell you why I dissented because I think it is important that I do so. I dissented because I believe that the only way we will deal with this issue is to have a Committee of Inquiry. Now people who know me will be aware that I am a great fan of committees of inquiry. In fact the last time that this Assembly discussed a Committee of Inquiry it was a result of a proposition I brought and much against the expectation that I would lose, I won that debate and I hope that the proposer of this proposition, despite, shall we say, the forces being directed against him, will also prevail today. There are some things that when you join a group, whether it is a club, society, a group of friends perhaps, or even the Council of Ministers, where principles have to be more important perhaps than toeing the party line. On this matter I do believe that the Council of Ministers have failed this Assembly. Why have they failed? Because they are not taking into consideration the public importance of this issue of the resignation of the Comptroller and Auditor General being resolved by people not directly involved in the dispute. Now this is where I have a problem with the proposition because - and I have spoken to the Deputy about this - I do not believe that he was advised to include 2 States Members in the proposed Committee of Inquiry. He tells me that that should not be a problem because we should be able to find 2 States Members who have an independent view. Well, I suspect we have all seen so much paper and heard so much over the last 6 months that that is going to be very difficult to achieve. Having said that, I do believe a Committee of Inquiry is the way forward. I think if the former Comptroller and Auditor General is listening to this debate today he would be quite appalled at the speech of Senator Bailhache. This was a speech of a judge summing up the verdict. He had heard all the evidence, setting out his summary of the trial and "this is my verdict". Now that is exactly why we need a Committee of Inquiry. We do not want to have a summary by a senior Senator of the position and that is the end of the matter. No, it is not the end of the matter. We do need a Committee of Inquiry. What I would stress, and I think a number of speakers have made this point, this is an opportunity for the Minister for Treasury and Resources to put his case. He has said in his speech today: "I have not

had the chance like everybody else to put my case.” Well, here is the golden opportunity. It could be completely cathartic for him. He could get all of this off his chest, put it behind him as he wishes to do quite rightly, and we can get on with the running of business. But in summary, matters of principle I will always go with my heart and my head and on this one we do and should have a Committee of Inquiry. I am sorry that I disagree with my fellow Ministers on this but that is my position.

[16:15]

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

It is a great pleasure to follow the previous speaker who has said some of the things that I was going to say. But I want to take a different approach and support his call for a Committee of Inquiry. What we have heard today is an excellent case that I believe should go before a Committee of Inquiry. The question we have to ask ourselves today, having heard that case from Senator Bailhache and from Senator Ozouf today, can we, as a body, therefore draw a line under this issue, which we are requested to do, and move on. I would love to be able to say to this House: “Yes, we can, and we could do it today.” But the reality is we will not. If we are to draw a line under this situation and to move on then what we need is exactly what is proposed here, is a Committee of Inquiry. Without that, and we all know what Jersey is like, the rumours start, the accusations start, the allegations start and they travel out via St. Ouen and they return via St. Martin, back again, and they just keep going and the line is never drawn. Years later you hear those allegations, those rumours, and they become fact. They become fact by repetition, and years down the line, of course, reputations are dragged in the dust because of things that have happened supposedly in the past because of rumour, allegation and accusation. So if you want to draw a line under this and move on, as the Council of Ministers wants, as the Minister for Treasury and Resources asked us to do, then what we have to do is have this inquiry and hear the evidence and get it out. It will either say one thing or the other, surely. Either those allegations will be found to be true or they will be found not to be true, at which point the line is drawn. It may be a difficult process for the Minister of Treasury and Resources to hold with for the next 3 months, 6 months. But that is the way to draw the line. Do not anybody in this Chamber today think that by voting against this proposition we can draw the line. It simply will not happen. It will just go on echoing for time immemorial and reputations will be forever tainted by this set of allegations. Why is it important? Senator Bailhache and Senator Ozouf have both said: “There must be important reasons to continue”, that is Senator Ozouf. “We must have a definite matter of public interest to focus on”, Senator Bailhache. Absolutely, I could not agree more. The importance of losing in recent times, losing a Treasurer, losing a Chief Executive Officer, losing a Director of Property, even losing a Chef de Police, a police chief, has passed by. Some focus but no real interest. Having the resignation of one of the independent voices on the Island is however significant and is important to the reputation of this Government and the reputation of this Island. That is the definite matter of public interest that needs to be investigated and that is exactly what this proposition says: to hold an inquiry into the resignation of one of the few truly independent bodies that we have on this Island. That is a matter of concern outside this Island and therefore reflects upon the reputation of this Island. That is why we must, today, vote for this inquiry. It will, I believe, draw that line that we are requested to do under this issue and it might serve to improve the reputation for accountability and transparency this Island singularly fails to do time and time again.

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

I voted in favour of the amendment because like Senator Ozouf I seek closure to this. I voted in favour of the amendment not because I wanted to insult the Chief Minister, but I felt that if we get to the stage where we have a Committee of Inquiry that we will not be able to put these things to bed if we cannot say that we did not select people on that inquiry in a fair way by having the Chief

Minister and the Chairman of the P.A.C., I thought that was fairer. Having said that I have no intention whatsoever of supporting the proposition and I have 3 reasons why. The first one is the reports of Comptroller and Auditor General. I have found when I read these type of reports that there is a moment, whether it is during the first, second, third reading that something jumps out at you and says: "I realise now which way I am going to vote and this is the clear reason why" and in the C.A.G. report it was when I realised that the evidence was not consistent. It was the fact that not all the interviews had been recorded. That was a grave mistake. That is why a Committee of Inquiry will always have that at the background; we are never ever going to know what was said there. The second reason I cannot support the proposition is that it says that it will include an independent chairman and 2 States Members. Even in the short time that I have been in this Assembly I am aware that there will have been more than one vote where Members of this Assembly will have had to have expressed a preference one way or the other in this regard and I cannot see that having 2 States Members on a Committee of Inquiry could be in anyway independent. The third reason I am not going to support the inquiry is that I am here, I believe, to best serve the public. While others may interpret that differently I will refer Members to parts of the first sentence in the proposition which reads: "A definite matter of public importance." To my mind, at the moment, some definite matters of public importance that we would be better served looking at include income, expenditure, tax, health, education and public services. I am here, I hope, to try to make things better. But for me nothing in this proposition makes anything better and I will not be supporting it.

#### **7.3.12 Senator A. Breckon:**

Just a few points. I think when Senator Ozouf was speaking, for me he was making the case for a Committee of Inquiry in what he said. He said he has some information, but we do not know if that is opinion or if it is fact, and if he has a response then it should be in the public domain and it should not necessarily be his role to do that. It should be done through an independent means, and I think a Committee of Inquiry would do that because we do not know which it is, because there is a difference between opinion and fact. It would be an opportunity to get it into the public domain in that independent way. I think, as Deputy Le Hérissier mentioned, the system of government we have needs to have checks and balances, and the Comptroller and Auditor General in his role, and I know because I was a member of the Public Accounts Committee off and on for nearly 6 years, was very effective in doing that. Generally there have been criticisms of previous reports, usually by people who will criticise themselves. So this is not necessarily wrong, it is good and healthy when a report emerges and someone says: "Yeah, well, I do not agree with this entirely but the idea is to get some improvement and to learn from it." The Constable of Grouville mentioned about the process and the transparency and I think that is important. Members might remember not very long ago there was a Select Committee of the House of Commons looking at Barclays Bank and the London inter-banking interest rates, and within a matter of days they had access to emails. My experience of Scrutiny would be that we, as Scrutiny, would not get those emails without some serious and draconian powers. You just would not get access to that level of information and that is really where I think this starvation, call it what you will, access to information is a problem. If a Committee of Inquiry could go there then that is exactly where they should go because that would reveal it not as we think it might be but as it happened at that time. They would have the wherewithal to do that and it is interesting, as I say, the Select Committee in the House of Commons did this within days, they had access to emails at a very, very senior level. The Deputy of Grouville mentioned public concern. Well, I share that concern, but I think the public also have a concern about accountability and transparency of government. Do not forget there are a number of people who have been involved here who do not necessarily have the right of reply. We have senior people in the public sector, people in office that are working for us, and where and who is speaking for them. Well, a Committee of Inquiry would do that independently because they would

be given the opportunity to address that. Those briefly are the reasons why I will be supporting that. I think it is good and healthy that we have this check and balance, we have this process and it would, despite what others may think, if 2 Members of this House were willing and able to do that I think we should have the confidence in it, whoever they may be, with an independent chairman to independently gather the evidence and then come forward with that in a report. That is as much as they can do and everybody in this House is capable of doing that and I think we should have confidence going forward. We should not worry about that and it should not be a red herring because I think it is. People have expressed views and opinions but then you have to stand back from that, it is about facts. It is not about opinion. That is the reason I will be supporting this proposition.

**7.3.13 Connétable L. Norman of St. Clement:**

Just very briefly. I came here to this debate reasonably open minded but having listened to some of the speeches, and some very good speeches, I have really come to the conclusion, unless someone can show me differently, that this will not achieve what the proposer and what one or 2 of the supporters think that it might do. Because all the Committee of Inquiry will be asked to do is to examine the circumstances surrounding the resignation of the Comptroller and Auditor General. Now I have heard talk about the former police chief; nothing to do with that. I have heard talk about the former Chief Executive of the States; nothing do with that, this Committee of Inquiry. The former head of Property Services, this Committee of Inquiry will not be looking into that. Just the circumstances of the resignation of the Comptroller and Auditor General. Now as I see it, being a very simple soul, if the Committee of Inquiry can get the evidence they can only conclude one of 2 things. That either the former Comptroller and Auditor General fouled up and then resigned or the former Comptroller and Auditor General did not foul up and then resigned.

**The Deputy Bailiff:**

I am not sure “foul up” is a parliamentary expression, Connétable.

**The Connétable of St. Clement:**

Yes, Sir, but I think the Members have an understanding of what I meant, but if it is not parliamentary then I... [Laughter]

**The Deputy Bailiff:**

If I may say so that does not make it parliamentary.

**The Connétable of St. Clement:**

Then I will change it to “made errors” or “did not make errors”. Thank you, Sir for pointing me in the right direction. [Laughter] But whatever the committee decide, whether the Comptroller and Auditor General was mistaken or not mistaken, those who believe the opposite will continue to believe the opposite. [Approbation] Therefore the conclusion must be that such an inquiry will be a total waste of time and money.

**7.3.14 Deputy J.M. Le Bailly of St. Mary:**

The C.A.G. has resigned. Has anyone asked him if an inquiry should be held? If there was an inquiry and, dependent on the outcome, would he want his job back? I do not think so. Or would the States be faced with yet another massive payout. The man has resigned for his own personal reasons. It appears he does not want publicity. We should also respect that.

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

I personally regret that the Lime Grove inquiry ended with the resignation of the former C.A.G. For him I had great respect.

[16:30]

However, I remain of the opinion that this proposition is not going to be effective in achieving anything useful. Indeed I am concerned it will have a negative effect for the future of the important office of C.A.G. by further politicising that role. I would remind Members, that the C.A.G. wrote a letter of resignation. He was concerned that there was adverse criticism about the process of the production of his report. My impression was that he was resigning in order to avoid further damage to the office which he held by virtue of the politicisation of issues surrounding the report. To hold the proposed inquiry is going to have exactly the effect, even if it is in some way effective, which he sought to avoid. There are a number of issues of fact which arise around the resignation. There is the dispute with the former Acting Treasurer. The Chief Minister has written to both of these gentlemen, both to the former C.A.G. and to the former Acting Treasurer to seek clarification of their positions and has had no response. Both are now out of the Island and are not compellable, in other words they cannot be forced to come and to give evidence. But why would the C.A.G. want to be involved in this process which would clearly cut across his purpose in resigning. The C.A.G. was clearly upset that his report was criticised. I am afraid that that was inevitable once the report became used as the basis for a motion of censure, in particular, the sections in relation to the former Acting Treasurer. Now in addition to what Senator Bailhache has so ably said in relation to that, I would draw one further conclusion because I found it very, very strange in that section that it was stated as an alternative approach that an attempt was being made to remove a civil servant without proper compensation. As an alternative approach how can one reasonably make an allegation of that seriousness as an alternative approach? It is inevitable there would be criticism in relation to this. Notwithstanding my respect for the former C.A.G., I am bound to say that you cannot reasonably make such a serious accusation in the alternative. Today the C.A.G.'s letter dated 18th May 2012 has been put before us of being in some way relevant. If we look at the spring 2012 statements part, which is a part in which he records his recollection of a discussion with the Minister for Treasury and Resources then a French quotation comes into my mind, a very well known quotation: "*Cet animal est très méchant: quand on l'attaque il se défend*" which for those who do not understand French means: "This animal is wicked: when it is attacked, it defends itself." Frankly, what is contained in that section relating to the Minister for Treasury and Resources is nothing more than that principle. The next picture which comes into my mind is that of an old joke which as a youngster I found very funny, and I found it one day in *Punch*. In it a church has a leaning steeple and a fund has been set up to repair it, and there is a marker board for the funds. But time has moved on and obviously things have not gone too well because now the marker board is leaning. So next door to it is a smaller marker board, which is: "Save our marker board fund." I am reminded of that very powerfully because here we have a side issue upon a side issue. The main issue, this church steeple, is Lime Grove. The marker board is the C.A.G.'s report and the smaller marker board, which we have been asked to set up, is this proposal. Side issue upon a side issue. How often have I said how much we love to get bogged down on side issues upon side issues. Finally if an inquiry is appropriate, which I do not believe it is, then is this the right one? We might have neutrals on Lime Grove but who among us could possibly be neutral on the C.A.G.'s report, particularly after we have had this debate? So to summarise, this Assembly should, in my view, avoid further damage to the post of C.A.G.; should avoid getting involved with side issues upon side issues; should consider whether such an inquiry is likely to resolve anything, we do not even know if the C.A.G. would want to co-operate, and should consider whether, if a report is needed, this is a fair way to set it up. I will be opposing.

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

I am not going to propose a closure vote because I believe the debate is coming to a natural end, but I just want to answer that criticism of my good friend the Deputy of Grouville and one or 2

comments made by the Members as to the reason why I suggested this. I suggested or I utilised my rights as a States Member to give notice under Standing Order of a closure vote because I felt this debate had the propensity to veer wildly from the theme or the subject of the proposition, which was the Committee of Inquiry into the resignation of the Auditor General. I am pleased to say that is has not, I believe it has been an interesting debate.

**The Deputy Bailiff:**

It is in danger of just doing so, is it not? [Laughter]

**Senator L.J. Farnham:**

Thank you, Sir. It has been an interesting debate and I feel now it is coming to a natural end. I am also pleased to say that most of what I was going to say has been said, but the important issue here is, for me, in not supporting this and I am disappointed not to support it in some ways because Deputy Baudains has made a sensible and measured, as has been said, proposition. But quite simply the irregularity in the consistency of the evidence gathering would simply, in my opinion, make it completely impossible for a Committee of Inquiry to have an appropriate ... to make a rash outcome impossible. I would much rather see the £10,000 or £20,000 or £30,000 or £40,000 that this could cost be given to worthwhile causes, or for example the small sporting clubs in the Island that could do so much to benefit the Island with that sort of money. Thank you.

**7.3.17 Deputy J.A.N. Le Fondré:**

“Reputation, reputation, reputation. Oh, I have lost my reputation. I have lost the immortal part of myself and what remains is bestial.” That is my quote for the year, I think, that is from *Othello*. But the point is that reputation - hopefully that might have woken us all up a bit as well - is important to individuals and it is also important to this Island. I am obviously going to be supporting the proposition. Why is it such an important matter - and I appreciate there have been comments already about that this is a waste of time, we should just move on - but as we have already heard there are a number of unanswered questions, and they, in my mind, do need to be resolved otherwise this is just going to keep going and going and going. For all of us, and in fact I agree with the Minister for Treasury and Resources, it has been unpleasant for the both of us and for our friends and for our families and from that point of view we need to get this resolved. We need to get the air cleared, we need to be able to move on. I am now going to take the opportunity to remind people again of the Comptroller and Auditor General this time around of his credentials. Now as I was saying previously, he is the past president of the Institute of Chartered Accountants. That is 140,000 members worldwide. Locally there are individuals who have dealt with him in that capacity and the feedback I have received is that he is very well regarded, very intellectual and very professional. Obviously quite a lot of these are accountants and members of the finance industry. If one explores a little further he was reappointed by the U.K. Prime Minister as a trustee for one of the national museums. He is a director of the Pensions Regulator. He is a non-exec at the Defence, Science and Technology Laboratory. He is past Chairman of the Audit Commission at H.M. (Her Majesty) Treasury, a commissioner of the Audit Commission, a member of the Financial Reporting Council. The reason I am repeating this, because I did not know some of this stuff until I Googled him and I think it is relevant to the quality of the person we are talking about. He has investigated and given evidence in a number of cases as an expert witness, including *Maxwell v Fidelity Financial Services Inc*, *B.C.C.I v Akindele* and the Barings fraud in Singapore which ultimately lead to its collapse, as in the fraud did. In my view this places him at the highest echelon of credibility, integrity and experience. So given his high credentials, given his very important role, why would the C.A.G. put down in writing what has been said in the report if he did not consider it to be accurate, having examined the evidence and having come to a professional independent decision? I have heard no objections to the many other reports he produced, why is his reliability

suddenly being doubted? Why would he put in writing to the P.A.C. what he has put in writing which is front of us today, about key witnesses? That cannot be left hanging. Either there were grounds for saying that or someone's reputation has erroneously been impugned. So now do not forget 3 and a half years ago what was being said about the C.A.G. was that he was now maturing in his role. "I think he is providing excellent information to the Assembly": that was from the Minister for Treasury and Resources. Do not forget this is the person responsible for oversight of the audit of the States accounts, presumably performed by people who either belonged to the institute of which he was president or aspired to join. Yes, there are huge issues facing Jersey people, both Jersey and globally. But if we ignore the unprecedented circumstances surrounding the treatment of this report and its author then we run the real risk of not learning any lessons which may be learned, and potentially exposing the Island to even bigger risks in the future. If one looks at the wider world, particularly in the world of finance, in general media there is the ongoing debate about ethics, about being held to account for one's actions and also about the pursuit of justice. If the systems of controls that we have in place are not real, in other words they are just words on paper, then the organisational culture is wrong. If none of this impinges upon anyone's conscience then it is pointless having a system of governance, it just simply will not work. Just look at it this way round, if one was a senior person in a private organisation and one has given evidence that someone in that organisation appeared to have misrepresented matters in order to influence the outcome of events or to discredit others, would that be acceptable? The answer has to be no. It also has to be the case that action or investigation would be taken. There would be concern that it could happen again if it was not dealt with. We are the Parliament of this Island and I have always understood that we are one of the oldest Assemblies in the world. Like it or not we are meant to be the example for Islanders to follow in behaviour and in actions and that is all about integrity and honesty and accountability and acting in the public interest. Senator Le Gresley spoke exceptionally well, it is about principles here. Now, just to think about the whole: "Let us move on, let us look forward, and let us not look back." Let us look at H.M. Revenue and Customs, somebody - I am sure one of our most favourite organisations who won a case in the Court of Appeal recently relating to a matter that occurred back in 2003, 9 years ago. Should they have just moved on and not worried about it? Of course not. Let us take the Leveson Inquiry, which has been running for months and has exposed all sorts of ethical issues and behaviour among journalists as well as politicians. Should they not have just moved on? Look forward, do not look back, and do not try to learn from past mistakes or behaviour. Of course not. What about the expenses scandal of M.P.'s (Member of Parliament) in Westminster. Should parliament not have risen above all that and just moved on, could they not have spent the money in a better way? Of course they should not, it needed to be resolved. It seemed to be common acceptance that because politics are sometimes regarded as a dirty game because everyone is busy or tired or whatever that we should ignore inconvenient matters and just move on. That should not be right. That should not be the default position, because it is a position of mediocrity and given that we should be setting the standards, we should be aspiring to set the example of ethics and good behaviour of seeing to be beyond reproach. So when situations inevitably do come to the fore, no matter how unpleasant they may be, it is down to this Assembly to say that this does need to be looked at, it needs to be resolved. That is what having the ethical and moral backbone to tackle things is all about. Now someone somewhere needs to get this matter resolved once and for all. A Committee of Inquiry has the greater power to delve into the heart of the issue. Another option is for P.A.C. to run a review. But in my view I think the Committee of Inquiry is better because it has the greater power to get information. However, if this debate is lost, which I hope it is not, it is critical that P.A.C. do look at this once they are fully constituted, which, now thinking about it, has happened today because the Members have been appointed. I hope the Chairman of P.A.C. will take those comments on board.



[16:45]

I do not want to get too dragged into some of the arguments that have been made about some of the detail that is going on. I want to make 2 comments, I think. One is talking about the general issue that the process of the C.A.G. report was flawed. Now, I think I can just say some pointers, I do not think we are in a position to judge that, that is the purpose of the Committee of Inquiry. But the referral to the C.A.G. was initially welcomed by a variety of people, including the Minister for Treasury and Resources, particularly in his response to scrutiny. The C.A.G. has stated that he followed the proper process with regard to the Interim Director of Finance. Based on my experience as a witness for the inquiry, that process would have taken a number of months. I want to phrase this carefully, but in my view we need to consider very cautiously the comments received from the Interim Director of Finance in those hours before the debate was due to start. The reason I say that is that, for example, in his particular statement, which is certainly at least one speech, if not more, had placed great emphasis on to say that is why the process was wrong. The Interim Director of Finance has stated that his report, the report that the C.A.G. refers to, is not inflammatory. However, in that statement when he says that there was a sentence redacted in the version that was sent around to States Members. The reason I understand it was redacted was because it, in itself, was inflammatory. Secondly - and you can verify this publicly if Members know where to look, principally the C.A.G. website - the present Chief Executive has previously accepted in publicly available documentation that the initial report by the Interim Director of Finance, particularly those quotes that read out earlier in the amendment debate was flawed. So therefore we do have a situation when one party is standing by their report of what another party has said and the other party is claiming not to have said it. One has to be wrong, so the only way to get to it, the heart of that, is by further investigation. There is one other comment I did wish to make, which I did not scribble down. There was a reference as well to another flaw in the process which was about recording of transcripts. All I can say is that it was made very clear in the first level of interviews that interviews would be recorded - and I will come back to that particular claim in a minute - and at any second interviews they would not be recorded. That is in the letter I received on, I think, 22nd September 2011. That is certainly one of the arguments that has been mooted, the fact that second interviews were not recorded. That is one of the arguments that has been demonstrated to say the process was flawed, possibly not publicly but certainly within these walls, as it were. The point is that it was very clearly the case that they were never going to be recorded at least in the documentation I received. To deal with the first instance, in other words where the first interview is not transcribed or not transcribed properly, I do not know, none of us know. That is one of the unanswered questions. Then there are 2 questions that arise from that. One is did the process follow what was laid down and if it did not, which is always possible - I do not know whether I use the expression as an auditor these days but certainly in past lives one has found that human nature will vary, there will be a tangent slightly as to where the direction people intended to go. I find that difficult to say about past or present Institute of Chartered Accountants but anyway let us take that as it happened. Was the impact material to the report? That is question. It is not whether the process was slightly flawed it is what was as the impact on the final outcomes of that report. So to sum up really, the Council of Ministers argued that to continue this matter politicises the office of the C.A.G. That politicisation has happened. It cannot be undone. This is one route to clearing the air and demonstrating that, yes, we do hold the office is great steed and it does need to be resolved. So the lack of action in my view of the Council of Ministers was in itself a political statement. Think about it. After 6 months of investigation, just under 50 people interviewed and the report is basically dismissed. No substantive action taken. That is kind of the view I am getting from the public side. So leaving this unresolved is not an option. Many reputations have been left hanging in the balance, including those of the position of Minister for Treasury and Resources, Treasurer and Chief Executive. In other words, it is not just about politicians and those all deserve better

because if doubt is cast upon the C.A.G. report, doubt is also cast upon the fact that he has refuted a number of the allegations in other documentation that was circulated. That is the inference that is coming through. So we are not just talking about people, we are talking about something very serious here, that is the positions and process of government and that is why the matter needs to be resolved. Right is right, it is about principles, it is not about personalities. Sometimes it is dressed up as that but it is not. It is about shining a beacon of light about whether we believe that the integrity of this Assembly and indeed the credibility and reputation of this Island is important. Whether we are prepared to tackle difficult subjects and to do it properly. I believe that is critical to the good management and maintaining the public trust and I urge Members to support this proposition.

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

I will try and be brief. As a new Member I know nothing about the events of Lime Grove, just what I read in the papers, but I do find it disappointing that today's debate Members on both sides have referred to personality issues and almost rerunning the events. I think that is not helpful and certainly I do not think that is the intention of the proposition. Today in making our vote I think we should make our vote based on what we can do to ensure the standard probity in our public administration is not only of the highest standard as we want to continue it to be but it seemed to be of the highest standard and that "seemed to be" is crucial to public confidence. Just to support, for example, this illustration - I think - of my objectivity, I certainly can see strong evidence to support the Minister for Treasury and Resources in some of the actions I have read about because I know of the complications of land transactions, I know the challenges of negotiations between 4 major land acquisitions in a past life. They are very controversial and they require proper management and scrutiny. So when I read the C.A.G.'s report the explanation seemed to be they are quite timely and quite routine in that area. I strongly understood the need for the Minister for Treasury and Resources to challenge robustly and so on and to ensure that the proposals that came across his desk were soundly based and that management arrangements were sound. So until the subsequent events of the C.A.G. report I was, at it were, in 2 minds as to how to react to that. But for me the events subsequent to the presentation of the C.A.G.'s report have really put the thing in a new league. They have raised major doubts about the efficacy and accuracy, and we have heard it today, major challenges to the standards of the C.A.G.'s report. The C.A.G. is appointed to be one of our key controls on the way the States spending takes place. He is the one person who should be able to rely on the system. I can recall discussions as a Chief Officer in the early 2000s introducing a new Public Finance Law and there was P.A.C. and there was no C.A.G. There was a lot of recognition that we needed to upgrade Jersey's standard to have this independence and objectivity. The law, the 2005 Public Finance law, came with this major control and the States went on to appoint the C.A.G. and you have heard of his very highest credentials. It is impossible to overstate those. So the integrity of such a person is definitely beyond question so how is it, I ask myself, that we are in a situation with his resignation and we have got big doubts - and more than that in some cases - being expressed about his report and so on. Unfortunately the way the report has been handled collectively, and I mean all of us within the States I think has been so unsatisfactory. I empathise with both sides of the fence that I think the unanswered questions which arise simply cannot be left open. We have got these published emails and political challenges left, right and centre and all these interventions we saw in the recess. Today we heard in our questions that we have a vision, the Chief Minister's vision is that we are going to have honesty, integrity and trust in the public sector. That was in the answers. Also looking back, I look today in the Chief Minister's statement we had in the House expressing the hope that we will put the events behind us. But of course we need a proper basis to do that otherwise events will carry on as other Members have said, to haunt us like a skeleton in the cupboard. He told us also on 10th July that he recognised the importance of that independence and non-political interference so much so that he recognised these

issues require independent investigation, that is in his answers on Questions Without Notice on that day when he told us that he had written to one of the leading players, the C.A.G. and he also said that the Chairman of the U.K. Public Service Association was also in investigation. I wonder today will we hear some information about that. I cannot wait to hear it, maybe somebody will tell us, but this puts a doubt, it puts a cloud over our public administration and I think if we leave it there this will carry on, there will be a spectrum of these issues and I think that does severely damage the credibility of all of us. So that is why I support the proposition only as the Committee of Inquiry to do that. It should not trawl over the events of Lime Grove, that is water under the bridge. It should confine itself to find out what were the events that led to the C.A.G.'s investigations. I do not agree with the Constable of St. Clement that that is a waste of space and that therefore we should not do that. I think it has got the benefit that those terms of reference can be quite confined and quite targeted and I do not think that is politicising the matter. It will be an evidence-based review. So we need the inquiry, we need a lawyer to chair it with experience. I would have preferred not to have States Members but if we have them can we please have Members that do not have any connection with past events. I support the proposition.

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

It will not be a surprise to Members to hear that I will not be supporting the proposition. As most Members who were in the last Government will recall I was Assistant Minister for Treasury and Resources with specific responsibility for Property Holdings and I was very much involved in all the works regarding the acquisition and what is now termed the failure of Lime Grove. As was mentioned by Deputy Le Hérrisier earlier, I was very much a supporter or felt that the Minister for Treasury and Resources was not being - I cannot remember the word he used now - dealt with fairly. No, I do not think he has been dealt with fairly at all and that is why I continue to support him as I would support anyone else in this Chamber that I did not feel had been dealt with fairly. I continue to support him in this regard. My great concern for this is I do not think a Committee of Inquiry is going to determine the real cause but I think the real cause is quite evident. The real cause goes back to the Corporate Services inquiry into the failure to acquire Lime Grove. If Members can throw their minds back to that actual report that came out from the Corporate Services Panel they will see that there was no golden bullet to put the blame on anybody. If Members would then go further and read all the transcripts from all the people who gave evidence at that Corporate Services Panel they would see again there is no golden bullet to put the blame on anybody there either. What then happened, and in my view this is where we went wrong, is when we asked the C.A.G. to get involved in a political matter. The very reason he resigned was because his role was being politicised. For me it is as clear and fundamental as that. If an inquiry is required then I think the inquiry should also look at why the Corporate Services Panel of that time did not come to a conclusion. That can easily be done by the Chairman of the Chairmen's Committee of the Scrutiny Panels or the Chairman of P.A.C, who happens to be the same person who the P.A.C. does have independent, not States Members to look at it. If that is what Members want we already have a mechanism in place to do that. I would support that move entirely if the P.A.C. with its independent members, not States Members, were to get involved in that but I certainly will not be supporting the proposition.

### **7.3.20 Deputy M.J. Higgins of St. Helier:**

I am going to be very, very brief, I am sure a great deal has already been said. What I would say is that the Comptroller and Auditor General, in personal dealings with him I found him to be a very honourable man. He did a report into the Jersey International Air Display, which contained some criticism and I felt that they were valid criticisms, some of them, but there were some that were not. I wrote a very long and detailed rebuttal and he published them in his final report and it was a very balanced report. So it had the good and the bad, which is what you expect in a report, not one side

or the other. Not one side before the other I found in dealing with him. As I say, he was a very honourable man with high integrity.

[17:00]

Now, I happen to think that integrity is important in politics and I find that very often there are things that have gone on, certainly in the 4 years that I have been in the States that I am quite disgusted of that have gone on behind the scenes. We never get to know the truth, never have an inquiry, never find out who was responsible, never get the true facts, and do not bring up the dirty washing and all the rest of it. The truth of the matter is we need to start again, we need to encourage people out there that this House does have integrity, if things have gone wrong we are going to find out what went on and bring it to the fore. No more sort of behind closed doors, no more just push it under the carpet. Let us investigate properly, find out what the facts are, it could be the Comptroller and Auditor General is wrong, it could be that the Minister for Treasury and Resources was wrong but let us get the facts independently without politicians being involved and restore faith in politics in this Island. So therefore I shall be supporting the proposition.

### **7.3.21 Deputy S. Power:**

My 2 pence's worth is not going to take that long. The first thing I would like to comment on is a comment made by Senator Bailhache in a reference to the former C.A.G.'s report on Lime Grove. Senator Bailhache said that in his view that it was in this case an exception that there were parts of the report that he did not agree with and he made a number of comments which alluded to the fact that the former C.A.G. may have made an error of judgment. I would add to that by saying in my experience in this Assembly there is a second former C.A.G. report where in my personal opinion, and I couch it in those terms, some errors were made and that was the C.A.G.'s review of the Homebuy situation in 2010. So I would suggest to Senator Bailhache, and to those of you in the Assembly who would wish to bear that in mind, that in my view there are at least 2 reports, in my opinion, that were not 100 per cent fair. The Minister for Treasury and Resources has said in this Assembly... he admitted he made mistakes and the Chief Minister referred to those mistakes in his statement of support of the Minister for Treasury and Resources in the early part of the summer. We all do make mistakes in this Assembly and I do believe that we will continue from time to time to make mistakes because that is the nature of what we do by exception. Sometimes, hopefully more of the time than not, we get it right but some of the time we get it wrong. I certainly would be one of those in this Assembly today to say that I have made mistakes in this Assembly in the past and I took responsibility for those. The Constable of Grouville made a statement that the Council of Ministers with the Chief Minister was circling the wagons. Senator Le Gresley put paid to that because he was quite clear in his view that he dissented from the statement that was issued by the Chief Minister in, I think it was, late June or July, when he emphatically clarified his position with regard to Senator Ozouf and Lime Grove and made clear his support of his Minister for Treasury and Resources. Let us remember the sequence of events. The Chief Minister who was elected last year did not support Senator Ozouf for the position of Minister for Treasury and Resources but over the next weeks and months information came to light, where in my view the Chief Minister rationalised and decided in his own way that he would give 101 per cent support to his Minister for Treasury and Resources, which is what he has done. In my view the whole chronology of this sorry state of affairs on Lime Grove, from my simple Irish brain, came to a conclusion when the Chief Minister and, indeed, the majority of the Council of Ministers supported Senator Ozouf for the quality of his work in other areas in the early part of the summer, acknowledging the fact that mistakes were made as regards to Lime Grove and mistakes were made by more than one person. Senator Le Gresley said in his speech that his view of Senator Bailhache's comments were almost judgmental in character and it was a clinical... I think Deputy Le Hérissier used the word, forensic summary of the sequence of events. I do not agree. I believe that Senator Bailhache has used his

legal training and his legal background and I see very little difference between what said Senator Le Marquand said and what Senator Bailhache said. Indeed Senator Bailhache and I attended a A.P.F. (Assemblée parlementaire de la Francophonie) conference in Brussels in the early part of July and I knew from Senator Bailhache's brief comments on the trip to Brussels that he was deeply troubled by part of the C.A.G. report... sorry, it was a trip to Granville and I believe that Senator Bailhache was genuine in the fact that he was troubled by some of the content of the C.A.G. report. I think another Member said that we would have trouble in bringing back key witnesses because a lot of them are off Island at the moment and that... I think it was Senator Le Marquand said that the former Interim Treasurer is now working in Turks and Caicos, the former Comptroller and Auditor General is now somewhere in the U.K. one assumes, and the former Director of Jersey Property Holdings is obviously doing something somewhere else. I would fail to see how a Committee of Inquiry would try and get these people back because they would key witnesses in the way the statement is phrased into the circumstances surrounding the resignation of the Comptroller and Auditor General and these people might be key witnesses. So for those reasons I cannot support the proposition.

**7.3.22 Deputy E.J. Noel:**

Even those with the highest credentials, in the words of the Constable of St. Clement, may goeth. Let us be clear that the role of the C.A.G. will be damaged by a Committee of Inquiry in that it will prove without doubt that the former C.A.G. did not follow his own procedures and in doing that he made errors. It is for that reason, to protect the role of C.A.G., and for that reason alone, that he resigned. So we already know the answer to the outcome of the Committee of Inquiry because the C.A.G. has told us this already in his resignation letter. So we just simply keep revisiting old wounds when we know the answers. I will not be supporting this, we do not need the Committee of Inquiry, we already have the answer.

**Deputy R.G. Le Hérisier:**

I wonder if the speaker could clarify. When has the C.A.G. acknowledged the error of his ways as the reason for the resignation?

**Deputy E.J. Noel:**

The reason for his resignation was to protect the role of C.A.G., that is the reason why he resigned. We know the answer to the question.

**Deputy M. Tadier:**

Point of order. It seems to me that the Assistant Minister is in danger of misleading the House because I think, as Deputy Le Hérisier has said, he did say that the Comptroller and Auditor General admitted making mistakes and that is why he resigned. I do not think anyone has ever said that. Would the Assistant Minister either clarify or consider taking that back, because that is exactly what is in contention it seems?

**The Deputy Bailiff:**

Do you wish to say anything further on that, Deputy?

**Deputy E.J. Noel:**

Just to clarify, I gave the reason why the C.A.G. resigned and that was to protect the role of the C.A.G.

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

We have had the big guns speaking this afternoon and it was a pleasure listening to Senator Bailhache and Senator Le Marquand, how they put their minds around the entire scenario.

Although I may not have been in the Chamber I was listening in the ante-room. Until a few moments ago I was minded to go against the proposition, until I heard the Constable of St. Peter speak when in fact he said that P.A.C. or the Scrutiny Chair, or one in the same, could review this. Having been a chairman of Scrutiny myself I know how difficult it is to get documents and the like from departments, in particular the departments concerned here and therefore whatever period of time Scrutiny would take it would be time barred and we would not get or Scrutiny themselves would not get the information they require. Unfortunately this has been allowed to come about by probably certain Scrutiny members in the past not being strong enough and demanding the evidence but there are ways to make sure that the review does not get all the evidence they require and that is by sending it at the last moment up to the Crown Officers and asking for their views, and of course, like everything, the Crown Office are busy and they cannot come back within the very short period of time that is required. Therefore you finish up putting your report in minus a crucial bit of evidence that you require. If the Connétable had not raised that particular point I would have gone ahead and voted against this but him having raised that, it triggered in the back of my mind certain evidence if it is called for, and it is called for two-thirds of the way through because something has come up and the way to stop it is to send it up the line to somewhere else to have it checked out then we will not get a thorough examination. So therefore I will have to go with the proposition.

#### **7.3.24 Deputy T.A. Vallois:**

I think it only appropriate that I speak at this point in time after listening to some of the speeches that have been made. I am a little bit concerned about people mentioning P.A.C. taking on this role. I did seek advice because of an area of the C.A.G.'s report had been called into question by the former Interim Director. I wanted to be extremely careful because I have been trying to work hard to make P.A.C. be independent and be seen to be independent and carry out their function and their role properly. Now I am hearing from Members of the Assembly that they believe P.A.C. should now follow this up and look into this matter. I am more than happy to follow up the Lime Grove report as the Chairman of P.A.C. but I am not happy about people then bringing inferences on the evidence that is brought out of that review that is carried out by P.A.C. I have independent members on my committee and if we are to follow that up I do not want their integrity to be impugned - whatever their case is - if the information comes out whichever way it comes out in terms of the evidence. I do take concerns with the Constable of St. Peter when he mentioned the Corporate Services Review that was carried out. I believe the Corporate Services Review identified H.R. (human resources) matters, hence the reason they could not continue with that particular review and therefore the C.A.G. carried out the review into Lime Grove because he was able to access a lot more information than Corporate Services received. Senator Bailhache mentioned about the failed acquisition of the Lime Grove House and how the C.A.G. possibly should not have been looking into that area. The Comptroller and Auditor General, looking at his role, he looks at economy, efficiency and effectiveness of processes in financial areas within the States and he has done on many reports. I especially find it even more concerning when we have Deputy Power standing up without any evidence at all to hand or shown to anyone as to suggest that the C.A.G. report was not based on evidence, was not based on objectiveness.

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

I understood it was that he did not agree with it.

#### **Deputy T.A. Vallois:**

Well, on opinion he did not agree with it. That is the basis of what has come out of the Lime Grove report that somebody has turned around and said this person does not believe this and this person does not believe that. I do not think it is P.A.C.'s role to be the mediator between these people.

That is my concern. I am happy to follow up the processes that have been shown to be failed in the Lime Grove report but how can I do that when a report is being questioned by States Members, by members of the public. There are serious concerns surrounding what has happened here and the role of the C.A.G. being called into question in this manner, and in particular Deputy Noel assuming that the C.A.G. resigned because he did not carry out his job properly. He did not say that.

[17:15]

He was protecting the office of the C.A.G. because what was happening is because that office of the C.A.G. was becoming politicised and that is what happened. I am not going to impugn anybody, whether it is Corporate Services, whether it was the Minister for Treasury and Resources, whether it was anybody else in this Assembly, all I am saying is that office was becoming politicised and therefore he resigned. I find myself in a difficult position because I would like to believe a Committee of Inquiry will produce the absolute facts and the absolute truth because that is all I want. I want to believe what people are saying based on fact and the truth. I have a question mark around that. P.A.C. we can follow up the Lime Grove report based on the processes and the failures of transactions, *et cetera*, that have happened throughout the report as I believe it is our job to do under the Public Finance Law. I am uncomfortable with some of the comments that have been made today and trying to make it into some kind of battle between I am right, they are wrong, he is right, he is wrong. I wish people would all try and work together to get the truth. I agree with what Senator Le Gresley stated earlier and I applaud him for standing up and thinking with both his head and his heart and wholeheartedly agree with him. Thank you.

**Deputy S. Power:**

Sir, may I be allowed to restate what I think I said, because Deputy Vallois has completely misquoted what I said.

**The Deputy Bailiff:**

If you restate exactly what you said and you are not making a second speech.

**Deputy S. Power:**

No, Sir, what I said was I commented on the fact that Senator Bailhache made the point that the Lime Grove report was an exception to the Comptroller and Auditor General's normally high standards. I added to that by saying that in my personal opinion the Homebuy report was also in that category and that I personally did not agree with the contents of the C.A.G's conclusions on the Homebuy report. That is simply what I said.

**The Deputy Bailiff:**

That is what I understood you to say. Does any other Member wish to speak? Then I call on Deputy Baudains to reply.

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

I was just hiring a little bit of Deputy Power's desk and I was not sure whether the previous proposition we had this afternoon whether there were any queries regarding the tenancy. I will be as brief as I can. Why does Senator Ozouf feel so persecuted? I do not understand this. He rightly complains about the impact on him from the Lime Grove report but I do not know why he defends himself as if he were guilty of something. He only needs to do that if, in fact, he is the cause of the resignation of the Comptroller and Auditor General, and I am not making that suggestion. I have no idea whose fault it was; if I did I would not be asking for a Committee of Inquiry. All fingers do not point to the Minister for Treasury and Resources, how do we know it was not senior civil servants. I really have no idea. Deputy Martin rightly commented that we must not forget that the

person most persecuted was not in fact the Minister for Treasury and Resources but the Comptroller and Auditor General whose reputation has been sullied. I agree with that and I have to say if we do not sort this out with a Committee of Inquiry I believe our chances of getting a competent replacement Comptroller are highly unlikely. The only people who feel they might be able to apply are those who comply with pressures upon them, and that would be completely unsatisfactory. The Deputy of Grouville apparently opposes the proposition on costs grounds. I have to ask her, does she not realise that losing a competent Comptroller and Auditor General will cost us a whole lot more. Apparently not. Senator Bailhache, I think, made a balanced speech. He admitted being critical of the Comptroller and Auditor General and that he was honourable in resigning but then seemed to drift off into the Lime Grove issue, which I was hoping to avoid. Regarding Deputy Le Hérissier's unhealthy attempt at closing down, the Comptroller is a completely independent person supplying robust checks and balances, of course I do not think many of us could disagree with that. Again, as I said, there are 2 possible versions of the events. The Comptroller and Auditor General made errors or he was undermined because he got into sensitive territory. Like the Deputy I believe the latter. As he also added, an inquiry into this matter could well exonerate the Minister for Treasury and Resources rather than put further pressure on him. I was impressed by Senator Le Gresley's speech, I know it is not easy to disagree with your fellow Members of the Council of Ministers. He is worried about being able to find 2 States Members who are independent and not conflicted. Well, I believe we can otherwise I would not have suggested it. I said in my opening speech I think an independent chairman removes any possibility of allegations of a whitewash but at the same time we need people who understand the issues, know where to look otherwise the Committee of Inquiry will take forever. Deputy Southern said a committee is the only way we can draw a line under this without this the line will never be drawn, it will go on for years. I do share his views, it is the only thing that will stop the rumours, the allegations will be proved true or untrue and the line will be drawn. The Deputy of St. Martin was interesting; according to him this is not a matter of public importance. I do not know if his constituents agree with him. Apparently we cannot find 2 States Members to sit on the inquiry either, or are unlikely to. He presumably includes himself among those undesirables. Where that leave the States Members on the Electoral Commission, I have no idea. The Connétable of St. Clement does not believe my proposition will achieve its end. He did admit to being a simple soul though. **[Laughter]** But then he got to the crux of the matter and the Comptroller and Auditor General would be proved right or wrong, apparently that is a great difficulty. I thought that is what we were trying to achieve. Of course it will ultimately depend upon the terms of reference which if we are successful in getting a Committee of Inquiry will come back to this Assembly and that is where the detail will be. Deputy Le Fondré, I was concerned following his amendment speech that we might be wandering off into territory where we should not be going but he stayed exactly on subject and raised the issue of the reputation of both the Island and the office of the Comptroller and Auditor General. I think they are very important. He reminded us of the extensive C.V. (curriculum vitae) and qualifications of the now departed Comptroller and Auditor General and that we will learn no lessons from this unless we investigate it fully. It has to be dealt with. He aligned the "Let us move on" brigade against things like H.M. Customs, the Leveson Inquiry, U.K. M.P.s (Members of Parliament) expense and all that, should all that have been overlooked and let us move on? He suggested the ethics and morals required this to be resolved. He also made an interesting point that quite a few Members over the recent past have said that the non-recording by the Comptroller and Auditor General was a failure of process and as if it was done deliberately. It flawed the process in some way. But, of course, it was an equipment failure. He noted that in his report and because there was an equipment failure he took special measures to ensure that those people who were not recorded had the absolutely opportunity that probably was not afforded to others who were recorded to discuss the evidence. Deputy Young asked us to leave personalities out of this and I completely agree with him. Probity must be of the highest standard. Not only of the highest standard but seen



to be of the highest standard and that is very important for ... it is all right doing things but you have to be seen to be doing the right thing as well. Just suggesting to the public that really we do not need a Committee of Inquiry it is all wonderful is simply not going to wash. It is not going to go away. He also mentioned that the integrity of the Comptroller and Auditor General was beyond question, I do not think we have a problem with that. So I have to ask, why has his report become a political football? The Constable of St. Peter suggested it was wrong to ask the Comptroller and Auditor General to get involved in a political matter. I do not believe it was a political matter, it was a financial analysis. Deputy Power was concerned about several issues. I hope he is not going to charge too much for renting this space. There were other reports lacking in quality and he was worried basically about the number of witnesses, potential witnesses, who would be off Island. Might I suggest that we have moved forward slightly in recent times and video conferencing may well be possible. Deputy Noel alleged the Comptroller and Auditor General would not follow his own procedures and a couple of other issues. Apparently he knows the answers to the questions. That is fine, we can put him on the Committee of Inquiry and it will be resolved in couple of days. **[Laughter]** Some have said that to invoke a Committee of Inquiry into the Comptroller and Auditor General's resignation would politicise the matter. I take a completely different view. Not having a Committee of Inquiry would, in my view, send out the signal that the only comptroller that we were willing to accept would be one who would not create critical reports. Is that in Jersey's best interest? I do not think so. Deputy Le Fondré reminded us of the Comptroller and Auditor General's C.V., that he is outside politics, independent, practicing accountant, former President of Institute of Chartered Accountants, Senior Independent Directorate Pensions Regulator, Chairman of the Audit Committee and so on. I find it difficult to believe a man of that quality would make the sort of mistakes that has been suggested he has. He has given us many years of robust examination of Jersey's finances. I cannot really believe he would suddenly start writing politically motivated reports. It really does not add up. Let us not forget the comments he made himself, the Auditor General made himself, about how he would proceed after being made aware, 6 months before his report was published, that it would be discredited. He said: "It is a somewhat cautious approach but seems to be wise for a number of reasons. My reputation and that of my office would be damaged by not being fastidious about these matters. The Island is given to gossip so that many stories gain currency but on inquiry prove to be distortions of the truth. Thirdly, the reports that I publish may damage people's reputation and standing in the community and also the reputation of the Island's institution, I owe it to them to be very sure of my grounds." I ask Members, does this sound like a man who is going to be sloppy or even careless about evidence in his report, especially after being forewarned of a plan to wreck it? I think not. There would appear to be only one conclusion, that he was set up so that the report would eventually end up in the rubbish bin. If we look again at the Comptroller and Auditor General's letter of 18th May, which I referred to in my opening speech, especially security on page 4, I have to say to suggest a person who goes to these lengths to circulate hard copies only which are watermarked with the names of the intended recipients and to make sure electronic copies of draft reports and other documents were not held on computers or servers in the Island, for a man to go to such lengths to make sure that his report was robust, I just cannot believe that he could then wander off into political assassinations and write reports that are simply not evidence-based. It is an extremely serious matter because as I said in my opening speech there does seem to be something seriously wrong here and the only way we are going to flush that out is with a Committee of Inquiry and the powers that it has. Having been around a while and knowing how government works, I am pretty sure a few Members will have had that evening phone call persuading them that the Comptroller and Auditor General's resignation is really nothing important, we should not be wasting time on it. I would remind those Members of the words transparency, accountability, openness that have been used so frequently in the last couple of years and so soon after the elections I am sure many Members will recall how they promised the electorate those very same ideals.

[17:30]

Well, I suggest to them here is an opportunity to deliver on those promises. If you want openness and accountability support the Committee of Inquiry so that honesty and not dishonesty prevails. However, if you are content with dodgy dealings and arrangements made behind closed doors, then I wish you luck at the next election, you may need it. That is all.

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

May I ask for 2 points of clarification to the Deputy? In his remarks he criticised me for feeling persecuted and he said he wanted to keep personalities out of it, which I appreciate. Can he just clarify why in his report he mentions the words “serious, swept under the carpet” all the rest of it and my name 7 times and one other Member once. Could he just explain why I should not feel persecuted and is he aware that there was no recording equipment, not a failure?

**The Deputy Bailiff:**

Are you able to comment on either of those matters? Do you wish to reply? If you do not wish to comment you do not have to.

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

I am quite happy to make a brief comment. I was not aware that my report did impugn the integrity of the Minister or suggested he had done anything wrong. I wonder if he is taking parts separately and adding them together. As for the recording equipment, I am quite satisfied with what the Comptroller and Auditor General said.

**The Deputy Bailiff:**

Do you call for the appel? The appel is called for on the proposed appointment of the Committee of Inquiry, the proposition of Deputy Baudains. I ask Members to return to their seats and ask the Greffier to open the voting. If all Members have had the opportunity of voting I ask the Greffier to close the voting.

<b>POUR: 19</b>	<b>CONTRE: 28</b>	<b>ABSTAIN: 1</b>
Senator A. Breckon	Senator P.F. Routier	Connétable of St. Saviour
Senator F. du H. Le Gresley	Senator P.F.C. Ozouf	
Connétable of Grouville	Senator A.J.H. Maclean	
Connétable of St. Lawrence	Senator B.I. Le Marquand	
Connétable of St. John	Senator L.J. Farnham	
Deputy R.C. Duhamel (S)	Senator P.M. Bailhache	
Deputy R.G. Le Hérisssier (S)	Connétable of St. Helier	
Deputy J.A. Martin (H)	Connétable of Trinity	
Deputy G.P. Southern (H)	Connétable of St. Clement	
Deputy J.A.N. Le Fondré (L)	Connétable of St. Peter	
Deputy S. Pitman (H)	Connétable of St. Mary	
Deputy M. Tadier (B)	Connétable of St. Ouen	
Deputy T.M. Pitman (H)	Connétable of St. Brelade	
Deputy T.A. Vallois (S)	Connétable of St. Martin	
Deputy M.R. Higgins (H)	Deputy of Grouville	
Deputy J.M. Maçon (S)	Deputy J.A. Hilton (H)	
Deputy G.C.L. Baudains (C)	Deputy of Trinity	
Deputy J.H. Young (B)	Deputy S.S.P.A. Power (B)	
Deputy R.J. Rondel (H)	Deputy K.C. Lewis (S)	
	Deputy E.J. Noel (L)	
	Deputy A.K.F. Green (H)	

	Deputy of St. John		
	Deputy J.P.G. Baker (H)		
	Deputy S.J. Pinel (C)		
	Deputy of St. Mary		
	Deputy of St. Martin		
	Deputy R.G. Bryans (H)		
	Deputy of St. Peter		

**The Deputy Bailiff:**

Very well, I can announce, as Members may have found on their desks, the Draft Health Care Registration (No. 4) (Jersey) Regulations lodged by the Minister for Health and Social Services, that is P.84.

**Senator P.F. Routier:**

I propose the adjournment.

**The Deputy Bailiff:**

The adjournment is proposed. The States stand adjourned until 9.30 a.m. tomorrow morning.

**ADJOURNMENT**

[17:33]