

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 26th APRIL 2016

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

[9:30]

COMMUNICATIONS BY THE PRESIDING OFFICER

1.1 Welcome to His Excellency The Lieutenant Governor

The Deputy Bailiff:

On behalf of Members I would like to welcome His Excellency the Lieutenant Governor to the Chamber this morning. [Approbation]

1.2 Her Majesty The Queen's 90th birthday – letter sent by The Bailiff

The Deputy Bailiff:

Yes. The Bailiff has asked me to read out the letter that he has sent to Her Majesty the Queen on the occasion of Her Majesty's 90th birthday. He writes in the following terms: "Your Majesty, it gives me great pleasure to write to you on behalf of the States and people of Jersey to wish you a very happy 90th birthday. We all hope that you have a special day. I know that there will be many tributes to you today but from here, the most southerly part of the British Isles, comes confirmation of the enormous respect and affection in which you are held. We remember you with the greatest of pleasure your visits to our Island and extend our warmest good wishes for your future health and happiness. *Dieu sauve la Reine et notre duc.*" While we are on the subject of Her Majesty's 90th birthday, I would like to take this opportunity of thanking David Filipponi of the Bailiff's Chambers and all those who worked so hard and so quickly to make the lighting of the ceremonial beacon a success. [Approbation]

1.3 Welcome to visitor on secondment from Saint Helena – Mrs. Carol George, Corporate Services Executive Manager

The Deputy Bailiff:

I should also wish to inform Members that in the gallery today we have Ms. Carol George, which is visiting us on secondment from St. Helena, where she holds the post of Corporate Services Executive Manager. [Approbation]

1.4 Notice of Statement to be made by the Minister for Treasury and Resources – States of Jersey Development Company

The Deputy Bailiff:

I should also mention to Members that we are expecting a statement to be made by the Minister for Treasury and Resources on the matter of the States of Jersey Development Company. I understand it might be from the Connétable of St. Peter, but that information will be with Members as quickly as possible. It is not available yet.

QUESTIONS

2. Written Questions

2.1 DEPUTY J.M. MAISON OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING THE PUBLICATION OF A REPORT INTO HIGHER EDUCATION:

Question

Given that the Chief Minister's original deadline for the publication of a report into higher education and its funding has now passed, and the report has yet to be published, can the Chief Minister advise when it will be issued and the reason for the delay?

Answer

I have now received the draft report into higher education and am looking to publish it at the next sitting of the States Assembly.

2.2 DEPUTY J.M. MAISON OF ST. SAVIOUR OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING THE TIME ALLOWED TO ANSWER AN ORAL QUESTION:

Question

Could the Chairman explain what the basis is for the '90 second rule' applying to answers to oral questions and what right do members have to challenge the Presiding Officer with regard to this rule?

Answer

Standing Order 63(7) states that "the member of the States asked the question shall answer it and any supplementary question concisely". Interpretation of this Standing Order is a matter for the Presiding Officer but it has been the case for many years that 90 seconds is normally allowed for an answer to be given. Members wishing to change the rules of the Assembly have the option of bringing forward propositions for debate to achieve their aims.

2.3 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE COST OF CIVIL SERVANTS' FLIGHTS:

Question

Further to the Chief Minister's answer to question 9317 regarding the cost of civil servants' flights, could the Chief Minister provide a breakdown for each of the journeys, including accommodation costs and other expenses, including food and taxis?

Answer

The extra information requested for 2014 and 2015 has been collated and work is now being done to establish the same detailed information for 2011-2013.

All this information will be published alongside the review that is underway into the States of Jersey's travel policy. This review is due to report at the end of May.

2.4 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING CORPORATION TAX:

Question

Further to the Minister's answer to question 9341, tabled on 12th April 2016, regarding the collection of Corporation Tax, could he provide a breakdown of how much profit was registered for those companies in each tax band?

Answer

Due to the way information is held within the current Taxes Office IT system it has not been possible to answer this question by the deadline. An answer will be provided to the next sitting.

Additionally, the Taxes Office is still seeking to draw together relevant data (reconciling various data sets) regarding the income streams of companies into a complete format. As far as possible, the Taxes Office will ascertain and quantify key variables, including, for example, capital allowances, deductible losses and tax credit relief.

We are currently developing plans to replace the Taxes Office computer systems and aim to begin rolling out new services from 2019. We will aim to improve management information provision as part of this work.

2.5 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING TAX AGREEMENTS REACHED WITH HIGH VALUE RESIDENTS:

Question

Further to the Minister's answer to question 9345, tabled on 12th April 2016, could the Minister explain how and under what circumstances the tax agreements reached with those High Value Residents who came to the Island before 2005 could be altered by the government?

Answer

It is worth clarifying the position of those High Value Residents ("HVRs") who established residence in Jersey before 2005. In this regard the Minister recommends that the Deputy reads the International Adviser's excellent summary of the history of the 1(1)(k) policy which was prepared in 2010 (see: <http://www.gov.je/Government/Pages/StatesReports.aspx?ReportID=465>).

The following extracts from that report are particularly relevant in the context of the Deputy's question:

"11. Throughout the 1970's, 1980's and 1990's the tax requirement was used for the main part as a 'rationing tool'. The idea was that if the States only wished to have, say, 15, 10 or 5 consents granted the tax requirement should be set to achieve this number. That is, those who were granted consent were those most likely to make the biggest contribution to the Island's tax revenues. The principle was that if only 5 consents were to be granted they should be the best in terms of the tax contribution to be made.

12. There has been some misleading language used in describing the policy adopted in the 1970's, 1980's and 1990's. There were no 'deals' struck or negotiations that led to any agreement that a person paid less than 20% on the income they received that was liable to tax in accordance with the provisions of the Income Tax Law. All applicants were required to show that they would have sufficient income liable to Jersey tax at 20% to more than meet the minimum requirements set. That requirement was set as the basis for limiting the number of consents each year. Generally speaking the 'hurdle' heights set had the desired effect of producing the number of applications and subsequent consents in line with the States' policy of limiting the total number of consents in each year. All applicants had to satisfy the Housing Committee, with advice from the Economic Adviser and subsequently the Chief Adviser, that they would have sufficient taxable income to meet the requirements."

The Deputy's question implies that HVRs who arrived before 2005 entered into agreements which lowered their effective tax rate; this is not the case, they were taxed on all their income in accordance with Jersey's Income Tax Law in exactly the same way as any other personal taxpayer. The only "agreements" entered into was that each HVR agreed to pay a minimum amount of income tax each year (each HVR having to evidence that they had sufficient taxable income to generate that amount of tax).

As the International Adviser's report makes clear, the minimum amount of income tax required from a HVR altered over time, depending on the States position on encouraging the immigration of HVRs. The States have consistently applied the policy position that the minimum tax contribution required from each individual HVR is determined at the time of their arrival and is not adjusted if later arriving HVRs are required to meet a higher (or in some cases lower¹) minimum income tax threshold.

2.6 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING REQUESTS FROM U.K. ENFORCEMENT AGENCIES FOR INFORMATION HELD ON THE CENTRAL REGISTER OF BENEFICIAL OWNERSHIP:

Question

Could the Chief Minister provide the details of how many times in each year for the past 5 years UK enforcement agencies have sought information from Jersey's Central Register of beneficial ownership and on how many occasions the request was indicated to be urgent?

Also, how many of the requests related to investigations concerning –

- (a) terrorism;
- (b) money laundering;
- (c) tax avoidance;
- (d) tax evasion?

Answer

It is widely recognised that the misuse of corporate vehicles is reduced if information regarding both the legal and beneficial owner, and the source, and use of the corporate vehicle's assets are available to investigating authorities. Beneficial ownership information is therefore required by law enforcement agencies to identify persons who may be responsible for suspected criminal activity, or who may have relevant information to further an investigation.

In Jersey, the Police & Customs Joint Financial Crimes Unit (JFCU) is the national centre for the receipt, analysis and dissemination of financial information relevant to money laundering, associated offences and terrorist financing. The JFCU engages in the reciprocal exchange of information with agencies across the world, disseminating the results of financial analysis, and receiving all overseas enquiries regarding financial crime. UK Authorities are amongst Jersey's closest operational partners, and the jurisdictions enjoy strong financial crime investigation cooperation.

Much of the Jersey's international liaison results from the proactive sharing of information, but where overseas authorities initiate a request, it is designated as a Request for Assistance "RFA".

Beneficial ownership detail is exchanged with international counterparts as a matter of routine in the course of financial investigations. It rarely features in isolation, generally forming part of a wider information requirement. Beneficial ownership information is frequently held by the JFCU by virtue of its function, and may be obtained by the JFCU from the Registry if not.

The JFCU do not collate statistics specifically regarding requests for beneficial ownership detail. The figures below are the number of RFAs from UK Law Enforcement Agencies which may contain a

¹ As the International Adviser's report highlights some HVRs arriving in the 1990s agreed to pay a minimum tax contribution of £200,000 per annum; whereas the current minimum income tax contribution is £125,000 per annum.

beneficial ownership aspect² along with criminality suspected³. The question refers to tax avoidance but as this is not a criminal tax matter requests for information in this respect will not come to the JFCU. Requests for information in connection with civil tax matters will be received by the Taxes Office in respect of tax information exchange agreements and where these seek information on beneficial ownership the Taxes Office will obtain this information from the Companies Registry or a third party such as a trust and company service provider.

UK Law Enforcement have expressed their satisfaction with the cooperation they receive from the JFCU and we are told by UK Cabinet Office officials that Jersey is held in high esteem by the UK National Crime Agency

Standard operating procedure dictates that all RFAs are dealt within a maximum of 7 days and there has been no complaint from UK law enforcement concerning the speed with which requests for information are responded to.

Year	2012	2013	2014	2015	2016
Total (all crime categories)	237	257	200	190	67

	2012	2013	2014	2015	2016
Terrorism	2	5	6	5	2
Money Laundering	56	69	62	50	25
Tax Fraud	95	83	62	60	19

- ¹ ENGLAND
- NORTHERN IRELAND
- SCOTLAND
- UNITED KINGDOM CPS (UK) Crown Prosecution Service
- UNITED KINGDOM (UK) ASSET RECOVERY AGENCY (RART - ARA)
- UNITED KINGDOM (UK) CUSTOMS & EXCISE (HMRC)
- UNITED KINGDOM (UK) FSA
- UNITED KINGDOM (UK) NCA
- UNITED KINGDOM (UK) OTHER COURT / GOVT. DEPARTMENT
- UNITED KINGDOM (UK) SOCA (NCIS)
- UNITED KINGDOM POLICE (UK)
- WALES

² The precise reason for an enquiry may not be stipulated on the incoming RFA.

2.7. DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE MEASUREMENT OF NURSING VACANCIES:

Question

Further to the Minister’s response during questions without notice on 12th April 2016 to my question regarding the measurement of nursing vacancy rates, during which he provided a figure which differed from previous figures reported to Scrutiny, could the Minister set out the precise mechanism by which this measure will be reported in future along with the justification for what posts are and are not included?

Answer

Two key data items regarding vacancies are held by the department.

The data will be reported and published in the two formats that are available.

The first is the headline vacancy figure, which is based on the established posts in the States HR Information System where there is no substantive employee currently in post.

The second is the number of vacant posts (as above) that are currently under active recruitment ie the vacant posts excluding those posts where an employee has been appointed but not yet started work or where active recruitment is not underway for some other reason.

2.8 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING HOUSING POVERTY:

Question

Can the Minister advise what measures are in place to reduce housing poverty in the Island, and, in the light of those measures, could the Minister advise –

- (a) how housing poverty is measured and how that measure compares with those used in other jurisdictions;
- (b) what figures are available which detail the prevalence of housing poverty amongst the tenants of Andium Homes, housing trusts and in the private rental sector and, if none, why;
- (c) what estimate has been made of the impact on tenants of the decision to raise rents in the social rental sector and, if none, why?

Answer

The Housing Strategy focusses on the need for more affordable and better quality homes.

The Jersey Housing Affordability Report 2013 provides a breakdown of the proportion of low income households living in housing stress (spending more than 30% of their gross income on housing costs):

Owner-occupiers with mortgage	Social rental	Private rental	Non-qualified
35%	31%	56%	52%

Proportion of low income households in rental stress

The results of the Jersey Housing Affordability Report confirm the need to bring forward effective policies to address housing affordability. The Housing Strategy prioritises measures to:

- Increase affordable housing supply to relieve upward pressures on the costs of both renting and purchasing a home – with the objective of providing 1,000 new affordable units of accommodation up to 2020.

- Raise the standard of social rented accommodation – a programme of major investment to bring all former States-owned homes up to meet the Decent Homes Standard by 2024.
- Introduce minimum standards in the rented sector – improving housing conditions, especially for low income households who are at greatest risk of poor quality housing.

The Income Support system is also an essential component of the support available to assist low income with the reasonable costs of housing. Income Support limits were increased in 2014, which provided additional support of £1 million per year to private sector tenants as part of the Housing Transformation Programme. Support for private sector rents has also been fully protected within the Medium Term Financial Plan, and rental components for private sector tenants are due to rise in each of the next 4 years.

A review has not yet been undertaken into the impact on tenants of the decision to raise rents in the social rental sector. The 90% rents policy came into effect in 2014 and only applies to new tenancies. The policy therefore requires more time to embed itself before reviewing the impact on tenants.

The 90% rents policy ensures that tenants pay a fair level of rent that reflects the value for their home, and underpins the substantial programme of investment in refurbishment which is underway. In respect of low income households, the Income Support system includes the full cost of the reasonable rent for social housing tenants.

These measures, together with the Council of Ministers' focus on supporting a strong economy to benefit all income groups, will support low income households with their housing costs in a fair and sustainable manner.

2.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING CONSULTATION OF THE MINIMUM WAGE:

Question

Further to the Minister's statement in P.38/2016 'Draft Employment (Amendment No. 10) (Jersey) Law 201-' that: "The debate of this draft Law will provide an opportunity for States Members to demonstrate whether they support a move to higher minimum wage rate for older employees, in principle, before the Forum releases its public consultation on the minimum wage", for what reasons has she chosen to seek members' opinions and to ask the Employment Forum to consult on the minimum wage at the same time and what assessment has she made of the risk that this approach may skew any results thereby obtained?

Answer

The Minister's Proposition (P.38/2016) asks States Members to approve an amendment to the Employment Law. The reason for proposing the amendment at this time is explained in the report that the Deputy has quoted from. It states that "*Jersey's minimum wage must currently be paid to all employees over school leaving age (usually age 16). If we are to consider introducing a higher rate for older employees next year, a primary law change must be made now to allow time for Privy Council assent to be granted before 1 April 2017.*"

If we do not make this enabling change now and the Forum recommends a higher rate for older employees in September, it is unlikely that the Employment (Jersey) Law 2003 could be amended in time to allow that new rate to be introduced on 1 April 2017. Any additional pay that employees might have received from 1 April 2017 would be delayed by the requirement for a primary law change.

There is also a second risk in delaying the debate of this amendment until the Forum's recommendation has been delivered at the end of September. If the Forum were to recommend a minimum wage system based around a new higher rate for over 25's and then in December the States rejected the enabling legislation that would permit that higher rate, this would leave the minimum wage levels for 1 April 2017 uncertain, with no time for the Forum to undertake a further review. It is more appropriate that the Forum is clear on the statutory position before its review process starts.

The Forum itself advocated this approach in last years' minimum wage recommendation commenting as follows in relation to the UK's 'National Living Wage'; *"If the Minister intends to direct the Forum to consult on the possibility of introducing a higher minimum wage similar to the UK's 'premium' wage rate for over 25's, it will be important to consider first whether there is a political inclination to amend the Employment Law to permit different minimum wages to be prescribed for employees of different ages."*

While the debate of this amendment will give Members a chance to express their views, if they wish, the Minister is simply asking Members to agree to introduce an enabling power that **may** be used in April 2017, **if required**, subject to the Forum's recommendations. The amendment does not require any different rates to be set for employees of different ages. However, without this amendment, such a rate cannot be considered.

The decision of the States must, therefore, inform the scope of the Forum's consultation. If Members will not contemplate a higher rate for older employees, then it would be unreasonable to ask the Forum to consult on the option and it would be unfair on respondents for the Forum to present this as an option in the consultation.

The Forum will prepare its review in May and will consult during June to August 2016. The decision of the States will be known to the Forum before it starts its review. The Minister's letter to the Forum directing this year's minimum wage review advised the Forum that this amendment to the Employment Law *"will be debated by the Assembly on 24 May which should allow us to find out, before you release your consultation, whether States Members are willing to consider introducing a higher minimum wage for older employees. If States Members do not agree, then of course this would limit the scope of your consultation."*

2.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING ACTION TAKEN BY THE JERSEY FINANCIAL SERVICES COMMISSION FOLLOWING THE RELEASE OF THE 'PANAMA PAPERS':

Question

Further to the Chief Minister's response to question 9374 during the States sitting of 12th April 2016, what action, if any, has been taken by the Jersey Financial Services Commission in line with his assurance that "appropriate action and investigation will be undertaken by the appropriate authorities" in response to the disclosures made in the Panama papers in relation to Jersey's activities?

Answer

Since the publication of the Panama Papers, as members would expect, the Jersey Financial Services Commission (JFSC) has reviewed and risk assessed any impact of the Papers on Jersey. In comparison with other jurisdictions referred to in the Papers, Jersey has a more developed regulatory environment with well documented beneficial ownership requirements.

The JFSC has outlined publicly how the register of beneficial ownership is operated and how our existing regulatory obligations ensure regulated firms identify and assess regularly who they are dealing with, and the business purposes of their clientele.

The JFSC has sought relevant information from regulated firms on any connections they can identify with Mossack Fonseca, or with any material published through the Panama Papers.

The Commission has also visited the Mossack Fonseca office in Jersey to verify that the firm's current status here as an unregulated business remains a true reflection of the activity being conducted in the Island. This has been shown to be the case.

There is a high level of awareness in regulated firms of the issues raised by the Panama Papers. This has been borne out by the speed of self-reporting of any relevant connections and demonstrates firms' high level of sensitivity to financial crime exposure and reputational risk for the Island.

It is not possible to discuss specific cases in this forum, but the JFSC is evaluating each reported incidence for any potential conduct of business concerns; suspicion of exposures to financial crime (including tax evasion as envisaged by Jersey Proceeds of Crime Legislation) or other potential problems. It should be noted that mention of Jersey among the Panama material is not automatically an indication of any misconduct by the named Jersey entities.

This case by case review has revealed no significant concerns of inappropriate conduct by Jersey financial services practitioners. However, each case will continue to be monitored and can be reviewed if any further information emerges.

The JFSC is keeping under review the need to ask industry for further database interrogation and research for any, as yet unidentified, connections to the Panama Papers. The proportionality of such an exercise must be considered in the light of the currently low level of Jersey exposures arising from the Panama material.

The JFSC believes this current process is thorough in the circumstances and stands comparison with what is known to be being adopted by counterpart regulators elsewhere.

2.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING JERSEY'S FUTURE HOUSING NEEDS:

Question

In response to the 'Jersey's Future Housing Needs 2016 to 2018 Report', what targets for the creation of additional housing supply does the Minister have for 2-year, 5-year and 10-year timescales in social rental, First Time Buyer and Category B housing? Given the current and predicted housing price/earnings ratios, is it her priority to increase the affordable rental sector supply to house the population adequately, and if not, why not?

Answer

The Housing Needs Survey shows that there is still a shortfall of housing overall, although the situation has considerably improved since 2012. In order to directly address this, the recently published Housing Strategy focusses on the need for more affordable and better quality homes.

Specifically, the Housing Strategy prioritises measures to:

- Increase affordable housing supply to relieve any upward pressures on the costs of both renting and purchasing a home – with the objective of providing 1,000 new affordable units of accommodation up to 2020.

The primary policy route to delivering more homes will come from the land use policies outlined in the current Island Plan and these will deliver the following estimated supply of homes:

Year	Affordable Rent	Affordable Purchase	Total Affordable	Category B
2016	77	20	97	300
2017	-94 ⁴	20	-74	300
2 year Sub total	-17	40	23	600
2018	91	95	166	300
2019	406	60	446	300
2020	362	35	362	300
5 year Grand Total	907	230	1137	1500

The additional 1137 affordable homes for rent and purchase will have a significant impact on addressing the needs of those households seeking more affordable rental accommodation as identified in the Housing Needs Survey.

The total estimated supply for the period 2016-20 is still in line to meet with the total estimated demand over this period. Furthermore, the current Housing Needs Survey demonstrates that overall levels of demand have dropped from those previously reported in the 2012 survey, which provides further comfort for the adequacy of estimated future supply to meet the needs of the Island.

Estimating the supply of homes to meet specific housing groups for the next 10 year period is more difficult as this will need to be derived from future housing needs surveys.

In order to address these general longer term housing needs, I am working closely with the Affordable Housing Providers to encourage new sites to be identified and developed and with Jersey Property Holdings to identify additional sites for housing that may emerge from the review of the States property portfolio as they become redundant.

The Strategic Housing Unit will be working with the Environment Department and Statistics Unit on the next review of the Island Plan to identify the demand and supply of housing for the period beyond 2020.

2.12 DEPUTY L.M.C. DOUBLET OF ST. SAVIOUR OF THE MINISTER FOR INFRASTRUCTURE REGARDING FUTURE PLANS FOR THE POLICE STATION SITE AT ROUGE BOUILLON:

Question

Can the Minister provide a plan of the Police Station site at Rouge Bouillon, including Summerland, detailing –

- (a) any listed buildings;
- (b) whether neighbouring properties are residential/businesses/States-owned, how many storeys high they are and if there are any outstanding planning permissions;
- (c) the current intended future use for each section of the site, including the categories below and any others being considered –
 - car parking
 - private housing

⁴ The estimated loss of rental units in 2017 is due to demolitions of existing housing sites which are re-developed for completion in 2019-20.

- social housing;
- States departmental use;
- open space?

Can the Minister also provide a timeline indicating what decisions need to be made about the site and when they will be made by?

Answer

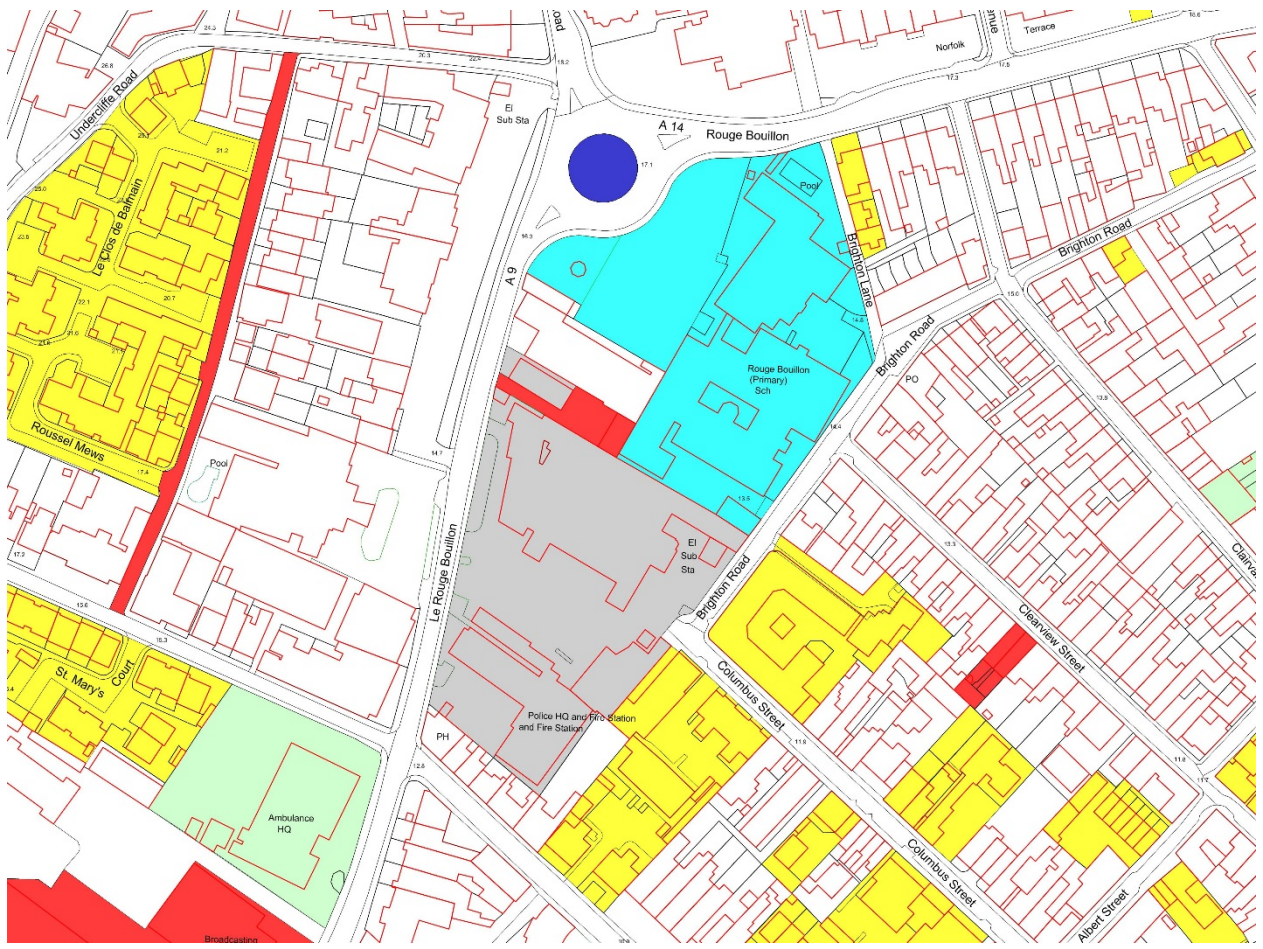
The Police currently occupy two sites on Rouge Bouillon. They are one of the occupiers of the site known as the Summerland Site on the western side of the road, occupying the former Summerland knitwear factory and Broadcasting House. In addition, the Police Station and other ancillary functions are located, along with the Fire Service, in buildings on the eastern side of the road.

The location plans below identify these sites and also other Public landholdings in the area – the plans have the following colour coding:

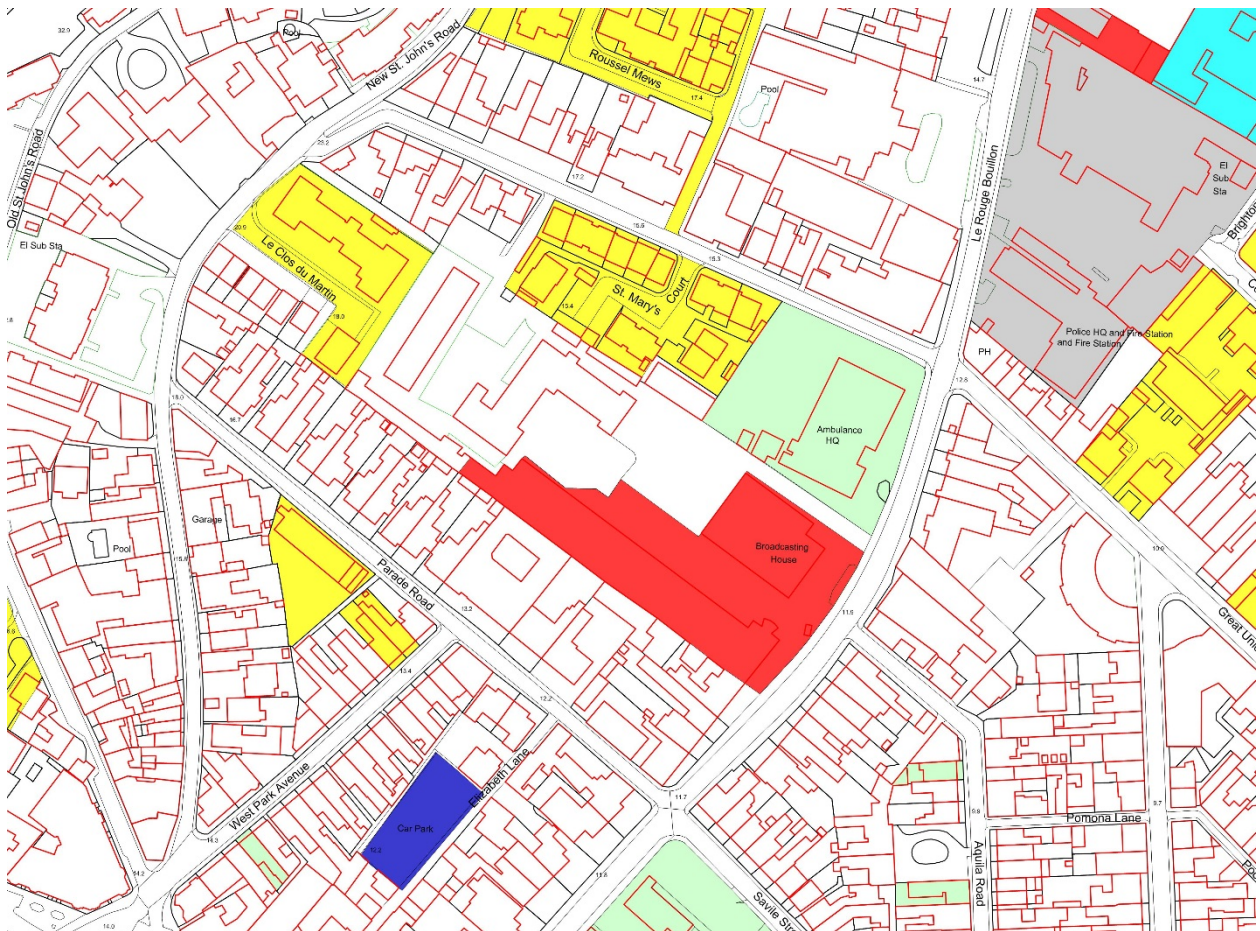
Map Key

Jersey Property Holdings	
Ports of Jersey Ltd (Airport)	
Ports of Jersey Ltd (Harbours)	
Employment & Social Security	
Environment	
Education	
EDTS&C (Sport)	
Health & Social Services	
Community & Constitutional Affairs	
Andium Homes Ltd (Formerly Housing)	
Jersey Development Company	
Infrastructure	

Police and Fire Station Site:



Summerland Site:



In response to the Deputy's specific questions:

(a) The following information is recorded on listed buildings on these sites:

The Summerland site holds no heritage interest.

The former Town Arsenal, at the Fire/Police Station site at Rouge Bouillon is a potential Listed building. Attached as **Appendix A** is the proposed listing schedule, including a plan of the extent of heritage interest, for information.

The Police Headquarters on this site is no longer listed, it being removed from the list in 2007 following a review where it was found not be of sufficient architectural merit warrant the maintenance of any heritage designation.

(b) Buildings owned by the Public are shown on the above plans. Neither the Department for Infrastructure nor the Department for the Environment hold a dataset as to the use class split between business and residential uses nor is information on heights of surrounding buildings on adjacent plots in a readily available format.

Attached as **Appendices B and C** are summaries of planning and building applications in relation to:

1. Summerland site (Summerland/Thorp House/Broadcasting House, Rouge Bouillon, St Helier)
2. Police/Fire Services Site

(c) The Summerland (and Ambulance HQ) site(s) are already zoned in the Revised 2011 Island Plan to support the provision of Category A affordable homes: planning permission for this purpose has been

sought and, upon resolution of a Planning Obligation Agreement, the planning applications referred to above have been approved.

The current Police/Fire Station site at Rouge Bouillon has not been zoned for any other purpose in the Revised 2011 Island Plan.

In the event of any of the current uses relocating from this site and there being the potential prospect of land being surplus to the requirements of the Community and Constitutional Affairs Department, consideration will need to be given to its potential to contribute to the need for affordable homes, in accord with Policy H1 of the Island Plan and pre-amble, paras 6.97-6.99 – link below:

<http://consult.gov.je/portal/adopted/pd/ip2011?pointId=1405696217906#section-1405696217906>

The Police are scheduled to take occupation of their new facility at the end of the first quarter 2017 and the other existing Summerland site occupants are on terms that can realise vacant possession of that site in this timescale.

The expectation is that the Summerland site will be developed for affordable housing in accordance with the provisions of the Island Plan. Property Holdings is in discussions with Andium Homes to seek agreement on the transfer of the site in order that Andium can progress design development in advance of the site being vacated.

As yet no decision has been made with regard to the terms of a transfer, but it is expected that the relevant information will be in place for a decision to be considered by the Minister prior to the summer recess.

Co-location of Fire and Ambulance Services on the current Police/Fire site has been proposed, which would free up the current Ambulance site for residential development in accordance with the Island Plan. Capital funding for co-location has been deferred beyond the term of the current Medium Term Financial Plan, however, JPH will undertake a feasibility study with the respective services later in 2016 to determine whether co-location on this site remains the best option.

Appendix A – Listing Schedule

PLANNING AND BUILDING (JERSEY) LAW 2002

LISTED BUILDINGS and/or PLACES

Les bâtisses et endraits historique



SCHEDULE

Fire Station (Old Town Arsenal), Rouge Bouillon, St. Helier.

In amplification of the requirement of;

- i) Article 51 Paragraph 3(a) to show in relation to each site included on the List which one or more of the special interests set out in paragraph (2) attaches to the site;
- ii) Article 51 Paragraph 3(b) to describe the site with sufficient particularity to enable it to be easily identified and;
- iii) Article 51 Paragraph 3(d) to specify any activity, referred to in Article 55 Paragraph (1), which may be undertaken on the site without the Minister's permission;

the following supports the Minister for Planning and Environment's view that the site known as **Fire Station (Old Town Arsenal), Rouge Bouillon in the Parish of St. Helier** is of special interest.

- | | |
|---------------------------------------|--|
| i) HER Reference | HE1396 |
| ii) Special interest | Architectural, Historical |
| iii) Statement of Significance | A substantial well proportioned and well built building that is a rare example of its period in Jersey. Part of the island's military history. |
| iv) Description | Stand alone building within a complex of police and fire service buildings. U shaped with two small wings on either side. Front (south) elevation: 2 storey, 9 bays to central block. Slate hipped roof, stone chimneys. Granite with dressed windows and openings. Monolithic stone stone cills and lintels, including over engine sheds. First floor windows are 12 pane (6/6) sashes with horns, most of them original. Ground floor 4 large openings for fire engines, with modern doors. 3 bay window in arched |

opening. Building has been extended to the rear and most windows on the side and rear are replacements.

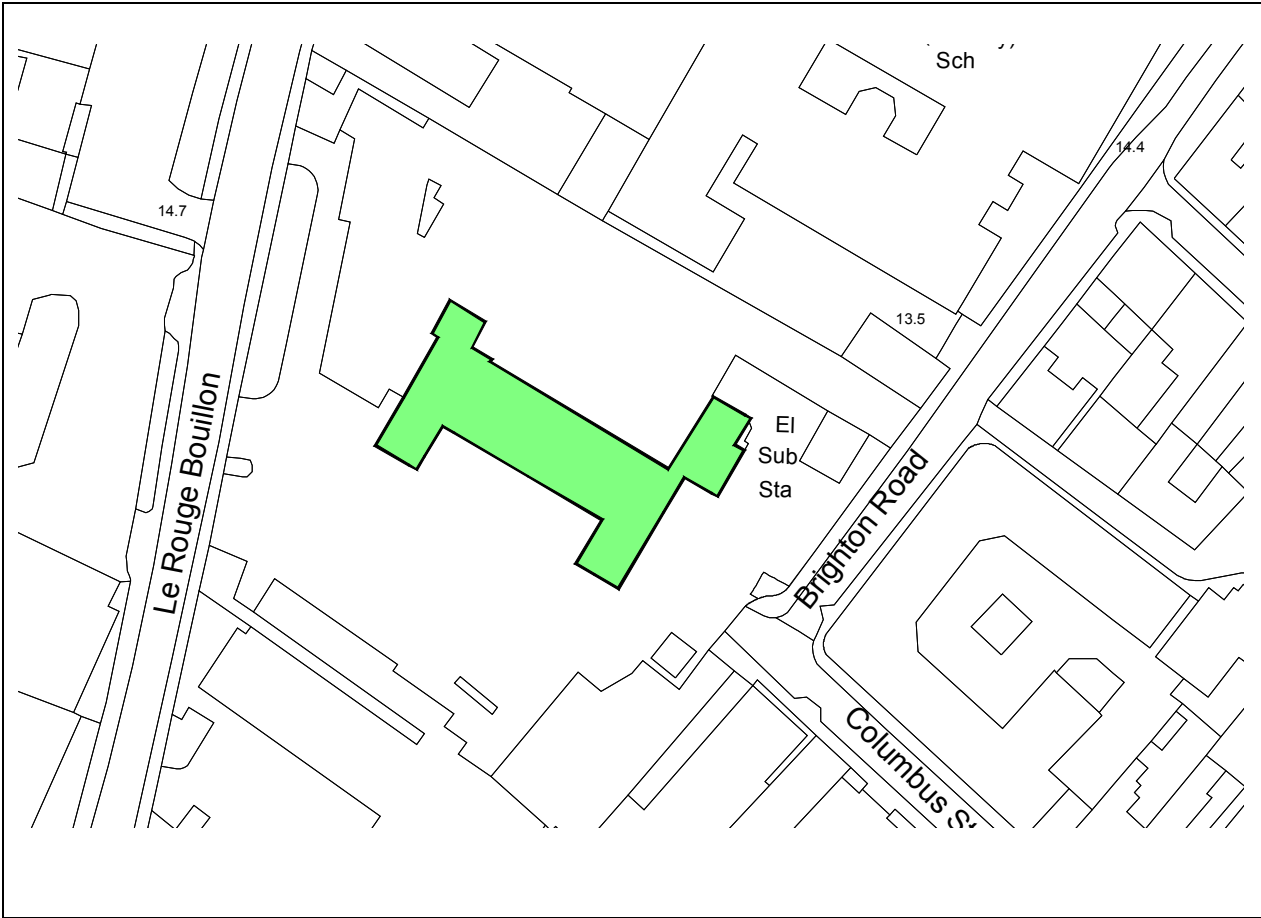
Ground floor engine shed has vaulted ceiling with cast iron beams. Shed has been extended to the rear. First floor offices, refurbished with the windows set in bevelled reveals the only remaining original feature.

Designed 1907 as Town Arsenal by the States Engineer, Edmund Berteau; built 1912-13. Reopened as Fire Station 1955. The four large openings on the ground floor with their enormous granite lintels (originally designed to accommodate four howitzers, four Maxim guns, 270 men and supporting equipment) now accommodate fire engines.

- | | |
|---|---|
| v) Location | Plan attached |
| vi) Restricted activities | The carrying on, of any of the following activities –
(a) to carry on an activity which might injure or deface the site or part of a site
require the express prior consent of the Minister |
| vii) Listed Status and Non-statutory Grade | Potential Listed Building Grade 3 |

Plan and Photograph(s) of Fire Station (Old Town Arsenal), Rouge Bouillon, St. Helier

Plan



Photograph(s)





Appendix B – Summerland Site Search Results

Planning and Environment Department

Planning and Building Services

South Hill
St Helier, Jersey, JE2 4US
Tel: +44 (0)1534 445508
Fax: +44 (0)1534 445528

20/04/2016

ADDRESS: Summerland/Thorp House/Broadcasting House, Rouge Bouillon, St. Helier, Jersey,

In reply to your recent request in respect of the above property, the following information is provided from the records available within this office. No information is given on the adjacent properties, unless specifically stated.

Is the property listed in the ‘Register of Buildings and Sites of Architectural, Archaeological and Historical Importance in Jersey’?

No

1. The property lies in the following zone(s) shown on the Island Plan/Town Map:

Built-Up Area
Green Backdrop Zone
Regeneration Zone Town of
St. Helier

2. The following road improvement line(s), approved by the States, affect this property:

None

(Prospective purchasers are advised to contact the Parish and States highway authorities in order to obtain up-to-date information on highway matters.)

3. The following Planning and Building Bye-law decisions have been issued by the Minister for Planning and Environment:

Planning Application Decisions Since 1988

Planning permission was granted in November 1992 for 'Remove existing recessed entrance door & replace on existing frontage' at 'Thorp House, Le Rouge Bouillon, St. Helier.'
Application Ref.(SC/1992/1782)

Planning permission was granted in January 1993 for '1 illuminated sign' at 'Thorp House,

Le Rouge Bouillon, St. Helier.' Application Ref.(A/1992/1999)

Planning permission was granted in May 1993 for 'Change of use from offices to indoor bowling centre' at 'Thorp House, Le Rouge Bouillon, St. Helier.' Application Ref.(CU/1993/0332)

The following condition was amongst those attached to the approval:

Permission is granted only for the change of use of the building and not for any external alterations, which are to be the subject of a separate application.

Planning permission was granted in February 1994 for 'Remove existing offices and administration from ground floor to first floor. Extend retailing area on ground floor and form new entrance and canopy with provision of ramp facilities for wheelchairs' at 'Thorp House, Le Rouge Bouillon, St. Helier.' Application Ref.(D/1994/0014)

The following condition was amongst those attached to the approval:

The proposed retail floor space shall be deemed to be ancillary to the principle use of the property as a manufacturing unit.

Planning permission was granted in May 1994 for '1 non-illuminated sign' at 'Thorp House, Le Rouge Bouillon, St. Helier.' Application Ref.(A/1994/0607)

Planning permission was granted in February 1995 for 'Change use of staff canteen to include cafe facility for retail area.' at 'Thorp House, Le Rouge Bouillon, St. Helier.' Application Ref.(CU/1994/2008)

The following condition was amongst those attached to the approval:

The cafe facility shall be ancillary to the retail area, to the principle use of the property as a manufacturing unit.

Planning permission was granted in August 1995 for 'Erect 4 flagpoles to front elevation at 1st floor level.' at 'Thorp House, Le Rouge Bouillon, St. Helier.' Application Ref.(SC/1995/0674)

The following condition was amongst those attached to the approval:

That the proposed flagpoles shall not exceed in height the existing roof line.

Planning permission was granted in June 1996 for 'Install toilet facilities for disabled' at 'Thorp House, Le Rouge Bouillon, St. Helier.' Application Ref.(D/1996/0561)

Planning permission was granted in June 1999 for 'Install air conditioning unit to outside wall in car park.' at 'Thorpe House, Le Rouge Bouillon, St. Helier.' Application Ref.(SW/1999/1312)

Planning permission was granted in December 2000 for 'Relocation of part of the Police Headquarters to include internal and external alterations.' at 'Summerland Factory and shop, Le Rouge Bouillon, St. Helier.' Application Ref.(PB/2000/2110)

Planning permission was granted in November 2002 for 'RETROSPECTIVE: Erect security fence on factory roof.' at 'Summerland Factory and shop, Le Rouge Bouillon, St. Helier.' Application Ref.(SP/2002/2750)

Planning permission was granted in March 2003 for 'Change of use to joint emergency services vehicle workshop' at 'Thorpe House, Le Rouge Bouillon, St. Helier.' Application Ref.(PB/2003/0226)

Planning permission was granted in February 2008 for 'Change of use from joint emergency services workshop to dry storage.' at 'Thorp House Warehouse, Le Rouge Bouillon, St. Helier.' Application Ref.(P/2007/2937)

The following conditions were amongst those attached to the approval:

The change of use hereby approved is permitted for a period of 5 years and shall cease on or before 12th February 2013.

The use hereby permitted shall be for storage purposes only and no manufacturing or other processes shall take place on the premises.

No outside storage or display of materials, waste, machinery or vehicles shall take place on the site, unless otherwise agreed in writing with the Minister for Planning and Environment.

Notwithstanding the provisions of Article 10 of the Planning & Building (Display of Advertisements) (Jersey) Order, 2006, no advertisements are to be displayed on the premises the subject of this application, without an application having been submitted to and permitted by the Minister for Planning and Environment.

Planning principle permission was granted in April 2016 for 'Demolish existing buildings. Construct 85 No. apartments for social housing, 9 No. townhouses and 72 No. semi-basement car parking spaces with associated ancillary storage and plantrooms. (EIA SUBMITTED). AMENDED PLANS: Various alterations including a reduction in scale, now comprising a total of 80 apartments and 7 townhouses. (EIA UPDATED).' at ' , Summerland Factory, Broadcasting House and Thorpe House, Rouge Bouillon, St. Helier.' Application Ref.(PP/2012/0832)

The following conditions were amongst those attached to the approval:

Prior to the commencement of development, a Phasing Plan shall be submitted to and agreed in writing by the Department of the Environment to demonstrate the phasing of the development works.

As part of the Reserved Matters application, written confirmation that the refuse storage and collection arrangements have been agreed to the satisfaction of the Parish of St Helier, including a refuse separation and recycling strategy, is to be submitted to the Department of the Environment, to be thereafter implemented in full prior to first occupation and maintained in perpetuity thereafter.

Notwithstanding the information on the submitted plans, as part of the Reserved Matters application, full details of the proposed foul and surface water drainage shall be submitted to, and approved in writing by, the Department of the Environment, in consultation with TTS Drainage, to be thereafter implemented in full prior to first occupation and maintained in perpetuity thereafter.

Prior to the commencement of development, a Demolition / Construction Environmental Management Plan (D/CEMP) shall be submitted to, and agreed in writing by, the Department of the Environment. The D/CEMP shall thereafter be implemented in full until the completion of the development and any variations agreed in writing by the Department prior to such work

commencing. The Plan shall include an implementation programme of mitigation measures to minimise any adverse effects of the proposal, and shall include, but is not limited to;

- a) a demonstration of best practice in relation to noise and vibration control; and control of dust and emissions (such as noise and vibration, air, land and water pollution);
- b) details of a publicised complaints procedure, including office hours and out-of- hours contact numbers;
- c) specified hours of working (to include that work which would result in noise being heard outside the application boundary occurs only between 8am and 6pm Monday to Friday, and 8am to 1pm on Saturdays, with no noisy working outside these times, and no noisy work on Bank or Public Holidays);
- d) details of any proposed crushing / sorting of waste material on site; details of the proposed management of traffic and pedestrians (to include for vehicle wheel washing); and

e) measures taken to detect and manage any asbestos.

Unless otherwise agreed in writing by the Department of the Environment, any externally audible plant or equipment must comply with a noise rating (NR) of NR 40 daytime and NR 30 night time, measured 1 metre from the facade of the nearest affected residential unit. All equipment must be acoustically mounted to prevent vibration and structure borne noise transmission to adjacent premises.

Unless otherwise agreed in writing by the Department of the Environment, all external lighting must be erected and directed in accordance with the Institution of Lighting Engineers Guidance Notes for the Reduction of Light Pollution 1994 (revised) as applicable to an area of medium district brightness.

Prior to the commencement of development, an Ecological Report shall be submitted to and approved in writing by the Department of the Environment. The methodology for the Report shall first have been agreed in writing by the Department of the Environment, and shall include survey for protected species, in particular bats and seagulls, including consideration of habitat and potential mitigation works. The recommendations of the Report shall be implemented in full prior to first occupation and maintained in perpetuity thereafter.

Notwithstanding the submitted information, as part of the Reserved Matters application, a scheme setting out the allocation of the car parking spaces and cycle storage spaces to individual apartments shall be submitted to and approved in writing by the Department of the Environment, to be implemented in full prior to first occupation and maintained in perpetuity thereafter. For the avoidance of doubt, there shall be no car parking by commuters or non-residents other than persons visiting residents. Car parking shall not to be sub-let or reassigned to non-residents of the development.

Notwithstanding the submitted information, as part of the Reserved Matters application, full details of the design of the vehicle access ramp into the basement carpark (which takes into account the proximity of the nearby pelican crossing) shall be provided.

Notwithstanding the conclusions reached within the Phase 1 Desktop Study (report no. 1087-05), should any contamination be found during the approved development, work shall cease and the Department of the Environment contacted immediately. If contamination is identified, the levels of potential contaminants in the ground shall be investigated and any risks to human health or the wider environment assessed and mitigation measures proposed in a scheme, to be submitted to and approved in writing by, the Department of the Environment, in consultation with Environmental Protection and Environmental Health and in accordance with the requirements of Supplementary Planning Guidance Planning Advice Note 2 - 'Development of Potentially Contaminated Land' as amended. In addition, the possibility of ground-gas being present on site must be fully explored, and, if necessary, an appropriate remediation programme will need to be agreed with the Department.

Prior to the first occupation of any part of the development hereby approved, a completion report and contaminated land completion certificate, endorsed by the interested party / parties, demonstrating completion of the works and the effectiveness of any remediation set out in the approved scheme, as required under Condition no. 10 above, shall be submitted to and approved in writing by the Department of the Environment. Where required by the Department, the completion report shall also include a plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action and for the reporting of this to the Department of the Environment.

As part of the Reserved Matters application, the development hereby permitted shall not be commenced until there has been submitted to and approved in writing by the Department of the Environment, a scheme of hard and soft landscaping which shall provide details of the following;

- a) all existing trees, hedgerows and other plants, walls, fences and other features which it is proposed to retain on the site and on adjoining land within the same ownership (very careful consideration must be given to the presence on the site of a number of trees which are protected by Tree Preservation Orders);
- b) the position of all new trees and/or shrubs, this must include the species of plant(s)/tree(s) to be planted, their size, number and spacing and the means to be used to support and protect them;
- c) other landscape treatments to be carried out or features to be created, for example, any excavation works, surfacing treatments, or means of enclosure;
- d) the measures to be taken to protect existing trees and shrubs; and,
- e) the arrangements to be made for the maintenance of the landscaped areas.

All planting and other operations comprised in the landscape scheme hereby approved shall be completed prior to first occupation of any element of the development.

A Percentage for Art contribution must be delivered in accordance with the Percentage for Art Statement submitted to, and approved by, the Department of the Environment. Precise details relating to the exact form which the contribution will take must be submitted and approved, prior to the commencement of the development hereby approved. Thereafter, the approved work of art must be installed prior to the first use / occupation of any part of the development hereby approved.

Notwithstanding the indications on the approved plans, prior to the commencement of the development of the above-basement superstructure, full details (including samples) of all external materials to be used to construct the development shall be submitted to and approved in writing by the Department of the Environment to be thereafter implemented prior to first occupation and maintained in perpetuity.

Unless otherwise agreed in writing, prior to the commencement of the development of the above-basement superstructure, a scheme for the provision of electric car charging points shall be submitted to and approved in writing by the Department of the Environment, to be thereafter implemented in full prior to first occupation.

As part of the Reserved Matters application, full details the low-carbon initiatives and on-site renewable energy technologies to be incorporated within the scheme, shall be submitted to, and approved in writing by, the Department of the Environment.

Thereafter, the agreed details shall be implemented in full prior to first occupation of the development and retained in perpetuity.

Prior to the commencement of any development on site, a Project Design shall be submitted to and approved in writing by the Department of the Environment. The Project

Design shall comprise an archaeological watching brief for the duration of the works hereby approved, with provision to record significant remains and post evaluation reporting and once approved in writing, shall be implemented at the applicant's expense in accordance with the approved mitigation scheme. Should there be any unexpected significant finds during the remediation and other ground works, work shall cease on site and the Department of the Environment shall be notified immediately to allow for proper evaluation of such finds.

As part of the Reserved Matters application, a detailed noise assessment must be submitted to, and agreed in writing by, the Department of the Environment, in consultation with Environmental Protection and Environmental Health. As part of this assessment, the applicant must demonstrate how internal noise levels will be achieved which are suitable for residential property (in line with relevant codes and standards). As part of the Reserved Matters application, a detailed air quality assessment (including appropriate mitigation measures if necessary) must be submitted to, and agreed in writing by, the Department of the Environment, in consultation with Environmental Protection and Environmental Health. As part of this assessment, the applicant must demonstrate how air quality standards will be achieved which are suitable for residential property (in line with relevant codes and standards).

Building Bye-Law Application Decisions Since 1988

Building permission was granted in November 1992 for 'Remove existing recessed entrance door & replace on existing frontage' at 'Thorp House, Le Rouge Bouillon, St. Helier.' Application Ref.(SC/1992/2341/)

Work was completed in December 1992

Building permission was granted in February 1994 for 'Remove existing offices and

administration from ground floor to first floor. Extend retailing area on ground floor and form new entrance and canopy with provision of ramp facilities for wheelchairs' at 'Thorp House, Le Rouge Bouillon, St. Helier.' Application Ref.(B/1994/0023/)

Work was completed in September 1994

Building permission was granted in June 1996 for 'Install toilet facilities for disabled' at 'Thorp House, Le Rouge Bouillon, St. Helier.' Application Ref.(B/1996/1258/)

Work was completed in April 1997

Building permission was granted in June 1999 for 'Install air conditioning unit to outside wall in car park.' at 'Thorpe House, Le Rouge Bouillon, St. Helier.' Application Ref.(SW/1999/1384/)

There is no record of commencement and the permit has since expired.

Building permission was granted in December 2000 for 'Relocate part of Police Headquarters to include internal and external alterations.' at 'Summerland Factory and shop, Le Rouge Bouillon, St. Helier.' Application Ref.(PB/2000/2272/)

Work was completed in March 2013

Building permission was granted in October 2001 for 'RETROSPECTIVE: Various internal alterations.' at 'Broadcasting House, Le Rouge Bouillon, St. Helier.' Application Ref.(R/2001/1350/)

Building permission was granted in December 2001 for 'Internal alterations to form WC and staff area within ware house.' at 'Thorp House, Le Rouge Bouillon, St. Helier.' Application Ref.(B/2001/1362/)

Work was completed in March 2003

Building permission was granted in May 2003 for 'Minor alterations to existing building to create workshop with storage ' at 'Thorpe House, Le Rouge Bouillon, St. Helier.' Application Ref.(PB/2003/0114/)

There is no record of commencement and the permit has since expired.

The Minister for Planning and Environment accepts no responsibility for the accuracy of any information given, statement made, or opinion expressed in this letter, or for any actions taken in reliance thereon.

Note: Article 40(1) of the Planning & Building Law only allows the serving of an enforcement notice to remedy a breach of the Planning & Building Law which has occurred in the previous eight years.

Appendix C – Police / Fire Search Results

Planning and Environment Department

Planning and Building Services

South Hill
St Helier, Jersey, JE2 4US
Tel: +44 (0)1534 445508
Fax: +44 (0)1534 445528

20/04/2016

ADDRESS: Police Headquarters/Fire Station, Rouge Bouillon, St. Helier, Jersey

In reply to your recent request in respect of the above property, the following information is provided from the records available within this office. No information is given on the adjacent properties, unless specifically stated.

1. **Is the property listed in the ‘Register of Buildings and Sites of Architectural, Archaeological and Historical Importance in Jersey’?**

No

2. **The property lies in the following zone(s) shown on the Island Plan/Town Map:**

Built-Up Area
Primary Route Network
Regeneration Zone Town
of St. Helier
Tree Preservation Order TP/2009/0024

3. **The following road improvement line(s), approved by the States, affect this property:**

None

(Prospective purchasers are advised to contact the Parish and States highway authorities in order to obtain up-to-date information on highway matters.)

4. **The following Planning and Building Bye-law decisions have been issued by the Minister for Planning and Environment:**

Planning Application Decisions Since 1988

Police Headquarters

Planning permission was granted in November 1990 for 'Underpinning of existing wall and construction of new mezzanine floor, including forming access to existing building and the construction of a new fire escape' at 'Police Headquarters, Le Rouge Bouillon, St. Helier.'
Application Ref.(D/1990/1430)

Planning permission was granted in January 1992 for 'Refurbishment of existing reception area. Extension to form waiting room and formation of squad room in existing internal yard' at 'Police Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(D/1991/1274)

Planning permission was granted in October 1992 for 'Refurbishment of existing reception area. Extension to form waiting room and formation of offices in existing internal yard. Minor internal alterations to existing offices. REVISED PLANS: Window added to south elevation' at 'Police Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(D/1992/0888)

Planning permission was granted in July 1994 for 'Construct first floor extension to west elevation to form new offices' at 'Police Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(P/1994/0924)

The following conditions were amongst those attached to the approval:

As part of the development application, details of the materials to be used externally shall be submitted to, and approved by, the Planning and Environment Committee.

None of the existing trees shall be lopped or topped without the prior consent of the Island Development Committee.

All windows and doors on the north elevation shall be fitted with obscure glazing.

Planning permission was granted in January 1997 for '1 new non-illuminated hoarding' at 'Police Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(A/1996/2147)

Planning permission was refused in January 2002 for 'Increase size of vehicular access to Le Rouge Bouillon and relocate sign' at 'Police Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(P/2001/2389)

The following condition was amongst those attached to the refusal decision notice: The proposal fails to comply with Public Services Highways requirements for highway safety.

Planning permission was granted in January 2007 for 'Installation of 1 no. wall mounted pole, 1 no. antennae & 1 no. equipment cabinet.' at 'Police Headquarters, Rouge Bouillon, St. Helier.' Application Ref.(S/2006/2277)

The following conditions were amongst those attached to the approval:

An ACOND Letter was issued for this application. Please see the enclosed copy of the letter for details.

The development hereby permitted is temporary and shall cease on or before the 8th January 2008 and the land restored to its former condition unless the post commissioning test is completed and the relevant measurements are in accordance with the ICNIRP certificate submitted, to the satisfaction of the Minister for Planning and Environment.

The permission hereby granted is for a temporary period of 12 months in the first instance. In the event that the Minister for Health and Social Services, during that 12 month period, should change his policy on the safety of telecommunication installations to the effect that they constitute a

danger to the public nearby, the Minister for Planning and Environment will review the permission and may require the installation to be removed within a period of 3 months of the Minister for Health and Social Service's change of policy. Should the Minister for Health and Social Service's policy not change within 12 months, this permission will have permanent effect.

Building Bye-Law Application Decisions Since 1988

Building permission was granted in November 1990 for 'Underpinning of existing wall and construction of new mezzanine floor, including forming access to existing building and the construction of a new fire escape' at 'Police Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(B/1990/2562/)

Work was completed in October 1994

Building permission was granted in January 1992 for 'Refurbishment of existing reception area. Extension to form waiting room and formation of squad room in existing internal yard' at 'Police Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(B/1991/2530/)

There is no record of commencement and the permit has since expired.

Building permission was granted in October 1992 for 'Refurbishment of existing reception area. Extension to form waiting room and formation of offices in existing internal yard. Minor internal alterations to existing offices. REVISED PLANS: Window added to south elevation' at 'Police Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(B/1992/2003/)

Work was completed in September 1995

Building permission was granted in February 2001 for 'Internal alterations. Enlarge reception area by removal of interview room and make opening in wall for internal glazed light. Replace part of glazed screen in entrance lobby with solid wall.' at 'Police Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(B/2001/0243/)

Work was completed in January 2002

Building permission was granted in July 2002 for 'Internal alterations & refurbishment to accommodate Fire Service Offices & Watch Quarters in parts of the building vacated by Police Dept' at 'Police Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(B/2002/0266/)

Work was commenced in August 2002 and there is no record of completion.

Fire Station

Planning permission was granted in February 1989 for 'Extend existing garage, construct 1st floor office extension over garage with external lift' at 'Fire service Yard, Le Rouge Bouillon, St. Helier.' Application Ref.(P/1989/0122)

The following condition was amongst those attached to the approval:

The north west elevation of the proposed offices over the existing garages shall be finished in external materials to match the adjacent building to the south.

Planning permission was granted in January 1990 for 'Alter and extend existing garage: build offices over garage with external lift' at 'Fire service Yard, Le Rouge Bouillon, St.

Helier.' Application Ref.(D/1989/1683)

The following condition was amongst those attached to the approval:

That the north-west elevation of the proposed offices over the existing garages shall be finished in external materials to match the adjacent building to the south.

Planning permission was granted in April 1991 for 'Two portacabins to be sited temporarily in parking area of Fire Station Yard for use as storage' at 'Fire Service Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(SC/1991/0596) The following condition was amongst those attached to the approval:

That the approval is given for 6 months only.

Planning permission was granted in January 1996 for 'Construct heat training room.' at 'Fire Service Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(D/1995/1097)

Planning permission was granted in April 2002 for 'Replace existing internally located standby generator with new generator in external position.' at 'Fire Service Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(P/2002/0874)

Planning permission was granted in July 2010 for 'Erect memorial wheel' at 'States of Jersey Fire and Rescue Service Headquarters, Rouge Bouillon, St. Helier.' Application Ref.(P/2010/0508)

The following conditions were amongst those attached to the approval:

The development hereby approved shall be carried out entirely in accordance with the plans and documents permitted under this permit. No variations shall be made without the prior written approval of the Minister for Planning and Environment.

Notwithstanding the information on the approved drawings, the memorial wheel shall be attached with chemically fixed bolts drilled into the mortar joints only and not into the face of the stone.

Building Bye-Law Application Decisions Since 1988

Building permission was granted in January 1990 for 'Alter and extend existing garage: build offices over garage with external lift' at 'Fire service Yard, Le Rouge Bouillon, St. Helier.' Application Ref.(B/1989/2882/)

Work was completed in October 1994

Building permission was granted in April 1991 for 'Two portacabins to be sited temporarily in parking area of Fire Station Yard for use as storage' at 'Fire Service Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(SC/1991/0789/) Work was completed in September 1991

Building permission was granted in January 1996 for 'Construct heat training room.' at 'Fire Service Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(B/1995/2451/)

Work was completed in January 1997

Building permission was granted in September 2000 for 'Install new Clyde Combustion model

CK40 oil fired boiler and new 10,000 litre PVC oil tank.' at 'Fire Service Headquarters, Le Rouge Bouillon, St. Helier.' Application Ref.(SW/2000/1976/) Work was completed in January 2001

Building permission was granted in December 2012 for 'Install boiler' at 'Fire Station, Rouge Bouillon, St. Helier.' Application Ref.(CS/2012/0788/)

There is no record of this work having commenced and the permit is valid for commencement until December 2017

The Minister for Planning and Environment accepts no responsibility for the accuracy of any information given, statement made, or opinion expressed in this letter, or for any actions taken in reliance thereon.

Note: Article 40(1) of the Planning & Building Law only allows the serving of an enforcement notice to remedy a breach of the Planning & Building Law which has occurred in the previous eight years.

3. Oral Questions

3.1 Deputy R.J. Renouf of St. Ouen of the Minister for Social Security regarding the potential introduction of a differential rate for the minimum wage based on age:

With regard to the proposed Employment (Amendment No. 10) (Jersey) Law 201- (P.38/2016), what risk is there that, in asking Members to approve the potential introduction of a differential rate for the minimum wage based on age, the timing of that decision could pre-empt the outcome of any public consultation process by the Employment Forum?

Deputy S.J. Pinel of St. Clement (The Minister for Social Security):

Just to be clear for Members, the proposition P.38, does not ask Members to approve different minimum wage rates based on age. I am bringing this amendment now rather than after the Forum's recommendation in September because Privy Council must approve any primary law change. This takes time. It is vital that we debate the enabling power now so that if the Forum recommends a higher rate for older employees they will be entitled to their pay rise from 1st April next year. Without this enabling power it would be inappropriate for the Forum to consult on a higher minimum wage for older employees. The States decision will inform the scope of the Forum's consultation. It is essential that the Forum is clear on this now before the minimum wage review starts.

3.1.1 The Deputy of St. Ouen:

Why is it therefore that in the proposition the Minister states: "The debate of this draft law will provide an opportunity for States Members to demonstrate whether they support a move to a higher minimum wage rate for older employees in principle before the Forum releases its public consultation on the minimum wage? What is the difficulty or why does the Minister not wish this Assembly to have the benefit of the public consultation and the recommendations of the Forum before the Assembly is asked to make that decision? Why is there a rush to do these things before April next year?"

Deputy S.J. Pinel:

I have given the timings and the reasons why we want to debate this amendment in a much fuller answer in the written question, which is similar, that Deputy Southern has put in. So there is that information for Members. When we debate the amendment I will ask Members to consider not the question of whether there should be a higher rate for older employees but whether this is an option

that we should at least have the opportunity to explore and that we should ask the Forum to consult on.

3.1.2 Deputy S.W. Mézec of St. Helier:

Does the Minister for Social Security see the irony in lodging this proposition to pave the way for what is essentially discrimination against young people based on their age on the same day that she lodged the draft age discrimination legislation?

Deputy S.J. Pinel:

No, I do not see the irony. The other aspect of the timing of this is that we always... or businesses rely on us to give them 6 months' notice of any change of rates. So if we need to be able to put into force the Employment Forum's recommendations, which come forward in October, we will need this empowering employment law change in order to implement it within that 6 months that businesses require by 1st April 2017.

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

Can the Minister explain to Members in simple terms what consultation is for? My experience of consultation is that a body, like the Forum, goes and talks to interested stakeholders and then comes back to this body with a recommendation and this Minister has to accept or reject that recommendation. Why is she doing a different process this time?

[9:45]

Deputy S.J. Pinel:

It is not a different process; it is exactly the same as it always has been. The Forum starts consulting now with, as the Deputy said, interested stakeholders, to come back with a recommendation to the Minister for Social Security in September, which the Minister either rejects or accepts, and then brings it to the Assembly.

3.1.4 Deputy G.P. Southern:

Is it not appropriate then that the advice of the Forum, which is there to give advice to us and to the Minister, the arguments are not heard before we make our mind up blind on the principle of raising or lowering the minimum wage on the basis of age?

Deputy S.J. Pinel:

As the Deputy knows, and I have mentioned many times in the Assembly before, the Forum consists of a very independent, professional group of people who advise and consult on this matter every single year and come back to the Minister, as I have already said.

3.1.5 Deputy M. Tadier of St. Brelade:

Would the Minister explain why in the past and up until now - including now - the Forum has never come forward with the suggestion of a youth rate, indeed it has opposed it, but it has supported the trainee rate?

Deputy S.J. Pinel:

I can assure Members that I do not intend to use this as an opportunity to introduce a youth rate that is lower than the current minimum wage because we have 2 trainee rates: a first-year trainee rate and a second-year one.

3.1.6 Deputy M. Tadier:

Would the Minister not agree that the States only this year in January agreed that we should investigate a higher minimum wage or a living wage and that by introducing another element, which this Assembly has never debated, just purely off her own whim one could argue, is going against the spirit of what this Assembly has asked for and conflates the 2 issues?

Deputy S.J. Pinel:

The Assembly requested that the Employment Forum investigate the possibility of a premium wage, which is comparable to the national living wage of £7.20, and that is exactly what I have directed the Forum to look into and consult on. At the moment the national living wage applies to people only over 25 whereas the minimum wage in Jersey of £6.97 is for all people from compulsory school leaving age, 16 years and over.

3.1.7 The Deputy of St. Ouen:

In bringing forward the proposition the Minister is asking the Assembly to pass into law an act of discrimination on the grounds of age. Now apart from the 4 brief paragraphs in the proposition, which are largely procedural, can the Minister tell the Assembly what material she intends to put before the Assembly in advance of the debate in order to inform our debate?

Deputy S.J. Pinel:

It hardly can be described as an act of discrimination. It is merely changing the regulations to allow the recommendations of the Forum should they suggest that there should be a premium rate wage for people aged 25 and over, that that can be passed into law in good time for businesses to accept it, as I have already explained, and the timing is very clearly written out in the written answer to Deputy Southern's question.

The Deputy of St. Ouen:

I do not believe that answered my question as to what further material the Minister could put before the Assembly to inform our debate.

The Deputy Bailiff:

The Minister has given the answer that she has given in the circumstances, Deputy. That was the final supplementary. She will be judged on her answer.

3.2 Deputy G.P. Southern of the Minister for Housing regarding measures in place to reduce housing poverty in the Island:

What measures, if any, are in place to reduce housing poverty in the Island?

Senator I.J. Gorst (The Chief Minister - rapporteur):

As Members know, the Minister for Housing is out of the Island, so it falls to me. The Housing Strategy prioritises more affordable and better quality homes. We expect to provide more than 1,000 new affordable homes over the next 5 years. We are supporting economic growth, which is creating new jobs and raising household incomes, and Income Support is providing fair and sustainable levels of assistance for those who need it. We also need to focus on the quality of homes because better quality homes mean better living standards. We are investing in social housing so that all homes meet the decent homes standard and we are introducing new legislation to improve the quality of all rented accommodation.

3.2.1 Deputy G.P. Southern:

Yet again the Chief Minister, this time, does not answer the question. The question was about housing poverty and the proportion of household income that goes on rent. The definition, according to the Minister, is that it is spending more than 30 per cent of their gross income on housing costs. What policy does the Chief Minister have in place to bring down the proportion of gross income spent on rental, if any?

Senator I.J. Gorst:

He knows - I am assuming he has read the Housing Strategy - and I have just listed at least 4 policies to do just that.

3.2.2 Deputy M. Tadier:

Does the Minister accept that simply building housing is not going to address the issue of housing poverty? Firstly, because we cannot build enough houses quick enough when we have got a population policy which is out of control and which the Council of Ministers themselves have done absolutely nothing to bring forward?

Senator I.J. Gorst:

If that was the only policy I was promoting I would agree with the Deputy that simply building more houses is not going to alleviate the issue, which the Income Distribution Survey highlighted. But that was not the only policy. There are a number of policies which are going to help over the medium term.

3.2.3 Deputy M. Tadier:

Does the Minister not accept that what we need to do is bring down the cost, in particular of housing in the rental sector right across the board, whether that is for qualified or unqualified? Because it is unacceptable that people work on an increasingly low wage compared to the cost of living and that money is going straight out of their pockets, in many cases, to the back pockets of multiple landlords.

Senator I.J. Gorst:

Perhaps finally we get to the point that the Deputy and the questioner is trying to raise, whether we will introduce rent controls, because that seems to be the implication of his question. The answer to that is no. I recommend to the questioner R.87/2015, which from an economic perspective, which is what we need to consider, rent controls have been shown elsewhere to reduce the availability and the quality of rental accommodation. The 2 very policy aims that we are trying to correct. We are trying to increase the availability and improve the quality.

3.2.4 Deputy A.D. Lewis of St. Helier:

Jersey has one of the lowest levels of home ownership in the western world. What is the Council of Ministers doing about alleviating this because later in life is when people get trapped in rent poverty because they cannot simply afford the rent when they have no income or less income? Obviously achieving higher rates of ownership in the earlier years will alleviate that. What is the Council of Ministers doing to mitigate that situation?

Senator I.J. Gorst:

The Deputy will know from the Housing Strategy that that is one of the aims of the Housing Strategy, and that falls not only in the Housing Department but the delivery arm into the Treasury Department under the stewardship of the Connétable of St. Peter, and that is around delivering further units; some of those on States-owned sites, delivered by the States of Jersey Development Company. The policies in this area are aligned and they are aiming to do just that, improving the

availability and quality in the rental sector but also encouraging individuals to buy and we can help to do that by the supply of affordable housing and looking at various mechanisms in which to encourage that.

3.2.5 Deputy G.P. Southern:

The figures from the *Housing Affordability Report 2013*, referring to 2012, reveal that a third of people in social rental are in housing stress and that over a half in private rental are in housing stress. Does the Minister consider that his policy of setting social rents at 90 per cent of private rents and his policy of driving up rents by R.P.I. (Retail Price Index) plus 0.75 has increased those figures today?

Senator I.J. Gorst:

We have discussed a number of times the numbers coming out of the Income Distribution Survey, if not the household living figures, and there are a number of areas there connected with interest rates, connected with the economic downturn. But the policy around social housing moving to 90 per cent of market rate, which was agreed only, I think, in 2014 by this Assembly, it will be kept under review to see if there are other unintended consequences. Currently we know that the figure has moved from I think it is around 73 per cent back in 2013 to 76, paying out the 90 per cent in 2015. So it is difficult to suggest, as the Deputy tries to, that there is a great correlation between those 2 figures. But it will be kept under review.

The Deputy Bailiff:

Sorry, there is no supplementary to a final supplementary, Deputy.

3.3 Deputy M. Tadier of the Minister for Treasury and Resources regarding revenues from the tax amnesties:

Will the Minister provide a breakdown of the sources of the additional £1.4 million in tax revenues that resulted from the last tax amnesty and indicate how much revenue is expected to be collected from the current tax amnesty, along with its sources?

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

I signalled in Budget 2016 my intention to provide a tax disclosure opportunity in 2017. The previous disclosure took place from December 1998 to February 1999. During this period approximately 360 taxpayers approached the Taxes Office paying around £1.4 million in extra tax. The available records from that time are limited however the Comptroller tells me that just over half of the extra tax related to undeclared interest from Jersey bank accounts. I do not intend to set a particular revenue target for the proposed 2017 tax disclosure but I would stress that this will be the last opportunity for disclosure to be made about any previous errors or omissions before I ask this Assembly to support proposals to strengthen a number of aspects of our current tax law.

3.3.1 Deputy M. Tadier:

It will be interesting to see whether the interest revenues are quite so high on this occasion. I suspect not. But could the Minister explain whether he envisages the bulk of the future or the current amnesty to bring in revenues primarily from companies or from personal income tax?

Senator A.J.H. Maclean:

First of all, I should clarify that it is not an amnesty. It is a tax disclosure opportunity. It does not mean that individuals or companies get off paying tax; it is an opportunity to bring their tax affairs into order before we seek to bring some legislation to strengthen the current tax legislation. In

terms of who this will be applicable to. The exact terms are being worked up by the Taxes Office at the moment so I will come back to Members with more details in due course. The intention is that it will cover both corporates that are applicable for tax and individuals as well.

3.3.2 Deputy G.P. Southern:

Will the Minister give us a breakdown of where the other 50 per cent of taxes came from, apart from interest undeclared on bank accounts?

Senator A.J.H. Maclean:

As I said in my opening remarks, having talked to the Taxes Office about this matter, records from 1998, 1999 are not as good as they perhaps should be. We have been able to establish that over half has come from interest, as I have mentioned. I will happily go back and see if we can obtain further information to assist both the Deputy and other Members regarding his question.

3.3.3 Deputy G.P. Southern:

Could the Minister for Treasury and Resources focus particularly on the object of what are many rulings from the Comptroller of Income Tax on the transfer of revenue into capital gains and perhaps having to adjudicate on that issue?

Senator A.J.H. Maclean:

I will certainly ask the feasibility of adhering to the question that the Deputy has put and come back to him.

3.3.4 Deputy S.Y. Mézec:

Will this be an opportunity for employees to declare taxable benefits in kind that they receive from their employer that they did not declare before like, for example - and this is just off the top of my head - perhaps a cheap holiday they got because of the air miles they accrued when they were on work business?

[10:00]

Senator A.J.H. Maclean:

I really do not feel a comment is necessary for such a question. But clearly any admissions that individuals can bring to the attention of the Taxes Office to correct their tax affairs and bring them into order.

3.3.5 Deputy M. Tadier:

I think there are still a lot of questions unanswered. It would be nice to know, and perhaps the Minister can address this in the final answer, what the real driver is for this. It seems to me that it is not a bad idea to do this. It is something which we could perhaps do every year, although that might be slightly strange if we did it every year. But it would be good to know where he thinks the revenues will come from and whether he has got something to go on or whether this is just a fishing expedition to see whether it brings in any additional taxes.

Senator A.J.H. Maclean:

This is not about specifically driving additional revenue. I have made this clear both in the comments I have made this morning and previous media comments that I have made on this subject. Why we are doing this is quite simply giving individuals and companies the opportunity to bring their affairs into order. In many cases there are innocent omissions that have occurred. In some cases less innocent. In either event it is an opportunity for individuals to bring their affairs up to order before we seek to strengthen the tax code to ensure that in the future those that are due to

pay their fair amount do indeed do so, the right sanctions and penalties are in place, and indeed equally that those that are undertaking their affairs efficiently and quickly and paying their dues perhaps even get rewarded. So we want to get a more modern suite of tools for the benefit of the Taxes Office to ensure that we, in the future, generate the revenue that we should. Simple as that.

3.4 Deputy P.D. McLinton of St. Saviour of the Minister for Environment regarding provision for making it illegal to fail to report having struck a cat with a vehicle:

Further to the statement of the Minister for Infrastructure on 3rd November 2015 that he would work with the Minister for Environment to bring a provision into the Animal Welfare Law to make it illegal to strike a cat with a vehicle of any description and not report it to a recommended body or organisation, what progress, if any, has the Minister made towards the drafting of legislation to date?

Deputy S.G. Luce of St. Martin (The Minister for Environment):

Following the Deputy's question to the Minister for Infrastructure in November last year a meeting was held between Ministers, interested parties and the Deputy. At this meeting we concluded that sufficient protection existed for all domestic animals, including cats, from cruelty under the Animal Welfare (Jersey) Law 2004. Consequently I am not progressing any change to the Animal Welfare Law. However the Deputy will also recall that when we met the Minister for Infrastructure did agree to explore an amendment to the Road Traffic (Jersey) Law 1956 to require car drivers to report accidents involving cats to the police. I believe officers of the Department of Infrastructure have discussed this matter with the Law Draftsman and with the States of Jersey Police. I am further informed that they intend to consult with the Comité des Connétables and the Comité des Chefs de Police, and I believe the Minister for Infrastructure will then be in a position to consider what changes to legislation he may wish to make, and I am sure the Minister will bring this matter before the States Assembly as soon as he can.

3.4.1 Deputy P.D. McLinton:

I am not entirely sure I remember any agreement being made to the law covered cruelty to cats in that particular meeting. It seems that the Minister was at a different meeting to me. But still all that said: is the Minister therefore stating that it is in fact the Minister for Infrastructure and therefore it is his department that is responsible for the moving forward of an amendment to the law because I need to know who is running this particular show, because I am very unsure at the moment?

The Deputy of St. Martin:

I would like to think my first answer made that clear but I will just reiterate that the Animal Welfare Law says very clearly: "It shall be an offence for a person without reasonable cause or excuse to do or to omit to do any act so as to cause unnecessary suffering to a domestic animal or captive animal. That, to me, gives us plenty of powers if cruelty is being done to dogs, cats or any animal to take action. The action of informing the police when a cat is involved in an accident is one that comes under the Traffic Law and I just feel that we agreed at this meeting that there was a way forward here and that the Minister for Infrastructure, in his ability to control this law, was going to move forward with the process.

3.4.2 Deputy M. Tadier:

On the subject of animal cruelty, the Minister will be aware that also recently there was fairly high profile social media coverage in Jersey to do with strangle collars, spike collars in particular, for dogs, which seemed to me to be intrinsically cruel insofar as they cannot be used without causing

suffering for the animal. Is it therefore the case that under the current law those kind of collars would be contravening the law, the use of those collars ...

The Deputy Bailiff:

I am sorry, Deputy, I cannot allow that question. It is too far outside the parameters of the original one, which relates to striking a cat with a vehicle.

Deputy M. Tadier:

We can bat it back to the Minister for a different department it would seem. I will discuss that later with the Minister, thank you.

The Deputy Bailiff:

Final supplementary, Deputy McLinton?

Deputy P.D. McLinton:

No, it seems I am talking to the wrong Minister.

3.5 Deputy K.C. Lewis of St. Saviour of the Minister for Education regarding savings from the resourcing and support provided to users of nursery care and private education:

Will the Minister state what plans he has to make savings from the resourcing and support provided to users of nursery care and private education?

Deputy R.G. Bryans of St. Helier (The Minister for Education):

It is already well known that we are aiming to make a saving of £250,000 a year through the introduction of means testing from the Nursery Education Fund. We are undertaking additional work that looks at the proposed threshold of £75,000 and the impacts of various adjustments to the scheme. We have looked at all areas of the Education budget to make the £8.2 million savings required from us. As was recently reported in the media, a small adjustment to the formula for calculating the States grant to the fee-paying schools is under consideration. All savings will be published when the M.T.F.P. (Medium Term Financial Plan) is lodged at the end of June.

3.5.1 Deputy K.C. Lewis:

I think there was a hint that the last year of nursery care could also be cut. Would the Minister say if this was true or false?

Deputy R.G. Bryans:

I am not sure what the Deputy is referring to. I do not believe that is true.

3.5.2 Deputy M. Tadier:

Would the Minister remind us what the revenue figure would be if G.S.T. (Goods and Services Tax) were charged on private tuition at the secondary schools, indeed all the schools in Jersey?

Deputy R.G. Bryans:

I am sorry, I do not have that figure for the Deputy but I am sure I can provide it for him.

3.5.3 Deputy M. Tadier:

From memory I think it was in the region of about £1.2 million, I might be wrong, but it certainly far exceeds the relatively small figure we are talking about here. I guess the point is, and the question I am asking the Minister, are we not fiddling round the edges with an already established benefit which was agreed by his predecessors and there are much fairer ways to raise revenue and

make sure that higher earners pay more tax, if that is the desire of the Council of Ministers, than doing these very strange and very blunt ...

The Deputy Bailiff:

Deputy, could you come to a question please?

Deputy M. Tadier:

... than doing these very strange and very blunt arbitrary cuts?

The Deputy Bailiff:

And your question was, Deputy?

Deputy M. Tadier:

I think the interruption disturbed my flow. But I think the question was: is there not a better way of making the savings than to do these arbitrary and blunt cuts?

Deputy R.G. Bryans:

I wish there was. We have looked at this in considerable detail. Just yesterday we had a meeting with the E.Y.C.P. (Early Years Childcare Partnership) and prior to that I had an informal meeting with the Scrutiny chairman. Again this is just about really focusing on the detail of what we are trying to do. We are trying to align ourselves so we make this as fair as possible. But we have had a look through our budget. When you understand the majority of our budget is made up of income that goes to teachers and those in the educational system, then you will understand that it is really difficult for us to find any extra cash in that particular way.

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

Just following on from what the Minister is saying. Can he remind Members exactly the sum that he is expected to save in Education and then look at that in terms of his success so far in identifying areas where he can reduce it?

Deputy R.G. Bryans:

I think I stated just a second ago that the savings we are expected to make are £8.2 million and we are on target for having reduced as much as that as we possibly can.

3.5.5 Deputy M.R. Higgins:

We are on target to achieve as much of that as we can. Can the Minister be more explicit? That is a rather vague statement saying: "We are going to save £8.2 million and we are on the road" but he does not give any suggestion on how far he is on the road.

Deputy R.G. Bryans:

No, that is not correct. We have stated already categorically what we are attempting to do. What I am referring to is that we need to apportion the detail, particularly to do with the Nursery Education Fund. It is just the detail that needs attention.

3.5.6 Deputy G.P. Southern:

The Minister refers blithely to: "It is just the detail that needs some attention." Why then did he not have this consultation process with the Early Years Partnership at the very beginning rather than coming to them with a decision half made or almost made and putting them on the back foot? Surely it is consult first then come up with a policy.

Deputy R.G. Bryans:

I did answer this question at the last Assembly when the Deputy raised it last time. There was a mistake made, which I did apologise for to both the Assembly and the public. If given the opportunity I would do things differently. The point was that we have made the decision in principle to adopt means testing. What we said was that after that point we would then discuss the detail, which is what we are doing.

3.5.7 Deputy L.M.C. Doublet of St. Saviour:

I am sure the Minister, as probably every other Member of this Assembly, would rather not make cuts from Education and affect children where we do not have to. Can the Minister see any other areas, perhaps from different departments, where the same amount could possibly be saved and have less of a negative impact on children and families in the Island?

Deputy R.G. Bryans:

We meet as a Council of Ministers quite regularly, and this has been under discussion, as I said previously, for over a year now. The balance of where these cuts have to be made was considered in great detail. We have got to this point ... the Deputy is quite right, I do not like having to make cuts of this kind that affects anything to do with children. The situation is, as we found with particular regard to our budget, this is where we found the opportunity and this is where we are paying our attention.

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

I heard the Minister say that he would explain his cuts in the M.T.F.P. I hope that he is not looking to the M.T.F.P. to try and push unwelcome cuts by disguising it in a very large document, and I hope that individual debate on each cut is taken in this Assembly and not as a whole.

The Deputy Bailiff:

And your question is?

The Connétable of St. John:

That he will not be pushing it through with the M.T.F.P. without separate debate.

Deputy R.G. Bryans:

We are not intending to push it through in the M.T.F.P. What we are trying to do is be as clear as we possibly can about where our cuts are going to be made.

3.5.9 Deputy R. Labey of St. Helier:

Has the Minister for Education learned any lessons here? Because it seems to me absolutely politically daft for this furore and this unfair upset of so many people for a saving of £250,000. Has he looked at his own administration of his own department to see whether that is as lean, as economical, as fit as it should be? Are there not cuts there?

Deputy R.G. Bryans:

Yes, and we have made those cuts. We have lost 3 senior full-time members of staff that we have not replaced. He is quite right. We have looked right across the board on this and I think we have been extremely efficient. If anybody were to look at the way we have gone about this they would see that we have paid attention to every small area that we possibly can.

3.5.10 Deputy A.D. Lewis:

It was described behind me as a blunt action. Would the Minister accept that it is? In some situations if this were to occur members of the public can be saddled with extra costs of up to

£12,000. Very different to a change, for example, in the subsidy to the fee-paying schools where significant savings can be made but less impact on individual families. Is this a priority in his mind or should he be looking at the bigger picture in terms of subsidies across the board rather than going forward just one small subsidy of £250,000 of saving. It seems very blunt in the circumstances. Would the Minister agree with that?

Deputy R.G. Bryans:

I am sure from the Deputy's position it does seem blunt but, like I say, we have paid so much attention to this over the last year looking at all the areas that we could possibly do to make these cuts, and like I said, yesterday we had a very good cordial meeting with the E.Y.C.P. which identified to some extent that we are aligned in most of our thoughts, there are areas of detail that we need to work on. We have another meeting with them to get to that point. But we are where we are.

3.5.11 Deputy K.C. Lewis:

Many parents choose to send their children to private schools or because they wish their children to have a faith-based education, which is their right.

[10:15]

Not all wealthy by any means. I have spoken to many people who are shop workers, secretaries; will the Minister clearly state what increases in private school fees are planned?

Deputy R.G. Bryans:

Thank you for giving me the opportunity to talk about this. I am very mindful of the concern caused when a previous Minister attempted to change the subsidies for fee-paying education. Because of this we are proceeding very carefully and slowly, and I have said this before. I would like to reassure parents and can confirm that any change will be relatively minor and certainly not on the scale proposed in the C.S.R. (Comprehensive Spending Review) 4 or 5 years ago when the subsidy was going to be reduced by 50 per cent.

3.6 Deputy A.D. Lewis of the Minister for Treasury and Resources regarding progress on proposals for asset disposals:

Further to proposals in the Medium Term Financial Plan 2016 to 2019 and the draft Budget 2016 to reach a target figure of £20 million in both 2017 and 2019 for asset disposals, making a total of £40 million, what progress has been made to date and what are the disposals likely to consist of?

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

This is one of many short-term funding measures mentioned in the M.T.F.P. and in the Budget. Progress is being made and details will be presented as part of the M.T.F.P. addition. I should add that while timing and quantum may vary the aim remains unchanged. A review, for example, of States ownership of utilities in the context of delivering States policy objectives is also progressing. As an example, my statement to the Assembly on 12th April 2016 in relation to J.T. (Jersey Telecom) set out the challenges faced and issues to be addressed before any possible proposal to dispose of part or all of J.T. could be brought forward for this Assembly's approval.

3.6.1 Deputy A.D. Lewis:

Is the Minister then saying that a target of £20 million of disposals is achievable in 2017?

Senator A.J.H. Maclean:

What I am saying is that we believe that current plans are on target. If indeed that particular sum of money is required in 2017 then, yes, we believe that it can still be delivered. But there are a number of variables and I want to update Members in detail, which is appropriate when all the work is undertaken at the time of the M.T.F.P. addition.

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

Could the Minister explain whether we have managed to make this type of target before and, if not, what makes things different now?

Senator A.J.H. Maclean:

Not every target in the past that is set has been achieved, and the Deputy and Members would understand that. Clearly, the core or centre of the M.T.F.P., at the very heart of the M.T.F.P. - and I have said this many times - is flexibility. We have tried to build in flexibility so if plans need to change we are in a position to be able to adapt and adjust accordingly so that we can deliver our end objective, and our end objective is twofold. One, to balance budgets by 2019 and, secondly, to ensure that we make key investments in the priorities that we have set.

3.6.3 The Deputy of St. John:

With all due respect, although flexibility is good, does the Minister not agree that it is unrealistic to make targets that you know you are never going to make?

Senator A.J.H. Maclean:

I and others certainly within the Council of Ministers do not set targets in the belief that they cannot be achieved. We set targets that we believe can be achieved. However, as the Deputy will appreciate, and others, situations change. When situations change you have to adapt and you need flexibility for that. One element of flexibility, as far as the M.T.F.P. is concerned, is with regard to the Budget. Members will know that the Budget approved - Budget 2016 - created an extra £7.5 million of flexibility by 2019, as a result of those measures. That is the type of flexibility we need to continue to consider.

3.6.4 The Connétable of St. John:

Will the Minister come back to the Assembly when he decides which bits of family silver to sell or will he just say: "It is in the M.T.F.P., you have already agreed?"

Senator A.J.H. Maclean:

No, I have simply said 2 things. I have said quite rightly that there is a lot more detail that Members would expect, which will appear as part of the M.T.F.P. addition. I have also made it clear on more than one occasion, not just this morning, that if there was going to be a disposal, using the example of J.T., if part or all of J.T. then that would be a matter for this Assembly to consider and it would come back before this Assembly to debate and decide.

3.6.5 Deputy A.D. Lewis:

I wonder if the Minister could tell me what has been done to prepare for such disposals. Disposals of this nature do not suddenly happen. There is a lot of preparatory work that needs to be done. Also, has the figure been affected, the target figure by 2019, by the failure to progress with the talks that J.T. were having with a partner to sell part of J.T. at that time?

Senator A.J.H. Maclean:

Taking the second part of the question first: no, they have not. That was an opportunity that presented itself with regard to the merger. We have had a number of approaches with regard to that

particular business, some of which could indeed ultimately be in the better interests and deliver a far greater return to the public purse than that which was originally considered. It is absolutely right and proper that we go through the process, which includes appropriate independent advice to ensure that we manage States assets in an appropriate way and deliver on the objectives that we have set. I am confident that we can do both.

3.7 Deputy S.Y. Mézec of the Chief Minister regarding the return of Avios points obtained by civil servants when flying on States business:

Can civil servants obtain personal Avios points when flying specifically on States business and, if so, what action, if any, does the Chief Minister propose to take to ensure that, in future, any such points are returned to the States?

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

Public sector staff can currently earn Avios points when flying on States business, however Financial Directions make it clear that officers must not select more expensive flights or travel with a specific carrier to receive benefits. Avios terms and conditions state that companies are not eligible to be account holders therefore Avios points cannot be returned to the States. The current review of States travel policies is looking at loyalty points. Its findings will determine how loyalty points will be managed in the future.

3.7.1 Deputy S.Y. Mézec:

Does the Chief Minister envisage that it would be a good way forward to start saying that the situation where these people can obtain personal Avios points should be ended as a matter of practice and that for the benefit of the public all Avios points obtained for flights, which are booked on States business, should be retained by the States in the interests of getting good value for money for the taxpayer?

Senator I.J. Gorst:

The Deputy obviously was not listening when I replied to his first question. It is not possible for corporates to have Avios points. The States do have points where it is possible, like B.A. (British Airways) points. What I personally envisage from the review is that we would develop a policy similar to the policy in the United Kingdom, issued by Treasury, whereby Avios points are used to offset the future costs of travel for that individual because it is related to individuals and cannot be transferred to a State thereby benefiting the taxpayer. Of course Avios points do also allow staff and Ministers to take advantage when they have got to a set number of points to access various reduced fares and lounges, again benefiting the taxpayer by reducing the cost.

3.7.2 Deputy S.M. Wickenden of St. Helier:

In Financial Directions on travel and accommodation, in section 2.1.10, it talks about travel points and it says that: "Departments must ensure that procedures appropriate to the extent of travel undertaken are in place for capturing any benefit procured to staff from States travel." Can the Minister let us know if his department has a register of such things?

Senator I.J. Gorst:

I do not have the information to that detail but what I do know is that B.A. points and other points of a similar nature are collected by the States and are already used when those flights or accommodations are being booked through the booking system and are automatically accrued to the States where they can, and then used to offset future costs of travel.

3.7.3 Deputy A.D. Lewis:

The Chief Minister will know that the points are duplicated on the corporate card as well. The States currently has 1.5 million points, the equivalent of 200 flights to London. There has been no redemption on these points since July last year. Does he think that is best use of public money? He said that this would reduce the cost of travel yet redemption is not occurring. So is the policy working?

Senator I.J. Gorst:

That is why we are reviewing the policy, to make sure that it does work and to make sure that points that are being collected are being redeemed appropriately during any given year. I think that some departments are redeeming those points to offset the costs of future travel and accommodation and others are not. What we need to make sure is that it is centrally organised. The Vice-Chair of P.A.C. (Public Accounts Committee) is shaking his head as though that is not the case. The Chairman of P.A.C. is correct. My understanding is that points have not been redeemed since the date he said but certainly some departments in the past have been doing so and we need to make sure that they are managed and controlled centrally to make sure that those points are being redeemed for reduced cost to taxpayers. But the points are not being lost in not being redeemed.

3.7.4 Deputy A.D. Lewis:

We have a central group travel policy therefore they should be being redeemed centrally. So why are departments redeeming them independently and not centrally? This is all about central procurement and that is what the travel portal is for. Yet departments seem to be doing it independently. Why is that?

Senator I.J. Gorst:

I know that the Deputy has been in to look at the centralised system. He knows that the points are collected centrally but he also knows that of course individual departments currently book flights and accommodation for members of their department and for Ministers, and that is where some of them are redeeming and some are not. The whole purpose of the review is to make sure that all departments are operating in the same way and that we are redeeming to offset costs where it is best value to the taxpayer. If you take, for example, some of these points, you can get better value by offsetting a limited number of points to save £200 than you might by booking the entire flight or accommodation on those points. It is that detail that needs to be reviewed and we need to develop a policy on so that we are getting absolute best value for the loyalty points that are being accrued.

3.7.5 Deputy M. Tadier:

It seems like we are arguing about angels on pinheads when one sees this in the wider context of voluntary/compulsory redundancies, outsourcing, privatisation and nursery cuts, health charges and the stealth taxes that are coming forward. Does the Chief Minister not agree that this is a damning indictment on the competence of his Council of Ministers and that many of the public see the Council of Ministers as a complete shambles because at the same time that they are making these pernicious cuts they cannot even keep a civil service at the higher end, which are completely out of control, which are not only going on business class trips with their golf clubs, *et cetera*, which is against States policy, but they are ...

The Deputy Bailiff:

Deputy ...

Deputy M. Tadier:

I am coming to the question.

The Deputy Bailiff:

Please sit down if I am speaking. It is very important that questions are concise; Standing Orders require that. I allow a fair amount of lenience when people want to formulate and preface their questions but I would be grateful if you could now just ask the question.

Deputy M. Tadier:

The question about competence, does the Chief Minister agree that the whole competence of the Council of Ministers is at question and that there is a wide perception, which I think is true, that the top echelons of the civil service are out of control, and this is, if not dishonest, it is a very strange and devious way of going about things?

The Deputy Bailiff:

Deputy, you are not making an allegation that members of the civil service are either dishonest or devious, are you?

Deputy M. Tadier:

No, but I am saying that the retention of Avios points by top civil servants and the fact that we apparently appear to be oblivious to it or indifferent towards it is very worrying.

Senator I.J. Gorst:

It is difficult to know where to start with a rambling question like that. The review is underway. I expect that that review will put in place new policies to deal with all the issues about cost of flights, cost of accommodation, use of loyalty points, in a way that gives better value to all taxpayers. I also expect, as we are doing reviewing all expenditure in the public sector, we will in due course see a reducing cost in these particular areas. But let us not forget that our staff are flying around the world. What we need to make sure is that they are getting the lowest possible fare, whether they are travelling economy or whether they are travelling business. Because what they are doing is helping to create jobs in our community and deliver many millions of pounds of inward investment into our community which the 3 Members [**Approbation**] - over the Assembly - do not seem to appreciate. They would rather that these people were out of work. That we had a declining number of employees [**Interruption**] ... that we did not have people investing in our economy.

The Deputy Bailiff:

Can I remind Members that when the Chair is speaking nobody else stands.

[10:30]

Now that goes for you, Chief Minister. I was speaking. That goes for the Members opposite. Chief Minister, you have reached the end of the time which you can deliver that question. The question really should be directed or the answer should be directed to answering the question and not necessarily a speech of beliefs that you think that other Members may hold but I think that is the only intervention that I wish to make at this point. I have time for one more question plus the final supplementary so Deputy of St. John.

3.7.6 The Deputy of St. John:

The Chief Minister used Financial Directions to support one of his answers. Could he explain how the Human Resources Policy works in conjunction with the Financial Directions and whether we are contractually obliged to allow these points to senior civil servants?

Senator I.J. Gorst:

I am not sure that we are contractually obliged to allow senior civil servants or Ministers to achieve loyalty points but it would be cutting off our nose to spite our face if we did not because by the use of loyalty points when one goes up tiers it means that we can get special deals, reduced cost for flights, for accommodation, by having those loyalty points. The challenge is, as the questioner has suggested, that those Avios points ... other loyalty points can be given to companies and we collect those and we need to make sure they are being redeemed. Avios points cannot be so what we need to make sure is that those individual Avios which accrue to the individual are used to offset future travel costs to benefit the taxpayer and that is what needs to change.

3.7.7 Deputy S.Y. Mézec:

The former adviser to the Government who produced a report in which he said that the top levels of the civil service had a culture which was resistant to change I think made a point here that demonstrates that we are talking about, with the perceived abuse of how business class flights have been used in the States is a symptom of that. Does the Chief Minister agree with me that simply introducing a new system around this very specific problem, which is a symptom of the problem, not the problem itself, would he agree that more attention would be better placed looking at trying to change the culture at the top level of the civil service so that we are not in these situations on future occasions?

Senator I.J. Gorst:

The problem is that we need to make sure that we get the lowest cost available flight whether officers or Ministers are travelling economy class or business class and we are giving the best value to the taxpayer. I do not think it is the culture and we need to make sure that we have got appropriate Financial Directions that work together and regulations in place to ensure that we are doing just that because the benefits ultimately of engaging with the world are what we are trying to achieve.

3.8 Deputy R.J. Rondel of St. Helier of the Minister for Health and Social Services regarding the employment of full-time consultants:

Does the Minister consider that full-time consultants are preferable to using locums and if so, does he believe we are employing enough consultants to fulfil their roles and if not, why not?

Senator A.K.F. Green (The Minister for Health and Social Services):

I am delighted to be able to answer a question from Deputy Rondel. It is good to see him back here today. **[Approbation]** It is always preferable to have a substantive appointment in a funded consultant post. Yes, I do believe that we are employing enough consultants but this does continue to be regularly reviewed so the number of consultants is dynamic. I would remind Members that locum consultants offer a vital service to assist with leave cover on occasions with additional activity. In many specialities here in Jersey we do not have sufficient numbers to warrant additional substantive posts just to cover annual leave.

3.8.1 Deputy R.J. Rondel:

Does the Minister have a policy for succession planning when one consultant may retire or leave for other reasons?

Senator A.K.F. Green:

My department has a plan for succession planning, yes.

3.8.2 Deputy G.P. Southern:

Can the Minister give the following information to Members about the number of consultants in place and the numbers of locums and their periods of engagement over the past 5 years?

Senator A.K.F. Green:

The Deputy knows full well that that would take most of question time to do that. I do not have that detail with me. I am not sure that I would be able to provide that detail but I will have a look at it.

3.8.3 Deputy G.P. Southern:

Can the Minister state why he considers that he might not be able to provide such basic data to the House?

Senator A.K.F. Green:

I can provide the basic data for this year but to go back 5 years is, I might suggest, very time consuming, time wasting and not that productive.

Deputy G.P. Southern:

The Minister surely has ...

The Deputy Bailiff:

No, that was already a second supplementary, Deputy.

3.8.4 Deputy A.D. Lewis:

There is a worldwide huge demand for medical professionals at the moment. Sorry, did you hear that, Minister? A huge demand for medical professionals at the moment pushing the price up. Is Jersey competitive enough at attracting the best consultants? Do we have a problem with that? In which case is that one of the reasons why we are having to use locums? Is it difficult to attract consultants to Jersey with the current terms and conditions that the Health Department has?

Senator A.K.F. Green:

The Deputy makes a really interesting point and, to be honest, it does vary by speciality. Some specialities where there is plenty of appropriately skilled people available are easier to fill than others and we do struggle in the worldwide market sometimes to make a suitable appointment, but I would suggest it is not the financial package that is the problem. It is the worldwide shortage. We are out to advertise at the moment for a consultant in dermatology and we are happy now to target South Africa, Australia, New Zealand because previous applicants were not up to the level that we would have liked them to be up to. We all know that when you appoint in haste you relent in leisure.

3.8.5 Deputy M. Tadier:

Just a follow-on from Deputy Southern's question to give the Minister a second chance. Is it truly the case that the 5 years data that Deputy Southern is asking for cannot be obtained? It seems to me that if a F.O.I. (Freedom of Information) request were put in by a member of the public then there would be an obligation on the department to provide that information. Yet we find ourselves in a situation where the Minister is making excuses for a Member of this Assembly by refusing to give the information. Would the Minister reconsider that?

Senator A.K.F. Green:

It is not a case of reconsidering. However, I will make it clear. If it is easily available and it is not going to take hours and hours of work to provide the 5 years' information then I am happy to do so.

What I am not prepared to do is to tie-up an officer for hours and hours when we have got more productive things to do.

3.8.6 Deputy M. Tadier:

If it does take hours and hours to get this kind of information or any other information that Members or the public might want does that not say more about the state of recordkeeping in his department rather than the reasonable requests which are coming forward from Back-Benchers?

Senator A.K.F. Green:

The Member makes a very good case for getting on with eGovernment.

3.8.7 Senator Z.A. Cameron:

Considering the emphasis of the Verita Report on the importance of employing full-time consultants rather than locums and that explored the circumstances around the death of a nurse and cost the Island a considerable amount of money, does the Minister not consider it important to monitor the ongoing use of locums for our economy as well as patient safety?

Senator A.K.F. Green:

Absolutely. Locums have a place in all hospitals in supporting other full-time consultant posts who need to go on annual leave or C.P.D. (Continuing Professional Development). We are not big enough to have a floating pool of people standing by just in case. That is where the use of locums come in. We much prefer the use though of substantive posts where it is possible to do so and we are always reviewing the current situation with regard to consultants. I can say that we have appointed, or are about to appoint, further consultants in trauma and orthopaedics, a fourth consultant paediatrician and an interface position working between the emergency assessment and the community as a whole. This thing is dynamic. It is always under review. But Jersey cannot have everything given the small number of some of the specialities that we have to cater for.

3.8.8 Senator Z.A. Cameron:

My question was that we should be monitoring the use of locums and that the Minister should be able to provide those details over the last 5 years considering the Verita Report was done before that.

The Deputy Bailiff:

I am sorry, Senator Cameron, this is an opportunity to ask a question, not to make a statement so what is your question for the Minister?

Senator Z.A. Cameron:

My question is: does he not think it is important that he does monitor and provide the States with that data for the last 5 years?

Senator A.K.F. Green:

It is important that we monitor the qualification, suitability and the use of locums and that they continually have their correct C.P.D., *et cetera*. Of course we must do that. It is just a practical view that we may not have the records going back 5 years. I have been the Minister for a year. I do not know. If we have those facilities and that information is easily available I will make it available.

3.8.9 Deputy R.J. Rondel:

I am not convinced that there is not an issue on this subject and the Minister will be aware I have put in a written question along the lines that Deputy Southern has asked orally and I will be discussing it with the Minister and will re-present it, hopefully, for the next sitting. That will enable him to have more time to answer the question fully.

The Deputy Bailiff:

We now come to question 9 that Deputy Martin ... I beg your pardon, I should have at least given you a chance to answer that. I apologise.

Senator A.K.F. Green:

Sorry, I was not sure that there was a question there but however **[Interruption]** ... well, there is a question there, am I happy to provide? I am happy to be as open and as honest with Members as I can be practically with the information that is available. I am going to meet with the Deputy to discuss what it is he needs to know, what would help him, so that we can spend time getting that information and not time getting information that we think he might need that is not appropriate.

3.9 Deputy J.A. Martin of St. Helier of the Minister for Health and Social Services regarding kinship fostering arrangements:

Are kinship fostering arrangements different from other fostering and if they are can the Minister explain why and how?

Senator A.K.F. Green (The Minister for Health and Social Services):

Jersey makes no distinction between kinship foster carers - these days known as connected persons - and other mainstream carers. When it is not appropriate or safe for a young child or person to remain in the care of their parents the Children's Services always look to family members first to provide alternative care. This provides a child or young person with somebody familiar with them. A connected person carer could be a grandparent, an aunt, an uncle, a brother, sister, step-parent and the connected person or kinship carer is only assessed for the specific child whereas foster carers are assessed for all children.

3.9.1 Deputy J.A. Martin:

I thank the Minister for his answer. I had to ask this in a question time because I looked on the Minister's own website to find out arrangements for current kinship arrangements and there is nothing, and I apologise if I have missed it. Can the Minister undertake to look at his own website and see if it gives enough information on a connected person or kinship arrangements?

Senator A.K.F. Green:

I apologise to the Member if we have missed something and I take on board her point and I will look at it, and if she has missed it I will point it out and if she has not I will have it added.

3.10 Deputy L.M.C. Doublet of the Minister for Home Affairs regarding the way in which births are registered in the Island:

Can the Minister advise whether consideration is being given to making any changes to the way in which births are registered in the Island?

Senator I.J. Gorst (The Chief Minister - rapporteur):

The law is to be updated this year to ensure that unmarried biological fathers are automatically granted parental responsibility when they are named on the birth certificate. The law will then be

further updated in 2017 to allow same sex parents who are named on the birth certificate to also automatically be granted parental responsibility and this will form part of the package of changes being brought forward in relation to same sex marriage.

3.10.1 Deputy L.M.C. Doublet:

There was an issue recently highlighted; I believe it was the Vice-Dean, that babies who are born to unmarried couples are being registered as illegitimate. Does the Chief Minister believe this should continue or should it be changed?

Senator I.J. Gorst:

I do not know about the particular issue raised by the Vice-Dean. I look across the Assembly to the Dean. I am aware that those terms are currently used on forms which Parish registrars might use to capture birth details. I am not sure whether that is because they are historical, but they are not used, as I understand it, in the actual register of births.

[10:45]

3.10.2 Deputy J.A. Martin:

The Chief Minister said, I think, that he is going to bring in laws to allow unmarried biological fathers to automatically be on the birth certificate. With today's science will there be any testing because I would hate to be ending up in Jeremy Kyle's situation [**Laughter**] where a mother can say that that person is the father and she can change it up to as many times as she wants.

Senator I.J. Gorst:

I am loath to admit this but I am not aware of that particular case.

3.10.3 Deputy J.A. Martin:

Sorry, this is a very serious point. Unless I heard the Minister wrong, he said it would be an automatic right for biologically unmarried fathers to be on the birth certificate and who determines who is the biological father? That is my question. Sorry, if I did not make it clear.

Senator I.J. Gorst:

I am stepping in for the Minister for Home Affairs. I do not have such detail to hand but of course I can go away and provide that detail to Members. This is a change in the law. We do not currently test for biological fathers if that couple are married. If there is an issue which needs to be addressed then I have no doubt that it will be addressed and advised on appropriately as we are bringing forward this change.

3.10.4 The Deputy of St. John:

Could the Chief Minister advise whether the change in the law that is coming forward for the change in parental responsibility, if it will be applying retrospectively and if not will there still be an ability to change that through the courts?

Senator I.J. Gorst:

I thank the Deputy for her question. It will not be retrospective but there will remain the same ability that is in place today.

3.10.5 Deputy L.M.C. Doublet:

I think the Minister just made a commitment to look into the concerns about babies being labelled as illegitimate. Can the Minister just confirm, please, that that will be looked into to ensure that babies are not being labelled with this outdated term?

Senator I.J. Gorst:

I will indeed. I gave what was my understanding of the situation. If that proves to be incorrect and it is not just because of the historical books or records then that will be addressed.

3.11 The Connétable of St. John of the Minister for Infrastructure regarding the trial resurfacing of La Route de Mont Mado in St. John:

Following the trial resurfacing of La Route de Mont Mado in the beautiful Parish of St. John could the Minister provide the results of that trial and detail what studies, if any, were undertaken?

Deputy E.J. Noel of St. Lawrence (The Minister for Infrastructure):

I am not going to argue with the Constable, indeed St. John is a beautiful Parish. La Route de Mont Mado was resurfaced last July with micro asphalt as opposed to a more traditional product. Micro asphalt is well proven in the U.K. (United Kingdom), France and the rest of Europe with benefits of speed of installation, a cheaper price per square metre and it extends the underlying road life. The trial is being monitored over a 2-year period and so far it is proving to be successful to date. Background noise and skid resistance testing were both undertaken prior to and after completion of the surface treatment. There was no noticeable increase in the ambient noise but there has been an increase in the skid resistance thus making the road surface safer. A minor defect outside the St. John Recreation Centre has been temporarily patched and is being monitored. However I must make it clear that this failure was caused by an underlying trench failure and not by the micro asphalt.

3.11.1 The Connétable of St. John:

Supplementary. As Constable I have had more complaints about this one problem in the Parish than anything else. Will the Minister agree to consult the residents and the users of La Route de Mont Mado before laying any more of this tarmac?

Deputy E.J. Noel:

If the Constable wants to forward on those complaints, obviously with the approval of those individuals ... so far our department has only received one complaint registered on this particular road. We are conducting 2 further trials on different roads on the Island to get a broader view of this type of product. As I have said, it is used extensively throughout the U.K., France and the rest of Europe and when it is coming in at almost a third cheaper than conventional products it is something that we need to look at when our budgets are constrained.

3.11.2 Deputy A.D. Lewis:

I was privileged to be invited to Visit Royale in St. John earlier on in the year. I believe you were there as well. We paused outside the Recreation Centre that the Minister referred to a moment ago and inspected the damage there. We walked along the rest of the road and all of the assembled, including the whole of the Court, expressed concerns or observations that the road surface was somewhat rough, extremely rough. Can the Minister just confirm that he feels that the value here outweighs the quality in terms of what people's expectations are of that type of road surface in Jersey? Could he just confirm what is necessary to be done in the future, in terms of cost savings and obtaining value, as against quality?

Deputy E.J. Noel:

You have to look at the whole life value of the product being used. The surface is rougher than conventional tarmac that is why it has a higher resistance and therefore makes it safer for road users because stopping distances are less. We do look at the whole life cost. Micro asphalt extends

the life of the road by some 10-plus years and it is some £30 per square metre versus £80 per square metre, so that is a £50 per square metre saving which enables us to cover more of our roads and with our limited budgets that is a good thing.

3.11.3 The Deputy of St. John:

With the answers that the Minister has just given, does that include the prices that he has established to us? Does that include the traditional resurfacing of the corners of the road because the micro asphalt machine cannot do the corners?

Deputy E.J. Noel:

That is not true, the micro asphalt machine can do the corners. It was decided not to because that particular road does have a significant number of containerised lorries and it was felt that traditional tarmac should be used on the 2 sharp bends for that reason, but it is comparing apples and apples as opposed to apples and pears. For example, work that we have done recently in the town at St. James, that was a reconstruction and a resurfacing and that amount per square metre was significantly in excess of the £80 that would have been incurred for the Mont Mado product.

3.11.4 The Deputy of St. John:

Supplementary. Can the Minister confirm then that what he is comparing in terms of prices and it being significantly cheaper, that it is actually like for like in terms of what has taken place on the road resurfacing?

Deputy E.J. Noel:

I can confirm that what we have managed to achieve is to bring in some competition and more choice into the Island. Recently we have been approached by the incumbent provider of asphalt on the Island and they, now, have come to the table and are offering to negotiate better deals with the States. So if nothing else, we have managed to achieve to get better value out of the on-Island contractors.

The Deputy of St. John:

Sorry, the Minister did not answer my question. I just asked if he could confirm if it was like for like. That is all I asked.

The Deputy Bailiff:

Well, the Minister has answered in the way that he has chosen to.

3.11.5 Deputy J.A.N. Le Fondré:

Could the Minister undertake just to circulate to States Members a breakdown of the £30 per square metre and the £80 a square metre just to give us an understanding of what the components are that make up those sort of prices?

Deputy E.J. Noel:

I will have to find out whether this may or may not be possible because obviously we are in competitive tendering for all our roadworks and so providing that I can do that in a way that does not bias our future tenders I am happy to do so.

3.11.6 Deputy D. Johnson of St. Mary:

This matter has already been brought to the attention of the Scrutiny Panel so may I ask the Minister to keep the panel informed of developments and results of trials and perhaps even release to us the confidential information to which he has just referred.

Deputy E.J. Noel:

Very happy to do so.

3.11.7 The Connétable of St. John:

The Minister talks about apples and pears all the time and I am afraid he has got his fruit basket mixed up. The surface that took place at La Route de Mont Mado did not include any **[Interruption]** ... thank you, Chief Minister. **[Laughter]** Did not include any road reconstruction. It was merely a thin film of surface across the top. As a Parish Constable I get quotes for roads to be surfaced and they are of a higher quality and a very much lower price, and I think that this needs thorough investigation. Will you please undertake to do so?

Deputy E.J. Noel:

We monitor and control all of our road resurfacing and I am afraid the Constable is incorrect in his assumptions. The Parishes, from what I am led to believe, do a 25 millimetre top coat removal or a 25 millimetre replacement whereas a standard minor road for the Department of Infrastructure will do 50 millimetres of top coat removal and 50 millimetres back again. It depends on what needs to be done on the road. If the underlying road needs significant work then obviously that needs to take place. We are looking at using micro asphalt solutions to extend the life of roads where they do not need any major or significant reconstruction.

The Connétable of St. John:

The Minister was factually incorrect. In St. John we are looking at 40 millimetres ...

The Deputy Bailiff:

Connétable, I repeat that if the Chair is speaking Members stop speaking and sit down. That is clearly within Standing Orders. It is not an invention of my own. You have asked your final supplementary. The Minister had answered it in the way that he wished. There is no opportunity to make comment upon the Minister's answer. Thank you.

The Connétable of St. John:

Can I correct a ...

The Deputy Bailiff:

No, Connétable, that is the end. This is question time.

Deputy M. Tadier:

Can I raise a point of order? It is correct that if the Constable of St. John believes that the Minister has inadvertently misled the House that he can raise a point of order and then perhaps state what he thinks is being misleading. Is that not correct?

The Deputy Bailiff:

Well, in the event of a debate that certainly would be the case. In question time it would be open, I think, to the questioner during the course of the questioning to raise that point but that is something I have to consider on the merits from time to time but we have left that question behind us, Deputy, at this point.

Deputy M. Tadier:

So a further point. It is a point of order it seems to me that if you only become aware of it at the end of your supplementary question when the answer is being given it seems strange to send the message out that it is okay to mislead the Assembly during question time but not during a debate

even if you are doing that. I am just obviously standing here on behalf of what one might expect from a reasonably minded Back-Bencher.

The Deputy Bailiff:

I am not going to make a ruling on that. I do not think it calls for a ruling on any specific point.

3.12 Deputy K.C. Lewis of the Minister for Health and Social Services regarding front line medical staff suffering from severe stress:

How many front line medical staff have reported suffering from or have been signed off with severe stress? How many have cited staff shortages as a stress factor and what action, if any, is the Minister taking to address this?

Senator A.K.F. Green (The Minister for Health and Social Services):

Five medical staff have been absent on occasions for reasons associated with stress in the last 12 months. This represents about 3 per cent of the medical workforce. To go into detail when the number is so small could lead to the identification or at least speculation as to who the individuals are. However, when perceived staff shortages are suggested as one of the factors contributing to the employee's stress the following actions would include; reviewing the volume of work in the relevant area, reviewing the number, type of staff and skills of staff working in that area, reviewing the practices and systems, processes and productivity of the area, and can include referring the individual to occupational health and psychological stress support services if it is appropriate and can include phased and supported return to work if appropriate.

3.12.1 Deputy K.C. Lewis:

I believe the Minister mentioned "perceived" staff shortages. Surely if people leave that puts more stress on the people left behind. Could the Minister update the Assembly on what recruitment has been taking place recently and whether accommodation is provided?

Senator A.K.F. Green:

Accommodation is provided for some medical staff and some temporarily. Some at Westaway Court, depending on the seniority of the post. So accommodation can be provided, is probably the best answer I can give. As I said before, when I answered the question to Deputy Rondel, talking about consultants - although I do not think the Deputy is particularly talking about consultants - it is a dynamic thing. We are always looking at how we can improve our service. What different skills we need and then seeking to change posts around. For example, one third-level grade medical post was recently converted to provide a third and we are advertising now a third consultant in oncology.

[11:00]

3.12.2 Senator Z.A. Cameron:

Has the Minister considered conducting anonymous independently run exit interviews with staff who leave his department? I have evidence myself, since becoming a politician and before that time, of stress being a significant problem for staff working there and I know that plenty of individuals have also tried to inform him by email. Exit interviews could allow those staff to inform him honestly the reason for leaving Jersey in a way that would not impair their ability to get references required for ongoing employment. Would he not agree?

Senator A.K.F. Green:

I will agree that stress can be a factor for all of us and it depends on what is going on in your work life, your home life and everything else. So I agree that stress is a factor that we need to acknowledge and we need to work with. I would not agree that I am not approachable for people who wish to speak to me. We carry out anonymous surveys as part of our regular work with staff and there are exit interviews. I think I answered the question.

3.12.3 Deputy K.C. Lewis:

I think Senator Cameron has asked most of my question. I have been approached by several people who think stress is really getting to them and the hours they have to work are getting a little bit ridiculous in the fact that they see their child maybe an hour in the morning and an hour in the evening if they are lucky. Is the Minister aware that stress is one of the world's worst killers?

Senator A.K.F. Green:

Yes, and I know that stress is difficult for people to handle and stress at different levels, some people cope with and others do not. If the Deputy has a particular case, if he is very concerned about a person, the best thing he can do to help that person is to come and talk.

3.13 Deputy J.A. Martin of the Minister for Social Security regarding payments made to foster carers:

How does Social Security treat payments made to foster carers when considering earned income and are those arrangements different if the foster child is in a kinship foster care placement?

Deputy S.J. Pinel (The Minister for Social Security):

All of our payments made to foster carers in Jersey, which includes kinship carers, are not categorised as earned income and social security contributions are not due to them. This is because they are payments in respect of the child's daily living costs made by the Health and Social Services Department. For low income households the income support benefits ignore any boarding out payments made for foster children. They are not treated as an income. This is because the children have their daily living costs met by Health and Social Services rather than through Income Support. Income Support does allocate an accommodation component that recognises the household will require a dwelling of an appropriate size to include the foster child. Jersey makes no distinction between kinship foster carers - now referred to as connected person carers - and other mainstream foster carers and so these rules remain the same even where the foster placement is with the child's relatives.

3.14 Deputy A.D. Lewis of the Minister for Treasury and Resources regarding economic assumptions which forecast a growth in average earnings:

Further to the economic assumptions in the draft 2016 Budget which forecasts a growth in average earnings of 3 per cent in 2016 and 4 per cent in 2017, what assessment was made of the likelihood of such growth levels being achieved? Do economic indicators suggest that such growth will occur and if this level of wage growth is not achieved what impact will this have on income tax receipts?

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

The Deputy will be aware that F.P.P. (Fiscal Policy Panel) oversaw the economic assumptions that we used in Budget 2016. They arrived at them by considering all the economic information available at that time. The Fiscal Policy Panel have since then updated these economic assumptions, indeed only a few weeks ago in March, as part of the income forecasting process. They have revised the average earnings growth down in 2016 to 2.8 per cent and down in 2017 to

3.6 per cent. The F.P.P. letter to me, explaining their latest assessment of the economic situation, was sent to all States Members and is published on their website. They did highlight that risks in the economic outlook have increased further. If earnings growth turns out lower than expected then it is likely to lead to lower growth in tax receipts. However, this will depend on what else changes in the forecast, for example; inflation and other factors like measures agreed by this Assembly in future budgets.

3.14.1 Deputy A.D. Lewis:

The Minister is therefore suggesting that the Fiscal Policy Panel is still forecasting a 6 per cent growth in wages over the next 2 years. Does the Minister really believe that that is realistic, a 6 per cent growth in earnings, in wages in the next 2 years? Could the Minister confirm that he has full confidence in the forecasting of his department and the advice of the Fiscal Policy Panel?

Senator A.J.H. Maclean:

I do have full confidence not only in the forecasting of the department but in particular the oversight and the exceptional level of expertise contained within the Fiscal Policy Panel. These are independent economists who advise us on fiscal matters. It is their input and, indeed, when considering further afield than Jersey the insights that they are able to give to the forecasting that does give me confidence but I would emphasise to Members that forecasts are exactly that. They have to be updated and to be certain they will change and we have to be flexible, as I was pointing out earlier on this morning, to adapt to any changes that come in the future.

3.14.2 Deputy G.P. Southern:

Is the F.P.P. proposing to keep these economic indicators under review as we go into the second stage of M.T.F.P. or will the March figures be maintained and in particular is the F.P.P. likely - does he believe - to revise the figures for one, 2, 3 years hence?

Senator A.J.H. Maclean:

Yes, the Income Forecasting Group are still deliberating on the income forecasts which will be relevant. The most updated forecast which will be relevant for the Medium Term Financial Plan addition which, as Members would know, will be lodged at the end of June. Indeed, yes, the F.P.P. will continue to have oversight during the period of the M.T.F.P. and I have no doubt, as I said a moment ago, that the forecast contained will be, during the course of this period, revised as economic conditions, external largely to Jersey, will impact on our fortunes indeed in a positive or possibly in a negative way.

3.14.3 Deputy R. Labey:

What contingency measures will be in place or does the Minister for Economic Development ... sorry, the Minister for Treasury and Resources envisage if the economic growth is not achieved?

Senator A.J.H. Maclean:

That was an interesting slip of the tongue by the Deputy. Of course, economic growth is an important aspect with regard to the future. We need to continue to invest in the economy to ensure that it diversifies, to ensure that we can maintain what we have in terms of market share but look to new markets and new opportunities and I am confident that (a) the investment is there, and (b) it is delivering returns. I am pleased to see that we have seen growth return in 2014 and job levels are returning, particularly in our important sector of financial services, to levels last seen pre the recession. These are all encouraging signs but, make no mistake, there are challenges ahead and that is certainly the point raised in the letter by the F.P.P. that the risks in the euro area in particular, in China, emerging markets, the U.K. referendum that is upcoming and many other issues are

matters we have to continue to watch and continue to monitor and that is why prudence in forecasting has been important. I am pleased to see that we have, for example, underspends. I am pleased to see that we have the flexibility that we built-in by the measures approved by this Assembly in the Budget 2016. We need to continue to be prudent. We need to continue to invest in key priorities and if we do that I think we have a very strong and positive future ahead of us despite the challenges.

3.14.4 Deputy R. Labey:

The Minister did not answer my question. I asked what contingencies are in place or will be in place if the economic growth is not achieved. That is not the same as, we need to be prudent.

Senator A.J.H. Maclean:

Well, one of the flexibilities that I have talked about, which is exactly what the Deputy is talking about, is that we have made it clear that we want to keep the Reserve Fund - the Consolidated Fund - with a minimum level of £20 million through each of the years through the M.T.F.P. That gives us flexibility to a certain extent should we underscore with regard to the tax receipts that we expect. We have also got contingencies built-in. There is £7 million of contingencies in each and every year. So there is flexibility and, of course, the fall-back position is ultimately our reserves, but I have been particularly keen that we forecast prudently through this Medium Term Financial Plan. I believe that is what has been done. We have strengthened the Income Forecasting Group. We have the expertise of the Fiscal Policy Panel and I do believe that we have and it will be demonstrated, as we move forward, that backdrop of flexibility through prudent forecasting.

3.14.5 The Deputy of St. John:

Does the Minister place too much reliance on the F.P.P. when setting policy objectives and if not, how does he test the theories?

Senator A.J.H. Maclean:

A good question from the Deputy. Of course, almost unanswerable I would suggest but I will attempt to return it with some top spin. I mean clearly we have to rely on external advice. The importance of the Fiscal Policy Panel cannot be underestimated and indeed the balance of expertise contained within that panel is equally important but we do have internally the Income Forecasting Group. We have strengthened that, as I have already said this morning, and we have added some 2 now independent members. Originally the Deputy would know there was one independent member. We have now added another independent member and I think that broad cross-section of advice is something from a Ministerial point of view, in terms of setting of policy and ensuring the direction is appropriate, does give me a degree of comfort.

3.14.6 The Deputy of St. John:

Supplementary. Does the Minister believe that there is a role for the Economics Unit within this and that they have a role to play in terms of testing the theories as well?

Senator A.J.H. Maclean:

Absolutely. In fact the Economics Unit, as the Deputy I think is aware, sits on and is part of the Income Forecasting Group. The Economic Adviser is part of that group as well. It is a broad group with a wide range of experience and we have both got internal expertise but also external independents advising which is an important new development or newer development.

3.14.7 Deputy A.D. Lewis:

The Minister will know that I am an eternal optimist but I am also a realist and I am not seeing these types of wage increases in the market currently or forecast to happen in this real market that we are in next year. We are still talking about a 6 per cent real increase in income. There has been a trend over the last decade of downgrading personal income tax forecasts. Does the Minister still have full confidence in his forecasting models, not the Fiscal Policy Panel, but the models that they use and perhaps other advisers use because this just does not appear to be, on the face value, realistic and has he discussed this matter with the likes of the Chamber of Commerce, I.o.D. (Institute of Directors), and what surveys does he have to back up the fact that he thinks wages will increase in Jersey in the next 2 years by 6 per cent?

Senator A.J.H. Maclean:

I can say that when the Income Forecasting Group are considering forecasts they do not do it sitting in an ivory tower. As I have said, we have added independents and those are people from industry, individuals who are members of the august bodies mentioned by the Deputy, such as the I.o.D. and the Chamber of Commerce, and indeed the forecasting group. Individuals go out speaking to industry to assess from the coalface what experiences they are seeing with their own workforces. So it is not just predicting way out into the future, considering the past as well, which is important, but some real-time data of what is going on in the marketplace within the Island, but that is not because we cannot rely upon what is happening in the Island. We are largely an export economy so we need to look further afield and advice, therefore, from the F.P.P., that I keep mentioning this morning, is important because their contacts and their expertise do give a different dimension that is valuable when we are considering a future forecast for the Island that is so important in terms of ensuring that we have sustainable public finances into the future. Indeed, the forecast may look aggressive in terms of wage growth but they have been tested and retested. They are, however, forecasts and whether it is a local forecast or a forecast further afield in the U.K. you will see those being revised as circumstances change. We need to be able to adapt. We need to be flexible but I am satisfied with the model as the Deputy requested. That has been adjusted with the new Income Forecasting Group and I do believe we have the right people in the right place with the right model to give us the best possible advice although I keep repeating forecasts will change.

3.15 Deputy S.Y. Mézec of the Minister for Treasury and Resources regarding provision of support to Islanders in the poorest quintile of society:

Why has the Minister not asked for the substantial States underspend of last year to be redirected towards providing support to those Islanders in the poorest quintile of Jersey society to compensate for the cuts to support which were approved last year?

[11:15]

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

The benefit changes that were agreed by this Assembly form part of a package responding largely to the need to prioritise spending towards the ageing population, including some of the most vulnerable in our society while at the same time improving the sustainability of States finances. Those measures focused on promoting independence, targeting resources to greatest need and minimising the impact on individuals. Underspends from 2015 have been allocated at the request of departments including areas that this Assembly have agreed as strategic priorities which includes over £3 million for health; again to the benefit of some of the most vulnerable in our society. The majority of the instances of so-called underspending do not give rise to recurring funds available for other pressures but funding the departments have been planning for in addressing much needed expenditure usually of a one-off nature.

3.15.1 Deputy J.A.N. Le Fondré:

Very simply, to the Minister, could he explain the difference between an underspend and a saving?

Senator A.J.H. Maclean:

Well, I think I did in the final comments in effect. The underspend is not recurring. It is agreed budgeted spend in departments that perhaps has not occurred in the given year. The project, for example, may have ... the spend may have been delayed for whatever reason but the requirement is still there; it was originally budgeted, and therefore the request is to carry it forward into the following year to either complete or to start and complete the project that has been delayed. A saving is something that is taken out and is not going to be occurring in the base budget again.

3.15.2 Deputy J.A.N. Le Fondré:

I was wondering, therefore, if an underspend is just a timing difference. In other words, the money is going to be spent at some point. Why do we make all the fuss? Surely the thing that we should be making a fuss about is the success of savings because from a public perspective an underspend is irrelevant.

Senator A.J.H. Maclean:

It is largely about timing; the Deputy is absolutely right. I am not sure who is making a fuss. I am not making a fuss about it. It has been a fact of life for some years. In fact if we look back over the last 5 years there has been an average of around about £25 million of underspends each year for the reason in part that the Deputy has just alluded to. I think what is more interesting on the subject of savings is that in 2015 departments were required to take out 2 per cent, that was £12 million, and a further £5 million. So £17 million was taken out of departments in 2015 and we still had underspends for the reasons largely mentioned by the Deputy.

3.15.3 Deputy G.P. Southern:

The Minister made great play about protecting the elderly pensioners in our society and indeed the vulnerable, the most vulnerable. Does he not accept that the cuts that took place last year in income support directly made the lives of those very same people, pensioners and the vulnerable, much more difficult by removing in the order of between £500 and £600 from their annual income?

Senator A.J.H. Maclean:

Any changes of the nature described by the Deputy are going to be difficult. We recognise that. I am sure the Council of Ministers do certainly and Members do. It is not easy making adjustments but nevertheless adjustments need to be made in order that we can prioritise funding to the areas that it is most needed. There is still significant investment in areas that support the vulnerable in our society and those that are less well-off. We need to continue to focus on that to ensure that the right resources are targeted into the right areas at the right time.

3.15.4 Deputy G.P. Southern:

Does the Minister not accept that by targeting income support, which delivers to the most vulnerable, he has made their lives worse by the changes last year?

Senator A.J.H. Maclean:

There are many factors that come into consideration when making changes of this nature. The Department of Social Security have looked very closely. They found it extremely difficult but there again it is about trying to be as fair as possible in ensuring that the resources that are available are targeted in the most appropriate way. That is what they have sought to do. I support them. The Council of Ministers support them but we all accept it is extremely difficult.

3.15.5 The Deputy of St. John:

The Minister has just mentioned about the money being targeted in the most appropriate way. The underspend press release that was sent out stated that there was £650,000 going to sports as a carry forward. When there is a 5-year strategy in place can the Minister explain why that is not in the baseline funding?

Senator A.J.H. Maclean:

That particular funding request, and indeed the budget for improvements to the Sports Strategy, or implementation I should say to the Sports Strategy, was not included in the base budget and indeed I cannot give an answer to the Deputy for the reason that it was not originally there, but nevertheless that funding had to be put in place in order to bring forward the strategy which was believed to be essential for developing sports in the Island and also the associated benefits that gives to the health area of the Island community.

3.15.6 The Deputy of St. John:

If that is the case and that sports is a priority and is needed and the Council of Ministers know they are going to need that money next year, are they going to have to find £650,000 from underspend or from another area in the department?

Senator A.J.H. Maclean:

Well, that is yet to be established but that will be established and the details will be brought forward.

3.15.7 Deputy M. Tadier:

So can we just clarify that it is the policy of the Council of Ministers and the Minister for Treasury and Resources that in order to redirect money to the vulnerable and the ageing population we have cut £10 million from the budget that was going to the vulnerable and the ageing population? Is this a coherent and reasonable policy to be putting forward and even to be supporting in this Assembly?

Senator A.J.H. Maclean:

Well, the question was originally about underspends which relate to 2015 but as far as the changes to benefits, that relates to £10 million of savings over the entire period of the M.T.F.P. through to 2019. As I have said, there are difficult decisions that have been taken in order to target appropriate funding in the right area. Those have had to be taken and the decisions have been made and are being implemented.

3.15.8 Deputy S.Y. Mézec:

Following on from the question just asked by Deputy Tadier, I think the point he was trying to get out of the Minister is: how is it consistent to say that they are putting forward measures to help the poorest and most vulnerable in the Island when they are directly taking money out of these people's pocket and when they are making so-called investments, they are often years down the line, not impacting these people directly today, people who have seen hundreds of pounds taken out of their annual income? He used the word "fairness" in an answer before. How on earth is that fair?

Senator A.J.H. Maclean:

I have also used the word "tough". It is difficult to make changes but nevertheless we see benefit cost rise during the course of recession, as indeed we have done over recent years. As the economy has started to recover we have started to see the pressures on the benefit spend reduce to a certain extent and that is not unusual for Jersey. It is a position that one sees in many other areas. Needless to say it has nevertheless required, when looking at the M.T.F.P. over a 4-year period, a

requirement to prioritise the funding that we have available to target it in the best way that we can and to make it as fair as we possibly can. There will be those that do not feel it is as fair as it should be, change is always difficult, but that is the situation that we find ourselves in.

3.16 Deputy R.J. Rondel of the Minister for Health and Social Services regarding possible sites for the future hospital and building on Green Zone land:

With regard to a possible site for the future hospital would the Minister advise under what, if any, circumstances he would support building on Green Zone land?

Senator A.K.F. Green (The Minister for Health and Social Services):

In the 2011 Island Plan policy SC02, Healthcare Facilities, indicates that new healthcare facilities, which includes hospitals, will be permitted in the grounds of existing healthcare facilities or within the Built-Up Area. The policy also indicates that in exceptional circumstances where it can be demonstrated that no other suitable site within the grounds of existing healthcare facilities or within the Built-Up Area can be identified, a site can be developed where this is supported by Health and Social Services Department and where rezoning of land for this purpose is approved by the States as a draft version of the Island Plan. More recently the 2014 revisions of the Green Zone Policy, NE7 of the Island Plan, allows for elements of significant public infrastructure within the Green Zone where it can be demonstrated that there has been a proper assessment of alternative options. Therefore, if a Green Zone site were considered appropriate either or both policies could provide the way forward.

3.16.1 Deputy R.J. Rondel:

Thank you for the answer. Could the Minister elaborate on ... one of the concerns I have got is that a lot of his staff within his hospital, their main issues are the cost of housing over here and a lot of people I have spoken to during the last year are struggling, and one of their main reasons that they may either have to go back to the U.K. or fail to come over and that there is a recruitment crisis which he has indicated, it is because of ... how do you marry the policy that the Council of Ministers have got at the moment, an increasing population, but not allowing development of housing on agricultural or Green Zone land?

Senator A.K.F. Green:

I think he is asking the wrong Minister that question. The development of Green Zone land other than in healthcare facilities is a matter for the Minister for the Environment.

3.16.2 Deputy G.P. Southern:

Perhaps we can find a question that should be directed to the Minister for Health and Social Services. Is it not the case that the Minister is examining Green Zone sites under pressure from other Ministers not to give up the opportunity cost of alternative different building, either offices or flats, on the Waterfront site? Is that not the case?

Senator A.K.F. Green:

No.

3.16.3 Deputy G.P. Southern:

Has the Minister had any conversations with Ministers from the Council of Ministers about that particular subject and the opportunity costs involved on the Waterfront?

Senator A.K.F. Green:

No. What I have done though is have discussions with Back-Benchers about the way that they see the way forward and I have a second meeting with Back-Benchers on Thursday.

3.16.4 Deputy M. Tadier:

At the last sitting the Minister told us, on the second attempt of trying to get the information, that the Waterfront site - of the last remaining options - was the best clinical option. Will the Minister not bring the Waterfront site as an option for the States to debate before perhaps a Back-Bencher is forced to do so?

Senator A.K.F. Green:

That is entirely up to Back-Benchers what propositions they bring but at the moment I am working with Back-Benchers. It is a pity that I did not see Deputy Tadier at one of my workshops. I have another one on Thursday, if he is free, working with Back-Benchers to help me and inform me on the best way forward.

3.16.5 Deputy M. Tadier:

It seems to me that there has been a change of heart. In the past we had lots of experts who were telling us that the People's Park was the best site for various reasons and even if it was unpopular the Minister was going to bring this because it was the right thing to do. Now it seems that he is scrambling around trying to find the answer with various Back-Benchers to see what they might be able to pull out of their back pockets and work it out on the back of a fag packet. Is that the new policy format that the Minister is looking for?

Senator A.K.F. Green:

We certainly would not be calculating anything on a fag packet in Health [**Laughter**] but that said I got a very clear message from Back-Benchers that they wished to be involved and they did not want to be presented with what they saw as a fait accompli, and the complex case around the People's Park was very different. We were trying to have confidential conversations about compensation, about the possibility of using the park. It was a good site but emotion overtook the fact that it was a good site and I respect that. Therefore, I am working with Back-Benchers to find the best possible site that is most affordable, clinically safe and appropriate for this Island.

3.16.6 Deputy A.D. Lewis:

The Minister will be aware that in the U.K. a lot of new hospitals are built on greenfield sites for all the reasons he will be aware; economy, space, easy planning and so on. Is he satisfied that enough greenfield sites have been added to his list to review as possibilities or is the presumption to try and develop sites that are either brownfield or in St. Helier?

Senator A.K.F. Green:

As I said, at the moment I am going through a period of reflection. I am satisfied that we have sufficient scope for different sites under review again. To pick up on a comment that was made before, this is in conjunction with using the Back-Benchers to work with me in terms of the realistic delivery of the project but also working with my experts to make sure that we produce the right hospital at the right place, that is clinically safe and at the right price.

3.16.7 Deputy R.J. Rondel:

Would the Minister agree with me that the most precious and sacred land within St. Helier is presently used by the public, such as People's Park and Les Jardin de la Mer?

[11:30]

Would he agree that this type of land presently used by the public should stay in public use?

Senator A.K.F. Green:

Let me say right from the outset that I have no plans for either parcels of land that the Deputy referred but sometimes it is a good thing to look at and challenge the use of a site if you can provide a better alternative. But, having said that, I am not looking at either pieces of land.

3.17 Deputy G.P. Southern of the Chief Minister regarding explanations received from the Jersey Financial Services Commission regarding reasons for the establishment of Panamanian companies by Jersey-registered companies:

Has the Chief Minister or the Council of Ministers received an explanation from the Jersey Financial Services Commission as to the reasons for the establishment of over 1,400 Panamanian companies through Mossack Fonseca by Jersey-registered companies detailed in the documents known as the Panama Papers?

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

Jersey-based trust companies and other financial institutions are all regulated by the Jersey Financial Services Commission. These regulated entities will incorporate companies in multiple jurisdictions according to the specific requirements of their clients, whether that be in Panama, Cayman, New Zealand or the U.K. Whichever jurisdiction is used it is the Jersey legislation and regulation that must be applied to the identification of the client. This includes capturing beneficial ownership information, the purpose of the business relationship, the monitoring of transactions and all other due diligence requirements. I am satisfied that the Commission is taking all necessary steps to ensure that regulated entities are complying with its regulatory requirements when incorporating companies on behalf of their clients.

3.17.1 Deputy G.P. Southern:

The Chief Minister in his written answer to question 9389 states clearly: "The case-by-case review by J.F.S.C. (Jersey Financial Services Commission) has revealed no significant concerns of inappropriate conduct by Jersey financial service practitioners." When he was last asked the question he said, as a mere accountant, he could not possibly give me reasons as to what would be a legal establishment of a company in Panama. Has he asked the J.F.S.C. what these perfectly legal mechanisms are doing to 1,400 cases of establishing companies in Panama? What is the legitimate reason why that should be occurring?

Senator I.J. Gorst:

That is exactly the same question that the Deputy asked at the last States sitting and I gave him the answer. He seems to be cherry-picking what I said, that these claims are advised appropriately by financial advisers and there could be any myriad combinations about why individuals would want to choose to use a Panamanian company, a B.V.I. (British Virgin Islands) company, a Cayman company, a New Zealand company, a U.K. company, and it is not possible for me to go into the myriad of reasons why that might be, all of which are perfectly legitimate.

3.17.2 Deputy M.R. Higgins:

Let me be a bit more specific for the Chief Minister: can the Chief Minister foresee any reason why a Jersey-based company would set up a shell company in Panama, bearing in mind that most money launderers have companies in numerous jurisdictions trying to hide what is going on?

Senator I.J. Gorst:

The Deputy appears to be getting confused. I am not sure what he means by “shell companies”. One would normally use the term “shell company” when one was trying to indicate that the company had no legitimate legal purpose and the information about that company or client or beneficial owner using that company was not known. When a Jersey entity uses such a company, the Jersey adviser knows who the beneficial ownership is, they know the legitimate reasons for using that company and they are appropriately regulated and inspected by the Jersey Financial Services Commission.

3.17.3 Deputy M.R. Higgins:

I would like to know why the Chief Minister is so confident in that statement he has just made because I think it will come back and bite him as more revelations come back.

The Deputy Bailiff:

“Why are you so confident?” I think is the question, Chief Minister.

Senator I.J. Gorst:

Because the regulation is in place to ensure that that takes place, that is why I am confident. I think the Deputy used to be employed by the Jersey Financial Services Commission, so he also should share my confidence.

Deputy M.R. Higgins:

I do not.

3.17.4 The Deputy of St. Mary:

As someone who in a previous life was involved in incorporating and administering companies for the best part of 35 years or so I can advise that I did indeed incorporate companies in jurisdictions other than Jersey and I was subject to the same ...

The Deputy Bailiff:

Deputy, this is question time; can you ask a question?

The Deputy of St. Mary:

If I just come on, Sir ... would the Chief Minister, just for clarification purposes, confirm that I am right in believing that, in doing so, I was subject to exactly the same regulations as I was in incorporating a Jersey company and there is no shame or untoward intention in forming a company outside this Island?

Senator I.J. Gorst:

I thank the Deputy for his question. He is absolutely right, there can be many legitimate reasons why such a company should be set up. It seems that some Members of this Assembly are keen to criticise our financial services industry without understanding what they do or why they do it. Some individuals and some clients simply have a pre-position to a particular geography. When they are using Jersey they still have to comply with the regulations of Jersey. This is one of the reasons why we do travel the world, is to encourage people to use Jersey more, to encourage people to use and set up Jersey companies because we want them to understand the benefits that can be delivered from doing so.

3.17.5 Deputy M Tadier:

There is common ground because we, like the Chief Minister, believe that the reputation of Jersey’s industry is important and that, moreover, the ethical considerations of that industry are important,

not just for reputational reasons. The question has to be to the Chief Minister: can he give an assurance to us and the public that no Panamanian companies that were created through Mossack Fonseca by Jersey-registered company have been, or are being used, for legal but aggressive tax avoidance, evasion or money-laundering? That is the question. Is the Minister satisfied that he knows the answer that none of those companies have or are being used for those 3 purposes mentioned?

Senator I.J. Gorst:

Once again the Deputy shows a complete misunderstanding of how regulation works. Just like I cannot say that any individual in our community is not committing a crime, so I cannot say, standing here, that individuals in a particular sector may be acting in a way which we consider is inappropriate and is in non-compliance with the law. But what I can say is that I have confidence in the ability of the Jersey Financial Services Commission with their on-site visits, with their regulation, with their reviews, to ensure that we are meeting the highest possible international standards. I think that Members, if they understood that, would have the same confidence that I have.

3.17.6 Deputy M Tadier:

It is not for the Minister to speculate as to what one's understanding is about the question being asked but rather to give an answer. The Minister on many occasions has not simply just talked about combating evasion and money-laundering, which of course should go without saying, but the fact that he has given a commitment also to aggressive tax avoidance, as has the U.K. So can he just confirm that he cannot give us an assurance today that any of those companies are currently being used for aggressive tax avoidance purposes?

Senator I.J. Gorst:

The assurance I give or cannot give can be rounded all together. He knows the statement that I made back in 2012, and some people criticised me for it, and the work that has been ongoing with the regulator and with the financial services promoter. All members of Jersey Finance now have agreed to a code of conduct around aggressive and abusive tax avoidance, the financial services regulator is aware of the government position and is mindful of that when it is undertaking reviews. We are liaising with H.M.R.C. (Her Majesty's Revenue and Customs) in the U.K. with regard to D.O.T.A. (Disclosure of Tax Avoidance) schemes, and those systems are working. But can I give a categorical 100 per cent assurance? Of course I cannot, just as I cannot regarding whether there is any illegal activity taking place by any member of our community. It would be foolhardy to do so. What we can do in this Assembly is make sure that we have got the very best regulation law enforcement agencies in place and that we are meeting international standards. That goes for any area of our community.

3.17.7 Deputy G.P. Southern:

The Chief Minister proudly spoke of encouraging people around the world to set up Jersey companies, however, what we are talking about here is Panamanian companies. Can he come to the House with a concise list of what he calls "legitimate purposes" might be for us setting up Panamanian companies?

Senator I.J. Gorst:

I understand that the members of Reform Jersey get frustrated when I cast aspersions on their understanding of what is an important economic driver of our community ...

The Deputy Bailiff:

Let us not do that.

Senator I.J. Gorst:

Sir, they will persist in asking questions to which it is patently obvious they do not understand what the answer would be. The answer is, as I have explained to Members of this Assembly, there are many myriad reasons why any individual client would be advised by a financial adviser to legitimately incorporate a company anywhere else in the world. The important thing for us is that, if they do that through Jersey, they are appropriately regulated, they know who the beneficial ownership is and they have got reasons on file about why that is a legitimate course of action for that particular client to take.

4. Questions to Ministers without notice - The Minister for Economic Development, Tourism, Sport and Culture

The Deputy Bailiff:

That brings the period for these questions to an end and we now move to questions to Ministers without notice. The first question period is for the Minister for Economic Development, Tourism, Sport and Culture.

4.1 Deputy K.C. Lewis:

I am aware it is early days yet but British Homes Stores has filed for administration with a possible loss of up to 80 jobs in Jersey. Will the Minister update the Assembly with regard to safeguarding of redundancy payments and, indeed, pensions?

Senator L.J. Farnham (The Minister for Economic Development, Tourism, Sport and Culture):

It is still early days insofar as B.H.S. (British Home Stores) is currently for sale as a going concern, so we do not know if or when there will be redundancies, but the Deputy will remember that the Assembly approved a scheme, which I think was proposed by Deputy Southern, which protected employees when their employer went insolvent, or *en désastre*, and if in the case that they were put out of work the States would cover holiday pay, wages or redundancy money up to the amount of £10,000 per person, should that be the case.

4.1.1 Deputy K.C. Lewis:

Would it be that pensions are not protected?

Senator L.J. Farnham:

We are currently looking into that. I did ask the question this morning and Social Security Department are asking if local staff are protected by the U.K. pension protection scheme. We have not got an answer for that yet but we are looking into it.

4.2 Deputy S.M. Wickenden:

When looking up business plans on the States of Jersey website, it says that: "Department business plans make sure that everyone working for the public sector understands how their work helps to deliver the strategic priorities agreed by the States Assembly and business plans also keep islanders informed of how political decisions are being carried out day-to-day." We are nearly 16 months since the Minister's department has published a business plan; could he please inform us when he is going to be publishing the 2016 one?

Senator L.J. Farnham:

When the States moved to M.T.F. (medium financial term) budgeting, the process of publishing departmental annual business plans fell away and was replaced generally by the M.T.F.P. submission. The last business plan that E.D.D. (Economic Development Department), as it was, published, I believe, on the States website was 2014 and my department has published a 2015/16 business plan, but it is not available on the States of Jersey website. One of the reasons why it did not produce a separate 2016 business plan was because, as Members will remember, we were in the process of transfer of functions. But also, I think there was a reflection it might be too granular to publish an annual report now we have the M.T.F.P. process, and I propose that once the Assembly has approved the Medium Term Financial Plan detail for 2017 to 2019, my department will produce and publish an aspirational business plan for that period.

4.3 Deputy C.F. Labey of Grouville:

In the light of the instant success of the 6-part television series *The Durrells* and the tremendous opportunities this could present for the Island, would the Minister inform Members as to how he intends to follow this up in co-operation with the Durrell Wildlife Park?

[11:45]

Senator L.J. Farnham:

I thank the Deputy for that question. Coincidentally, I sat next to the current Acting Chief Executive of Durrell at the Jersey Hospitality Association A.G.M. (Annual General Meeting) on Friday and had the opportunity of talking to him about that very issue. There are most definitely exciting opportunities should the programme continue to be successful. It is fair to say that although there has been a lot of interest, it is very short term and there are no signs there being a really tangible long-term benefit from the first series. But undoubtedly, if it does develop, and I hope it does because it really is an excellent programme, I will make sure that I work closely with Durrell - my department works closely with Durrell - to do whatever we can to ensure that any future series will feature the Durrell Conservation Trust and the park and promote Jersey as much as we can.

4.3.1 The Deputy of Grouville:

I believe there are going to be subsequent television series, so surely the Minister for Economic Development, Tourism, Sport and Culture ought to be exploring the Private Public Partnerships, priming and setting aside budgets now in anticipation of advancing this opportunity?

Senator L.J. Farnham:

I am also pleased to report that, for once, I am one step ahead of the Deputy: we have put a budget aside for Film Jersey, we have put a small budget in place, and I am talking with Visit Jersey at the moment about how we might run that alongside the Events Jersey model to make sure that we can engage and work with and promote Jersey as a film location. Rest assured, we are talking to Durrell at the moment and the producers of the film did liaise with Mrs. Durrell on the work and we will make sure we stay close to that to make sure we do not miss out on any opportunity. But there is a small budget set aside for the development of film.

4.4 Deputy G.P. Southern:

The Minister recently published a list of inward finance successes and new start-ups, creating a number of job opportunities. The previous Minister, when he wrote about job opportunities, did not mean jobs because these posts were not filled. Can the Minister assure Members that what he talks of as job opportunities are jobs that are filled?

Senator L.J. Farnham:

Yes. The difference is when an inward investment business locates to Jersey, in their business plan they will present the job opportunities, and there is a difference between the job opportunities created and the actual jobs filled, but they are very close. Most of the job opportunities created are, I am pleased to say, filled, but therein lies the difference. The more job opportunities that are created, even if all of the job opportunities are not filled, the better, because the more opportunities created the more actual employment we will get.

4.4.1 Deputy G.P. Southern:

I will return to that another time, but a supplementary, if I may: on this publicity piece, it said that 81 per cent of these job opportunities were for local people. Does he accept that that is a relatively low ratio compared with, for example, the ratio of people locally employed in the finance sector?

Senator L.J. Farnham:

I think it is fair to say we would like to see every job classified for locally-qualified people, but that would be impossible. Do not forget, the inward investment portfolio is not just finance, it is a broad range and, I think, considering the range of activity in that sector, 81 per cent locally-qualified jobs, which is if I remember relative to that piece, about 250 jobs, so I think it is fair and reasonable.

4.5 Deputy A.D. Lewis:

At the beginning of the recession the Buy Local campaign was launched with much fanfare, the banners were wonderful; I am not sure if they were manufactured locally, but they were effective. Can the Minister update us as to what he is doing, what his department is doing now to continue to promote the concept of buying locally which, of course, helps our economy enormously?

Senator L.J. Farnham:

A very good question, and the answer is we are not working on a specific Buy Local campaign; we are encouraging people to buy local when we can, and in fact one of the first things I did when I became Minister was to send a written directive, if you like, to all of the staff in E.D.D. to spend as much of our budget in the local economy as possible. But the consumers now demand value for money and the local economy, especially the retail sector, are particularly mindful of that and I am pleased to say they respond and are becoming more competitive and offering a far better service. So while encouraging everybody to buy local, I do not think putting signs and banners up ordering them to buy local will work anymore. We have just got to make sure we support our business and commerce sectors to make sure they are competitive and they can compete and make people buy local because they get the best service and the best value.

4.6 Deputy M. Tadier:

Does the Minister agree with me that more could be done to promote alfresco activities, alfresco dining? He will have visited, no doubt, some of the continental squares and places in Europe which do have that. Could he say what steps the department either is or would be taking to look into these areas, including simplifying the entertainment licensing process?

Senator L.J. Farnham:

The Constable of St. Helier is not in the Assembly at the moment, but it has been a privilege to work with him and the Parish of St. Helier over the last few years, where there has been a complete mindset change in favour of alfresco and outside dining, and I think the Island has benefited tremendously over the last few years from that. Of course, there is always more we can do and I do believe that a slightly different approach to the licensing of public entertainment, providing it is

sensibly applied and consistently applied across the Island, would be of benefit and we will work with the relevant authorities to be sure that we can achieve that in good time.

4.6.1 Deputy M. Tadier:

A supplementary. Would the Minister in particular look at the restrictions on busking permit, the fact that it is currently charged at £30, even when individuals may be busking for charitable purposes and the fact that amplified music is not permitted with busking, even though our Guernsey counterparts have a slightly different approach which does allow and provide music to be carried out under a simple free busking permit?

Senator L.J. Farnham:

I hope the Deputy is not considering a career change at this stage of the game, but I certainly will look into that. I was not aware of the fee structure, but I will certainly ask the question.

4.7 Deputy L.M.C. Doublet:

Could the Minister advise as to the potential impact on the economy if significant numbers of high-earning parents decide to stay home with their children rather than sending them to a nursery setting?

Senator L.J. Farnham:

I am sure there would be an impact; it is hard to say what it would be at this stage because I simply do not know the figures. I am not sure that anybody who has done the figures; that might be something for the Economics Unit to have a look at and think about. But I sincerely hope it does not come to that, and I speak from experience, my children are grown up now, but I remember how hard my wife and I worked and had to pay to put our children into nursery so we could continue our careers, and I very much hope a solution can be found. I cannot answer the question, but I know there would be an impact.

4.7.1 Deputy L.M.C. Doublet:

Could the Minister possibly commit to looking into the impact and sharing those figures with the Scrutiny Panel, the possible impact of any the N.E.F. (Nursery Education Fund) cuts on the economy?

Senator L.J. Farnham:

I will certainly speak to the Minister for Education and the Minister for Treasury and Resources and we will see what we can do.

4.8 Deputy R. Labey:

Would the Minister, with his sporting cap on, join with me in congratulating, and marvelling at - because he is no spring chicken - Deputy McLinton for running the London Marathon on Sunday?
[Approbation] [Laughter]

Senator L.J. Farnham:

Absolutely so. Warmest congratulations. I am surprised he made it in today, but he is here. Well done, and I am sure he has generated a lot of interest and galvanised many of us to join him on the quest at next year's London Marathon.

4.9 The Deputy of St. Mary:

In terms of numbers of registrations, the shipping registry in Panama is one of the busiest in the world. In view of the unfortunate publicity attracting to that jurisdiction, would it now not be

opportune for Jersey to consider extending the areas of shipping where registration here will be permitted?

Senator L.J. Farnham:

The Jersey Shipping Registry is very proactive and looking for new business; always we are interested in doing that. The Deputy, I would think, would be referring to a Category 1 shipping register, which is for the larger ships and that we are not ready to do at this stage. We are going to be working a lot more closely with the Ports of Jersey in future on the shipping registry and the decision whether we go to Category 1 or not to attract some of these large ships. This is very much a commercial decision because there is quite an element of cost involved for going into that and therefore an element of risk will be decided at the time. But I do take on board the point and I will certainly raise that question when I get back to the office.

5. Questions to Ministers without notice - The Chief Minister

The Deputy Bailiff:

I am afraid that brings the question period for this Minister to an end. The next period is for the Chief Minister.

5.1 Deputy S.M. Wickenden:

In a recent P.A.C. hearing it was discovered that a number of States departments are not following the Financial Direction 5.7 on travel. It was also highlighted that some Ministers have made policy decisions that contravene the financial direction for travel. Could the Chief Minister please inform the Assembly if any policy decisions he has made have contravened the Financial Directions policy 5.7 for travel?

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

I am not aware that I have personally but I will double-check.

5.1.1 Deputy S.M. Wickenden:

I will probably be a bit more specific: has he authorised officers to travel business class with him on States business?

Senator I.J. Gorst:

As far as I am aware, that would be an authorisation requiring the Chief Officer's authorisation, not the Minister's authorisation but, as I said to him in answer to his first question, I will check.

5.2 Deputy J.M. Maçon of St. Saviour:

I have a question from a member of the public. Given that the review into higher education is still now to be deferred to the next sitting: what solutions can we expect to be presented at the same time as that review?

Senator I.J. Gorst:

It is the consideration of what those solutions might be which is causing the slight delay from that which I would like to timeline, which I would like to have met, but the Deputy knows, I think from Scrutiny and from attendance at public meetings, that there is no easy solution to this problem. A number of families in our community are finding that they are having to make a decision not to send their children to higher education because they cannot afford it. There is no one easy solution, but it is the development of those solutions that is taking the extra time.

5.2.1 Deputy J.M. Maçon:

Therefore, will the Chief Minister concede that, through the States policy of preventing a young person from being able to go into higher education and being barred from that on financial grounds, not being able to go because of financial difficulty, the States is failing to meet that policy?

Senator I.J. Gorst:

I am aware that there are a number of families for whom their personal circumstances mean that they have to make decisions that their family members cannot either go off-Island or study for further education. I do not think that any of us, any Member of this Assembly, is satisfied with that situation.

5.3 Deputy L.M.C. Doublet:

Given that the Chief Minister has previously confirmed his support for the excellent work of the 2 family centres we have in the Island, the Bridge and Pathway centre, will he be supporting the growth bid within the 1,001 Days action plan from the Health Department, which should fund the creation of 2 further family centres in the Island?

Senator I.J. Gorst:

The Council of Ministers, and specifically those departments who are directly involved, are considering a number of growth items for inclusion in the M.T.F.P.; the Deputy raises a number of them. In regard to improvement and transformation of children's services, I am yet to be fully briefed on all of those, but I do support extra money going into children's services, and particularly in the way that the Deputy has described.

5.4 Deputy G.P. Southern:

Would the Minister take this opportunity to withdraw the statement that he made earlier in the day that I and my Reform Jersey colleagues would rather see local people unemployed than employed?

[12:00]

Senator I.J. Gorst:

Once again, the Deputy seems to be taking out of context a statement that I made. I said the indication might be taken that that was what they would rather see. If they have taken offence at what I said, then of course I will withdraw it; I do not wish to offend anyone.

5.5 Deputy S.Y. Mézec:

As well as the economic contribution of high-value residents to the Island, does the Chief Minister believe that more consideration should be given to the social contribution of these people to the Island? On that point, would he agree that a background check undertaken on one of these individuals which indicated that they perhaps had a history of making racist and homophobic statements, would be an appropriate ground to not accept an application from an individual who wanted to become a high-value resident?

Senator I.J. Gorst:

It would not be appropriate for me to comment on individuals and make statements which might refer directly back to an individual. Thorough checks are undertaken on individuals to ensure that they meet those criteria and that they are going to bring advantage to Jersey, to Jersey taxpayers and to Jersey citizens. We have recently changed the criteria to encourage people to bring more of their business to Jersey and thus create jobs as well, but social considerations are taken as part of that decision-making process.

5.5.1 Deputy S.Y. Mézec:

I do not think there is anything that is inappropriate to say in future that we would consider it grounds to not accept an application from somebody who wants to become a high-value resident if they have a clear and obvious history of publicly making racist and homophobic statements which could impact on the feeling of security of the minority communities in Jersey, who would not like to see prominence given to people who make offensive statements about them simply for being the way that they are.

Senator I.J. Gorst:

I am not aware that that has happened. Of course, members might come to our community and they might disagree with certain political persuasion, but that is quite different from the position which the Deputy seems to be indicating.

5.6 The Deputy of Grouville:

Would the Chief Minister consider opening a public register of expenses for civil servants, not only for travel-related expenses but for those attending lunches, dinners, I.o.D., Chamber of Commerce, for example, conferences, exhibitions?

Senator I.J. Gorst:

Yes, I would. I think the model that they have in the United Kingdom of an online register, and I think Scrutiny raised this issue the last time I attended upon them, and I am not sure if I have formally written to them saying that we were now going to work on that, but that is the case. I think it is far better if people know in real time what hospitality, what business travel ... and I think the same goes for Ministers as well.

5.7 Deputy M. Tadier:

Does the Minister agree with the creation of an office of Speaker for this Assembly and how quickly does he think that this Assembly could realistically elect its own speaker?

Senator I.J. Gorst:

I have to be careful in the way I answer that in view of the experience I have had this morning. The Deputy knows my position, I have been quite clear about it, I am on public record on Hansard and in written comments, in my belief that that is the appropriate way forward. As I understand it, when I answered a similar question from the Deputy at either the previous States sitting or the one before that, P.P.C. (Privileges and Procedures Committee) will be working with Members to understand what Members' position is in this regard.

5.7.1 Deputy M. Tadier:

Does the Minister simply not just agree in the separation of powers but also in the separation of budgets and, therefore, for financial transparency it would be much better for the States to have its own office of Speaker with its own budget, which could come out of the Bailiff's Department, and then the Bailiff's Department being left with its own budget to run its own affairs? Is that a viable way forward that the Chief Minister would support?

Senator I.J. Gorst:

In principle, that seems a straightforward solution; in reality, it is much more complex than that because we are joined in this Assembly by extremely competent ushers; they are obviously part of the employment of the Bailiff's Chamber, and how would we manage that if we were to have such a separation? Would we have to increase costs rather than reduce them? We then have the role that the Bailiff fulfils as civic head; where does the funding in that regard sit? Does it sit with the

Speaker's role who hosts important visitors for dinner when they are in our Island, and how do we deal with that budget? So in theory it seems simple, in practice, as ever, it would be much more complex, but I am sure you could say more about that than I can.

5.8 Deputy J.A. Martin:

On 15th April, the Director of Central Strategic Procurement told the P.A.C. panel that since 19th May 2015 they have not spent the 1.5 million air miles accrued yet the Chief Minister said earlier that departments were using air miles. Can the Chief Minister inform where these air miles are coming from, because they are certainly not the ones accrued at the centre?

Senator I.J. Gorst:

We have just got to be clear: there are different loyalty points, which is what I said in my answer to Deputy Mézec earlier today. There are things such as B.A. points, which are being collected centrally, there are Avios points which accrue to individuals, and departments are using those differently. The Chairman of the P.A.C. said that none of the B.A. points which are held centrally have been used since the date that Deputy refers to. But I do know that some Ministers are using their own Avios points to offset the cost of travel that they are undertaking on behalf of the States.

5.8.1 Deputy J.A. Martin:

Then if this is happening, can the Chief Minister collect this information and provide it? Because there are 2 different stories and I would like to see some evidence; no names necessary, just departments that are using points.

Senator I.J. Gorst:

There are not 2 different stories, but there is more than one different set of points and that is what we have got to be clear on. This is the whole purpose of the review into travel policy and requirements for officers and for Ministers: that we have a unified approach and that we are reducing the cost of travel and getting better value for the money that we are spending.

5.9 Deputy J.A.N. Le Fondré:

Following on from the Chief Minister's response to the Deputy of Grouville, in the previous Assembly a previous sub-panel of P.P.C. looking into internal States reform and workings, made a recommendation that senior civil servants should make a public declaration of interest similar to that of States Members because they are in a position of influencing or making decisions. The Chief Minister seemed to support it at the time. Does the Chief Minister remain supportive of that principle and will he implement it?

Senator I.J. Gorst:

It is difficult in a small community where employees of the States are subject to such close scrutiny as they are, but I do remain supportive of that principle. I think that Members of this Assembly abide by that principle and senior officers should also make a declaration so that the public is aware where conflicts may lie. If we take the current declaration that senior officers make, it is far broader than the declaration that Members make, and therefore it would not be the existing declaration, it would have to be one more in line with Members.

5.10 Deputy S.Y. Mézec:

To follow on from my previous question, because I do not think the Chief Minister answered it, he said in his last answer that it was somehow about the political views of people. It is nothing to do with political views, it is about racism, pure and simple, individuals who, when given a public platform, demonise people for being different to them, demonise them as being inferior and go out

of their way to make these people uncomfortable being part of the community. Does he believe that if there was a background search conducted which revealed this, that an individual who wanted to come to the Island and be a part of our community and potentially be a risk to those people from our own minority communities here, that that should be a consideration when deciding whether that person is allowed into the Island as a high-value resident? It is about racism not about politics.

Senator I.J. Gorst:

The Deputy tries to make that differential and, as I said, reviews are undertaken when making the decisions to allow 1(1)(e)s to enter into our community, and those searches are extremely thorough and they would include on-the-record public comments by any individual who is seeking to move here.

5.10.1 Deputy S.Y. Mézec:

Just for clarity, that the Chief Minister would support a rejection of an application on the basis that the person making that application had a history of public racist comments; he would think that would be appropriate ground to reject an application?

Senator I.J. Gorst:

Each case would have to be taken on its merits, because we are a community that prizes and values freedom of speech and differing political persuasions and an articulation of those persuasions.

The Deputy Bailiff:

That brings the time allocated for questions to the Chief Minister to an end. I gave notice at the beginning of the sitting that there was to be a statement to be made by the Assistant Minister for Treasury and Resources. He is going to make that statement now; I believe it has been distributed to Members.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

6. The Minister for Treasury and Resources - statement regarding developments in St. Helier

6.1 Connétable J.M. Refault of St. Peter (Assistant Minister for Treasury and Resources - rapporteur):

S.o.J.D.C. (States of Jersey Development Company) is undertaking 2 significant developments in St. Helier at present: an office building at the International Finance Centre and 187 residential units at College Gardens, the former Jersey College for Girls. I have some progress on which to update Members in respect of both of these projects. Firstly, the International Finance Centre. Today, I am very pleased to announce that S.o.J.D.C. has secured a second major tenant for the building, which is very positive news to the Island and its economy. BNP Paribas has taken up a lease for approximately 24,000 square feet, which is equivalent to 2 floors in the building. **[Approbation]** This letting demonstrates long-term confidence in the Island as a leading financial services jurisdiction. The BNP Paribas letting brings the level of pre-lets in Number 4 International Finance Centre, to 60 per cent. S.o.J.D.C. is in dialogue with other tenants for most of the remainder of the space in Number 4 International Finance Centre, and we can expect further announcements later on in this year. We also fully expect that the building will be substantially pre-let on practical completion, which is due to take place at the end of February 2017. Creating new office accommodation that is modern and efficient is absolutely essential if we are to retain the existing businesses and enable them to grow and attract new businesses to our shores. We are working in an increasingly competitive environment with many other centres bidding for a share of the global

financial services. As highlighted in our policy framework for the financial services industry, we are committed to the continuous development of high-quality office accommodation to meet demand. The International Finance Centre will provide the Island with a bespoke flagship office district upon which to promote its financial services industry. These top-quality companies provide valuable employment for local people and the income we need to run our public services. Turning now to College Gardens: the States of Jersey Development Company has successfully repatriated the oak library panelling from the old building into Jersey College for Girls' new home at Mont Millais. The official opening took place last month and the library has been very well received by the college and the foundation. Out of the 187 residential units, there are 107 units for sale and 80 affordable units for rent and sale. Of the 107 units for sale, S.o.J.D.C. has secured pre-sales on 73 of those units as a negotiation with a social-rented landlord to acquire the 40 affordable rental units for the over-55s. The remaining 40 affordable units will be available to eligible purchasers via a shared equity scheme and will be on the market imminently. Enabling works are taking place on site at present and the main construction works will commence this summer. This important regeneration project will be completed in stages from the end of 2017 to the end of 2018. As part of the development, the States of Jersey Development Company is providing Janvrin School with a permanent solution for its parking by creating 61 additional parking spaces at Janvrin School; 45 of these have already been delivered with a final 16 spaces to be created during this year.

[12:15]

I hope all Members of the Assembly will join me in recognising these announcements as excellent news for Jersey that send a positive signal of genuine recovery in our economy.

The Deputy Bailiff:

There is now a 15-minute period of questions.

6.1.1 The Connétable of St. John:

Once again, the Minister advises the Scrutiny Panel at the same time as the press, the media and everyone else. As Corporate Scrutiny is looking into this, would the Minister please undertake in future to give us longer advice of such a statement in advance so that we can find meaningful questions to ask as opposed to just being given it at the same time as the broader public? Thank you.

The Connétable of St. Peter:

I do accept the criticism; it is well made from the Constable of St. John and my fellow Constables. I have to say that this information only came to light late yesterday afternoon and, as we had a sitting this morning, I wanted to get this out as early as possible to Members. But I do accept I could have emailed the Scrutiny Panel late yesterday afternoon with a shortened version of the statement and I will undertake to do so in future. Thank you.

6.1.2 Deputy M. Tadier:

I am aware that the rapporteur is also the Assistant Minister for Housing. Can he confirm whether we yet have a legal framework for affordable housing? Sorry, I might be mistaken about his role, so I will scratch that from the record, but I think the question still remains the same, do we currently have a legal framework for affordable housing?

The Connétable of St. Peter:

The Island Plan 2011 does set out in there what is determined to be affordable housing and that is the only legal premise that I see at the moment, other than schemes such as we see, the shared equity schemes, which we are trying to promote, and deferred payment schemes to make houses

more affordable. I am blowing my own trumpet, if I may; St. Peter's is having a meeting just this evening – tonight - to agree to start some first-time buyer affordable-in-perpetuity homes with the Parish holding a bond of 25 per cent of value to ensure they remain affordable for every person that owns that property.

6.1.3 Deputy M. Tadier:

My question relates to the 80 affordable units which the rapporteur has spoken about. Can he tell us that these 80 affordable homes will remain affordable in perpetuity and, if not, why not?

The Connétable of St. Peter:

Of the 80, 40 are social rental and 40 are down to be affordable. They will be sold on a shared equity basis. The necessary legislation that underpins that is currently under production in the Law Officers' Department.

6.1.4 Deputy G.P. Southern:

Can the Assistant Minister explain why in the light of the 5-year projections for demand: affordable rent 907 units; affordable purchase 230, a ratio of 4 to one, why, on this particular development, the ratio is in the vast majority 147 for purchase in one form or another and only 40 for social rental? Why is that occurring?

The Connétable of St. Peter:

Certainly, at the end of the last year, the Housing Needs Survey demonstrated that the appetite for rental properties was reducing and the appetite for home ownership was increasing, and that sets the framework within which we are trying to deliver the properties required. Only yesterday I was in a meeting with a major developer looking at the cyclical effect of when we reduce properties coming to the marketplace and how they positively impact, causing an increase in prices. What we need to be doing is putting as much stock as we can into the marketplace which keeps prices down which will also have the effect of reducing rental yields on those cheaper properties.

6.1.5 Deputy G.P. Southern:

We have got 1,000 people or thereabouts on the waiting list, Priority 1 or 2, for rental accommodation, how does this measure and how do his measures supply the big demand which is for social housing rental rather than affordable purchase? Surely he has got his priorities wrong.

The Connétable of St. Peter:

No, I do not think so. We are responding to the appetite, the requirements of the population. One of the issues we are currently faced with is the housing portal - where people apply for housing - is that not many people realise they can also go through that portal for purchase as well, so that distorts the figures in some ways that come out from the housing portal because it shows a predominance of people that only want to rent. The survey put balance to that. I do think one of the issues about social rental housing is being able to acquire the land at a value that makes social rental housing affordable to construct, whereas when we have mixed developments the people that are buying are contributing to the cost of the social housing units, therefore also increasing the value of the homes they are buying.

6.1.6 Deputy M.R. Higgins:

Can the Assistant Minister tell us whether BNP Paribas were given inducements as UBS were to take up space in this particular block?

The Connétable of St. Peter:

In the commercial property world all potential clients are given inducements of one sort or another and I do not expect them to be treated any differently. Thank you.

6.1.7 Deputy M.R. Higgins:

A supplementary? Can the Assistant Minister tell us the nature of the inducement this time? Was it a rent holiday or was it a reduced one?

The Connétable of St. Peter:

I cannot because I do not know the actual details and I do not think I am probably in the position to do so even if I did. There is a commercial between the landlord and the entity concerned.

6.1.8 The Deputy of Grouville:

I am delighted that BNP Paribas are expanding in the Island and that is very, very positive news. However, it is my understanding that the financial centre was there to encourage incoming business into the Island, new companies that possibly offered some diversity into the marketplace, I.T. (Information Technology) companies, eBay, *et cetera*. This move of BNP Paribas from one end of town to another only means another derelict office space. Can he comment please on what is being done about encouraging new business into the Island?

The Connétable of St. Peter:

I thank the Deputy for that question. Yes, it is a very good question and gives me an opportunity to say that S.o.J.D.C. are currently in negotiation with another 20 companies looking to acquire space up to 375,000 square feet on the International Finance Centre. A fair number of those are external businesses that we are trying to attract to set up and bring new businesses into Jersey. We are working alongside Economic Development in that regard to bring in these new businesses. Some of the high net worth individuals are bringing their businesses with them and taking up the space that we are making available to them down at the International Finance Centre. Thank you.

6.1.9 Senator P.F.C. Ozouf:

Mindful of the millions of pounds at stake that are often made when leases are signed, and wearing the competition hat, can I just test with the Assistant Minister whether he is of the view that the commercial office market is working fairly, are there any appeals from competitor developers on this site, or is it in relation to the adjacent sites? Could he confirm if it is, that they are competitors or persons linked with those developers who are making the appeals?

The Connétable of St. Peter:

I want to be very careful not to stray into the *J.E.P. (Jersey Evening Post)* headline of last night because that is probably considered to be *sub judice*. If one looks at the International Finance Centre, it has had to jump many more hurdles and is continuing to jump many more hurdles than any other comparable developer in Jersey currently has to do. It is delivering the highest-quality buildings in Jersey on what they call the BREEAM Excellent rating. There are no other buildings in Jersey which meet, or currently being built which will meet, that high standard that we are setting for our buildings in Jersey. I think it would be fair to assume that probably some of the measures that are being played out with regard to the finance centre could be considered anti-competitive. Thank you.

6.1.10 Deputy R. Labey:

Yes, the Deputy of Grouville asked my question but if I could, on a similar theme, just drill down a little bit further. The Assistant Minister says that further announcements are expected later this year. Could he indicate of those further announcements on the lettings of the I.F.C. (International

Finance Centre), what percentage at this stage could he say might be new businesses as against relocations of existing businesses here?

The Connétable of St. Peter:

A very difficult question for me to answer. That is work in hand at the operational level within S.o.J.D.C. and I am assured by them they are dealing with clients for both local and external businesses. Of course, if we look at some of the current businesses like BNP or UBS, they do acquire other new businesses which they bring in to improve their holdings, which in turn increases the actual business activity being carried out in Jersey and in taxation yields coming back to the Treasury. Thank you.

6.1.11 Deputy J.A.N. Le Fondré:

In relation to the old J.C.G. (Jersey College for Girls), has there been any change in the number of affordable rental units between what was originally being mooted or proposed and now?

The Connétable of St. Peter:

Not that I am aware of but I will check and get back to Deputy Le Fondré.

6.1.12 Deputy M. Tadier:

The Connétable spoke about bringing more 1(1)(e)s in who potentially would fill some of the Waterfront office space with their new companies. Does he accept that it is problematic if we are seeking to bring in 1(1)(e)s who will pay no company tax in the Island and who will effectively be paying about 1 per cent tax if they are resident as a beneficial owner, whereas local entrepreneurs would of course be paying 20 per cent tax on their tax returns? Is that perhaps counterproductive?

The Connétable of St. Peter:

No, I think the most important thing for me in bringing external companies, whether it is a 1(1)(e) or any other company, into Jersey is the fact that they will employ more and more staff. I think last year was the first year that we got the level of direct staffing in the finance industry back to 12,000, the same level as in 2008. The trickle-down effect is a further 13,000 people employed servicing that industry in Jersey as well. So it is contributing round about 25,000 jobs for the people of Jersey and a significant proportion, I think round about 41 per cent, of our Gross Domestic Product into Jersey. So I think bringing people in, whoever they are, it will give employment to Jersey people, who in turn pay tax, is the right thing to do.

6.1.13 Deputy M. Tadier:

Does the Assistant Minister accept that one of the unintended consequences of giving the 1(1)(e)s a competitive advantage against their Jersey-based rivals would be that in the long term they could render those local established firms uncompetitive and then they would be forced to sack people and then we would be much worse off in the long term because we would not have the same basic tax revenue coming in?

The Connétable of St. Peter:

I am afraid I am having difficulty following the thread from Deputy Tadier and I do not recognise a scenario that he is trying to develop.

6.1.14 Deputy A.D. Lewis:

As regards the College Gardens, my understanding is that any buyers have to lodge a £1,000 deposit and then have 28 days to lodge a binding deposit of 10 per cent. I have a constituent that, after much chasing, finally managed to get documentation after 21 days, 150-page documentation

of the standard terms and conditions of purchase there, but only had 7 days then to read it. Does the Assistant Minister feel this is acceptable practice for the development company to be adopting when some of these first-time buyers, perhaps slightly naïve buyers, are faced with highly-complex documents to read and absorb in very, very short periods of time and then pressured into depositing further significant sums without adequate time to read the documentation?

The Connétable of St. Peter:

Thank you very much, Deputy Lewis, for that question. It is not unusual for developers to have that type of condition; other developers in Jersey do exactly the same thing. However, the detail of the particular case he is talking of does somewhat surprise me and I would hope the S.o.J.D.C. would take a slightly different view and allow some latitude if they have been the cause of the late delivery of the paperwork. I shall raise that with the company. Thank you.

6.1.15 Senator P.F.C. Ozouf:

In his earlier answer, the Assistant Minister said he was concerned about anti-competitive behaviour. Good competition can sometimes appear as though it is anti-competitive but is he so concerned about the potential anti-competitive behaviour that it is time to ask C.I.C.R.A. (Channel Islands Competition Regulatory Authorities) to do a review of the commercial property market to ensure that there is not any unfair competition going on in respect of developers and their actions?

The Connétable of St. Peter:

I am delighted that Senator Ozouf has raised that question because it is a question I would have put straight back to him. Yes, I would ask them to look at it because it is in the best interest of the industry in Jersey.

[12:30]

So, yes, I would very much encourage C.I.C.R.A. to look at this marketplace to ensure that it is competitive, that drives out the best value for people that we are trying to attract here to increase our economic activity and taxation coming back into the coffers.

The Deputy Bailiff:

That brings the 15-minute question period available ... Deputy?

Deputy M. Tadier:

May I ask a question procedurally?

The Deputy Bailiff:

Yes.

Deputy M. Tadier:

Was there anyone else with their light on waiting to ask a question?

The Deputy Bailiff:

No, there was not. I understand the point.

PUBLIC BUSINESS

7. Draft Former La Motte Street School (Validation and Abrogation of Covenants) (Jersey) Law 201- (P.9/2016)

The Deputy Bailiff:

That brings us on to Public Business. The next item is the Draft Former La Motte Street School (Validation and Abrogation of Covenants) (Jersey) Law lodged by the Minister for Infrastructure. I would ask the Greffier to read the citation.

The Greffier of the States:

Draft Former La Motte Street School (Validation and Abrogation of Covenants) (Jersey) Law 201-. A law to validate the use of land formerly known as the La Motte Street School and to abrogate certain restrictive covenants attaching to that land, and for connected purposes.

7.1 Deputy E.J. Noel (The Minister for Infrastructure):

There are 2 reasons for this proposition: the first to cancel the covenants which restrict what the States can do with the property and the second to validate or ratify the past uses of the premises by various previous owners. Since the historical covenants were made in 1840, times have moved on. We no longer have such things as schools for the poor which the covenants call for and the additional requirements to provide for the care and religious instruction of at least 150 children between the ages of 18 months and 6 years, is so specific it is just not feasible. We are faced with having a building that we can do nothing with if we were to abide by the covenants. The covenants... there are no halfway measures available to us. We cannot abide by the spirit of the covenants; we have to abide by the covenant as it is written. The current situation is not providing value to anyone and something must be done. As we say, doing nothing is not an option. We have chosen this route of abrogation or cancelling of the covenants by law after seeking and obtaining expert advice external to my department for 2 reasons. Firstly, it would be impossible to identify and trace all of the relevant parties and their heirs dating from 1840 to enable it to be cancelled by contract of arrangement. We did have an initial attempt but quickly came to realise that it would be impossible for us to ensure that we had covered everyone who could potentially have claim or claim to have a connection. Secondly, this is something the States have done before. In 1936 and in 2006 the old Jersey College for Girls' site had a similar exercise and law passed, in 1960 for the purchase of 33 Belmont Road, again in 1989 for the move from the former Maternity Hospital at the Le Bas Centre to the General Hospital and more recently in 2008 on Howard Davis Farm. The alternatives to passing a special law to abrogate the covenants and validate the past uses are cancellation by agreement with the heirs of the original parties to the covenants and their heirs to the parties to the subsequent amendments of the covenants in the form of a contract of agreement. This has been ruled out, as I said, because of the age of the covenants, the complexities surrounding their creation and the subsequent modification in successive contracts of sale. Identifying every single party and their heirs who may claim to have an interest is considered to be practically impossible. The second potential alternative route would be by compulsory purchase of the covenants. Again, the first problem with this option is the identification of every single party and their heirs who could claim to have an interest and, secondly, the risk of exposing the States to an open-ended and probably expensive legal cost in the event of parties coming forward in future years and the courts ordering legal representation. Compulsory purchase would therefore not bring about the required finality that we are seeking. A third alternative route would have been a representation to the Royal Court; again, the problem of tracing and convening before the Royal Court the heirs of the original parties to the covenants and their heirs to the parties of subsequent amendments to the covenants. It is important to note that the States did not create the covenants by agreement with the vendor. They have been created in earlier contracts of sale and were in place when the States bought the land from the Parish of St. Helier in 1964. This leads me on to the second reason for bringing this proposition to validate or ratify the past uses of the premises by the various prior owners. With hindsight, the covenants should have been abrogated 50 years ago in 1964, given that the States have contravened these restrictions since taking ownership, and the Parish appearing to be in a similar position prior to them. Passing this law will correct what

amounts to a defect in the title of the property. This proposition is not about seeking States approval for the future use of the site and has no connection with any other site, it is purely about cancelling the historic covenants and validating the uses. Basically the decision before Members today is a simple one: do they want to mothball the site for the foreseeable future or do they want to abrogate the covenants and allow new uses to be explored?

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? The Connétable of St. Martin.

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

I thank the Minister for his explanations that he has given by way of email, for arranging for Members to visit the school and the playground last month and his introduction today. I am sure there are many of us that wish we could abrogate - and I had to look up the word, sorry; cancel or repeal something - or to validate possibly the breaches that have been committed for many decades and that would fall away. I do not know if "breaches" is the right word. *C'est la vie*, as they say. I received a call from a parishioner who was very saddened to see the old school site and the building were likely to go as he and many of his friends had fond memories and attended the school there as youngsters. I believe that a parishioner contacted the Minister as well. I am sure there are many others like him that will be interested in today's outcome and the future of the old school and I know what the Minister has just said. We are not talking about the future; we are talking about what we are trying to change. I can understand the concerns of that parishioner but I am sure in his heart of hearts - and he is probably listening to the sitting today because I think he listens to every States sitting - that he realises things have moved on, the inevitable will happen and the complex cannot remain left as it is today or kept as a museum as schools used to be many, many years ago. I have fond memories of the building too. I have sat a number of examinations there in the 1960s when it was used as an examination centre for day release and evening classes. Now the bad news was that I was over 6 years of age and the good news is I passed the exams. Following receiving the proposition back in February and the visit in March, I put some questions together for the Minister for today's debate. Maybe they are not to be needed as such but the sort of things I saw were: can the public find a current use for the building for the education of the poor or even a nursery school for the children in town? When was the time it was last used for such a purpose? When was it last used for care and religious instruction for up to 150 young people, as one of the covenants had stated? Did the public make an error in 1964 when they took it over from the Parish of St. Helier by not ensuring the covenant was removed at that time? Why would the public buy or acquire something that held an 1840 clause that was never kept? I do not think the questions are that relevant today now. We are all being realistic with the situation and accept public concern about leaving States buildings fall into disrepair. However, I would like to make one point really with the Minister during this debate. Compulsory purchase is an issue on which members of the public have very strong feelings - mostly against - and while accepting this is not compulsory purchase, I would like to think today that I am speaking, and we are all thinking, of 2 people to whom we should be very grateful. James Hemery Janvrin, back on 2nd May 1840, when he sold the land to the trustees of St. Helier, the Jersey Infant School, it was for a specific purpose: the real welfare issue for children, then later Sir Jesse Boot, Baron Trent of Nottingham, on 15th May 1926, some 80 years ago next month, when he gifted a further parcel of the land to the Parish of St. Helier for what appears to be for those very same purposes. Both clearly identified what they wanted to see on the site. Therefore, I ask the Minister if the proposition is approved today, that he makes arrangements, he has the foresight to see that they are both formally recognised, the future use of the building, and whether it is going to be a States building, States offices, or whether it is sold for office buildings elsewhere or for housing and that a condition of sale be placed so that both those

benefactors are formally recognised for what they did. By that, I do not mean by a brass plaque on the wall but something more fitting; even for the future use of that building, it is something that is fitting and lasting for the vision that they had 150 years ago. I would hate to see the change of this use now to open the floodgates for other covenanted properties that the States may own and not just being a fund saver for the States. We have got the dormant accounts debate to come later this afternoon. Thank you.

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

We are slightly ahead of our time but it is open to a Member to propose the adjournment. I have 2 people who have listed their desire to speak and I am sure there are going to be a number more. **[Interruption]** **[Laughter]** The adjournment is proposed. Do Members agree that we adjourn? Very well. Just before we adjourn in fact, I am conscious that the Minister for Social Security would like to issue a reminder, I think.

Deputy S.J. Pinel:

Just to remind Members that there is a briefing on the age discrimination legislation in the Members' room at the Société and food will be provided to encourage you all to attend.

The Deputy Bailiff:

Very well, we stand adjourned to 2.15 p.m.

[12:41]

LUNCHEON ADJOURNMENT

[14:16]

7.1.2 The Deputy of St. Ouen:

A proposal to extinguish rights in land comes before this Assembly very rarely and needs the most careful consideration. In my opinion, insufficient consideration has been given by the Minister in this case and, unless I can be persuaded my concerns are without foundation, I feel I must vote against the proposition. If La Motte Street School was owned by anyone else other than the public, the owner could not simply decide to abolish the covenants on the property. The owner would need to make an application to the Royal Court and would no doubt be required to serve notice of the application on those who could enforce the covenants. If those people could not be traced, I think it is likely the court would appoint somebody to represent their interests. The court would sit to hear an application as an independent tribunal and would fully consider all the issues put before it by the owner and anyone who would be entitled to enforce the covenants. Furthermore, if the covenant related to charitable purposes, I think it very likely in line with precedents that the court would strive to ensure that the charitable purposes were continued even in some other way, if not by means of the covenants over the property. The court would strive to ensure that the charitable intent continues, having due regard to the original gifts. Now I contrast that sort of procedure with what is proposed by the Minister. There is no application to the court as an independent tribunal to hear submissions from all the parties involved. There has been no notification to the families of the original donors who may be entitled to enforce the covenant or I think at least should be heard on it. The Minister has said it is impossible to trace them, there are too many. A court I believe would only require an applicant to take reasonable steps to trace those and, as has happened in other cases, could appoint somebody to represent the interests of those who cannot be traced. That has also happened in compulsory purchase procedures where persons unknown happen to be the owners of

land, the court has appointed persons to represent their interests. In this proposition brought by the Minister, there is no independent consideration of the original charitable intent behind the disposal of these properties for educational purposes. Instead, we are asked to make a decision to simply extinguish these rights so that we can deal with these properties without regard to the purposes for which they were originally intended. In this, it seems to me, that we are being asked to act as a judge, a jury, and an executioner and, moreover, to be a judge, jury and executioner without even bothering to inform the defendant there is a trial on. Now the Minister said that the public did not acquire the properties from the original owners and therefore the Minister cannot be expected to seek the consents of the heirs of those owners but I do not think that is a way for a responsible public authority to act. Since the transfer of the property in 1840, the property has been held by bodies who were responsible for primary education in the Island. So in the middle of the 19th century, churches in Britain and in Jersey were in the forefront of a drive to bring education to the masses and government did not really play a role in education at that stage, so James Hemery Janvrin transferred the land to 3 individual trustees. I have had the opportunity to do some very limited researches at the Société Jersiaise library and I believe those 3 persons were linked to St. James's Church and at least one of them was a church warden there. So that was often the way charitable purposes were dealt with at that time in 1840 and there are countless examples in the Island of schools and churches and chapels being established in that fashion. Later on trustees transferred the property to the Parish of St. Helier because by that time the Parishes had taken over responsibility for primary education. Yet, later in 1964, the Parish transferred the property into the name of the public and that passed into the administration of the Education Department because by that time education had been centrally funded. So, it seems to me that at all times the property was being used for public educational purposes in line with the intentions of the original owners and was held by an authority exercising responsibility for primary education in the Island, so there is a line of succession that we could establish. Those responsible for primary education held these properties subject to those covenants. The public now happens to be the relevant authority and provider of education but it is the successor of the churches and the Parishes that had previously been responsible. So I do not believe it is any good reason to say that: "Oh, the covenant was imposed on others and the public acquired it at some stage from third parties and therefore we do not need to have regard to the covenants." Now the Minister has said that the covenants should not have been included in the 1964 acquisition from the Parish of St. Helier and he suggested it was a mistake that they were. He said that there was a defect in title but the fact is that the covenants were included and they were agreed. A formal deed was passed before the Royal Court, it was drafted and considered by lawyers with expertise acting for both the public and the Parish, and the agreement was recorded that the public be bound by those covenants. It has not been questioned in the 52 years since, to my knowledge, until the Minister comes today and says: "Oh, there was a mistake. It was a defect." That is the difficulty for me. We are asked to accept and make a decision on the Minister's statement that there has been a mistake. If a court was making the decision, the Minister's statement would be tested by evidence and arguments but here we do not have the benefit of submitting a question like that to an independent tribunal. In the proposition, the Minister suggests that the age of the covenant is the reason for abrogating it. In the conclusion to the proposition it states: "Due to the passage of time and the passing of the original covenanters, the clauses are no longer considered to be enforceable." No longer considered enforceable. I was astounded by those words. I therefore asked: "Why are we debating this?" because if the clauses are no longer enforceable then there is no need for us to validate and abrogate them. The Minister could surely go ahead and do everything he wishes with the property, so there is an inconsistency here which I do not feel the Minister has resolved. It seems to me that the clauses must be enforceable because we are being asked to abrogate them, to cancel them, to nullify them. That is what he is asking this Assembly to do, so he is asking us to treat the clauses as enforceable. The

Minister is suggesting it will cost time and money to trace the heirs of Janvrin and Lord Trent. I do not believe that is so. So the first covenant dates from 1840 and it is Janvrin's heirs who might wish to have a say in this. Genealogists will tell us that tracing families from 1840 is not so difficult. It is within the period of compulsory registration of births, marriages and deaths. I am sure if we ask some experts, the Société or Channel Islands Family History Society, there will be a lot of research on the Janvrin family but I question did the Minister even consider giving instructions for research to be carried out? All we have in the proposition are the words: "While there are no known living heirs of James Hemery Janvrin ...". Well of course if no one looks we can say that none are known but it is this casual, unconcerned attitude on the part of our Government which shocked me, I am afraid, when I first read this proposition. Even if we think it is a good idea to remove the covenants, use this building and update it as a base for States administration, for example, why do we want to bulldoze through without consulting those who represent the original benefactors and who may have some legal rights in the property? It may take some time, Minister, I would say, and there may be some costs. It is probably more costly than just coming to this Assembly and saying: "Cancel this and forget the whole thing." But the Minister heads a responsible public authority that should not be cutting corners and seeking to ride roughshod over the rights of individuals for the sake of rapidly getting on with a building project. I am even more astonished that the Minister appeared not to be making any attempt to consult with members of the Boot family. This is the family - Sir Jesse Boot's family - who gave to the Island, Coronation Park, FB Fields, FB Cottages, St. Matthew's Church, and no doubt there are other examples of its generosity and they are known. I believe the family owns land and pays rates in St. Lawrence and St. Brelade and it is certainly possible to find the descendants of Baron Trent. I am not sure of his date of death but it is certainly within the last 100 years. But nothing has been said in the proposition about even consulting with these people. Again, is this an appropriate way for a public authority to conduct its affairs? There should surely be real consultation with them. They must be given an ample opportunity to take advice, if that is what they choose, to engage with the Minister and try and ensure that their forebears' original intention is not simply eradicated. So I may wish the building to be updated but I would not wish to forget that the only reason the building is in the public realm is because of the generosity of those 2 men: Janvrin and Lord Trent. They transferred their properties for educational purposes and although there was not a direct transfer to the public, the properties were transferred to those with responsibility for education in the public sphere. I believe it is important to ensure that the intent of the original owners is respected and not overridden and I am saddened that the proposition does not seek to do that. Now the Minister has said that the States have provided an education service on other sites which of course has been the case. The Minister says: "Well that fulfils the wishes of the original benefactors" that is, the States and, before the States took responsibility, the Parishes, would have provided those educational services even if Janvrin or Lord Trent had not transferred their properties. So it is because of the generosity and the benevolence of Janvrin and Lord Trent that La Motte Street School now is in the public realm and is for the public to make use of. It is because of their generosity that we are able to talk about the possibility of creating a set of offices there for States administration. So because of that we should not forget and extinguish, I believe, the original intentions of these benefactors. The last time the States considered an abrogation of a covenant was in the years 2007 and 2008 when it dealt with the covenants at Howard Davis Farm. The States acknowledge that it had power to abrogate the covenants at the farm but P.170/2006 was the proposition brought to the States and it stated: "It is not considered acceptable for the States to accept a gift of this nature and then to simply pass a law revising the conditions relating to the charitable purposes of the gift and use the site for other, non-charitable, purposes with no further reference to the purpose for which the gift was given."

[14:30]

I believe that is an important statement made by the Ministers at the time and I do not understand why it has not been repeated in this proposition. We know that at Howard Davis Farm the land was leased to Jersey Dairy, a commercial undertaking, but I believe rental was paid into a fund which was, and is, being used for the charitable purposes intended by T.B Davis. T.B. Davis made his gift in 1927 and therefore 80 years had passed when the States was dealing with it in 2006. Yet, the Ministers were anxious to replicate the charitable intention and the States agreed that; they shared that proposition. The family of T.B. Davis were also involved at the time and agreement was reached. Now I note that Lord Trent's gift was made in 1926 - that is just one year before T.B. Davis's gift - so I ask myself: why is the Minister not proposing the same sort of arrangements? There is another example that I would like to give and that relates to the former Maternity Hospital. Until 1949 the trustees of a wonderful institution called the Jersey Dispensary and Infirmary ran the Maternity Home and in that year it was transferred into public ownership but a covenant was put in place requiring the building only to be used as a Maternity Hospital. Then in 1989, the States agreed to abrogate that covenant so that the building could be used as office accommodation for the Public Health Department and Family Nursing Services. But the Public Works Department at the time had negotiated with the trustees and it was agreed that the covenant be abrogated in return for a payment. It happened to be a payment of £25,000 to the trustees for their continuing charitable purposes. Now, that was in 1989 and for a long time before 1989 the States had been providing and paying for maternity services and thus for a long time the States had been fulfilling the original purposes that that building was set aside for. So, as the Minister suggests here, it could have been argued then: "Well it is unnecessary to have regard to the original purpose because the States are doing it anyway." However, the States, when dealing with the old Maternity Hospital, wanted to do something, agreed that something should be done, made a contribution, and recognised the charitable intent of the original donors of that property. So those are 2 examples of the States exercising its prerogative to abrogate covenants but expressing its wish to respect and abide by the intentions of benefactors who had given property for public purposes. In those examples, there had been formal consultations with the families or the trust involved who originally placed those covenants on the properties. I very much regret that the Minister has not followed the same course in this case. I feel that this is not befitting of the States if it was to ride roughshod over property rights, over the intentions of families who wish to benefit the public realm in this way, and therefore at the present time I regret I cannot support the Minister. Thank you. **[Approbation]**

7.1.3 The Connétable of St. John:

I follow 2 excellent speeches and I do not mean it in any derogatory manner but the Deputy of St. Ouen very ably pointed out how every expensive and long-winded it can be going down a legal process. I believe one has got to look back to the time when the benefactors made these generous bequests, their intention that it should be of help to the poor of the Parish of St. Helier, to provide an education and to be a benefactor. Unfortunately, the passage of time has made their generosity into a millstone because it is a property that is no longer of use and it would cost too much to bring it back into the position whereby it would be of benefit to Islanders. The Constable of St. Martin very correctly suggested that recognition in more than a plaque, something positive, should be made to recognise the generosity of those benefactors. I find myself in a difficult position because, on the one hand, I fully take on board what the Deputy of St. Ouen has said, and in his speech he made reference to the Howard Davis Farm and the fact that Jersey Dairy is now occupying part of that farm and their rent is paid into a trust so the excellent work of the Howard Davis Farm Trust can continue. In this particular case it appears to be just that little bit grubby. We are grabbing something and I do not see enough being given back in recognition of the generosity of those benefactors. I would ask the Minister to come back to the Assembly with something a little more positive on the side of recognising the generosity of those benefactors, before I can make up my

mind but, unfortunately, we are faced with making a decision today on the information we have. So I shall listen to the other Members in the Assembly before making my decision, but I hope he will take that on board and I hope something positive will be done to recognise the generosity of those benefactors. Thank you.

7.1.4 Deputy M. Tadier:

Likewise, I thought we had a very thoughtful speech just after lunch by the first speaker, who sums up some of the concerns I think that many of us have about lifting a covenant. I think it is absolutely correct, as the previous speaker said, that we have to see this in its historical context, and at the time obviously quite a limited scope was given to the use of those buildings. It talks about for educational, but also for religious instruction of 150 young people, and that does not currently happen. I do not think that has been used for that purpose for quite a long time, so there is already a sense in which that has changed. But I ask myself 2 questions. The first one is perhaps the most important, is how would the instigators of the covenant feel about this debate today? Would they be happy with the way we are proceeding and the decision to lift this covenant? I suspect that they would not, because there was always the intention there for a particular use of the site. Even if we do accept the fact that times change and perhaps there is not as much of an urgent need for some of these uses, although I still think there is definitely in this day and age an absolute need for more facilities for young people, for the looking after of the vulnerable, *et cetera*, and in one sense we can never do enough, I think, for the young people of the Island. Perhaps as a slight aside, I did put a question into E.S.C. (Education, Sport and Culture) not so long ago about the fact that there seems to be a very limited number of facilities in the Island for young people. I talked specifically about basketball courts, and the answer was saying there are about 3 or 4 publicly accessible outdoor courts, but they are not all for exclusive use of basketball. We know that in the Town Park, for example, you have a combined football area with a basketball area, with a skate ramp right in the middle of it so that, rather than providing 3 areas for 3 different sports, you have an area which cannot really be used for any of those 3 sports. If you compare that to the number of golf courses that we have on our Island, there are many more exclusive use golf courses than there are public basketball courts, and I just put that as a way to underline perhaps what we are talking about. Because it seems to me that whatever the uses for this site potentially, and I have heard it even suggested that the site may be used for bureaucratic purposes, it could be a possible location for Jersey's own version of Whitehall, which I think is a combination -0 a portmanteau phrase - of "whitewash" and "stonewall", for the Council of Ministers' new flagship project. I do not think that is within the spirit of what the people of the covenant would be wanting. I think that, if it was to be kept in social use to provide a community social purpose, then that would be very much within the spirit of this, and I am very uneasy about lifting a covenant which was put there. The bottom line is: would these people have given us this land without protection of the covenant? I do not think they would. They wanted it to be kept for this particular use or for similar uses. I do not think they would have given us the land today if they knew we were going to do that, and I think that is what it boils down to. It is not about partisan politics, it is about what is fair and reasonable and it is about not just simply putting a plaque up saying: "Okay, somebody did something nice for us once, but now we are going to change it for our own purposes", but saying: "We will abide by the spirit of that donation and treat it with the respect that those individuals deserve", so I cannot be supporting this, I am afraid.

7.1.5 Deputy P.D. McLinton:

This will not take long, so somebody had to stand up to deliver it. The Deputy of St. Ouen made some fine points, many of which I agree with. However, change is inevitable, except from a vending machine, and so time has moved on and ... I know, that was another bad one, I am aware of that. Yes, time has moved on and I am fully supportive of this proposition, but what I think is

vitaly important is that, with reference to Howard Davis Farm, that the spirit of the original intention of the covenant be respected, and I am seeking assurances from the Minister that it will absolutely, so the benefactors would still look down from their cloud, wherever, and go: "In the modern era, that is a good thing to do with what we gave the Parish." I think that is vitaly important, and I would like to support this proposition, bearing that reassurance in mind and also that, should I vote this through, this is not seen as a rubber stamp to ride roughshod through any inconvenient covenants that may come up in the future, because they all have to be treated as very special cases, and I trust that that will be the case in this case. Thank you.

7.1.6 Deputy J.A. Martin:

I did come here today probably going to support this proposition, but after the really, really excellent speech of the Deputy of St. Ouen, and the missing evidence from the Minister, I am really wondering what to do. I did get the opportunity to go around to La Motte Street. I was probably one of the last because it is my District, but I have visited it loads of times. The place is falling down, but that does not give ... and it is because of what the Deputy of St. Ouen said, we are the public body. We are the States of Jersey. This has been left to us, with covenants on it, to administer. To do this, would this be able to be done if you had been left a piece of land by Aunt Lil 100 years ago and it had covenants on it? No. We can do it because we are the States. As the Deputy of St. Ouen said: where is the evidence to find out whether these people have been traced? They probably would accept that this is not now the best use of the La Motte Street School or the buildings in the surrounding area, but they may, in the name of their ancestors, want something set up, more than, as the Constable of St. Martin said, a plaque on the wall. I see many speeches coming along that might be like this. The Constable of St. John feels uncomfortable. Time has moved on. But where has time has moved on, when people can leave things to the States, 2 very generous parcels of land or buildings to be done with for the poor or for education, or for anything along this line, and we can just walk in and say: "Well, it is so many years ago." What would you do today if you were a rich man and you wanted to make a bequest, a trust? Well, it may be. Sir, I do not really want to stretch your patience, but I wonder if I can do a reference back under Standing Order 83, because reading all these, I need further information. I am sorry, I will sit down, Sir. Do you want me to carry on or sit down? Yes. **[Laughter]** I know who put you in the Chair.

[14:45]

The Deputy Bailiff:

Yes. It is open to any Member to propose a reference back, and it is customary to ask you to specify either what further information you require, or what ambiguity or inconsistency in the information that has been provided that you wish to have cleared up. But if you can specify the information, there is no reason why you should not put a proposition for a reference back.

7.2 Draft Former La Motte Street School (Validation and Abrogation of Covenants) (Jersey) Law 201- (P.9/2016) - proposal of Deputy J.A. Martin of St. Helier for a reference back

7.2.1 Deputy J.A. Martin:

From memory, I should carry on with my speech, and then I will get a chance to close. Yes, I would love to borrow the Deputy of St. Ouen's speech, but there are 4 points I think he makes. Where is the evidence? That is one. There are 2 main benefactors. Who has tried to contact either or at all, to see where we are today? So that is 3. Thirdly, even going back, the Minister never ... he said there was a mistake when the Parish handed it over in 1964, but these covenants, I think he was implying that they were not lost then. But this is only 1964, and we have no proof that the covenants were not just not lost, that the Parish did not intend them to stay. So I think I have

covered the 4 things that the Deputy of St. Ouen is implying to. No; fifthly, the charitable intent, and how the Minister will carry this on under ... as we say, we do not know what the buildings will be. We do not need to know what the buildings will be, but there must be something set aside for this charitable intent that was there in the first place. On that point, Sir, I hope you will agree that I can have the reference back.

The Deputy Bailiff:

If I could just have some clarification; I have only written down 3 points here. It could be that I just missed them. I have: "Where is the evidence?" and I was not sure the evidence for what. But then: "Has contact been made?" or: "Where is the evidence relating to contact for either or both of the families that gave the benefit of the covenant?" Then: "What charitable interests will be established or offered by the Minister as a result?" So, what was the evidence that you were after?

Deputy J.A. Martin:

I am sorry. The first one, the evidence to ... the Minister said it would be too hard to find any remaining survivors of the 2 main benefactors. What is the evidence? Has he tried to even find any?

The Deputy Bailiff:

So you are asking for, what evidence can the Minister offer for what he has done?

Deputy J.A. Martin:

Yes.

The Deputy Bailiff:

What efforts can or will be made to contact either or both of the beneficiaries, and beneficiaries' families, and what is proposed as a sort of *quid pro quo*? Is that ...

Deputy J.A. Martin:

I am sorry, Sir, and to get a definition, was there a mistake in 1964? Were the covenants overlooked when they were transferred from the Parish of St. Helier to the public, or was that the intent of the Parish of St. Helier when it was transferred, that this covenant, only as far back as 1964, were meant to stay? Thank you.

The Deputy Bailiff:

So you make the proposition for reference back on that basis?

Deputy J.A. Martin:

Yes, sir.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition for a reference back?

7.2.2 Deputy E.J. Noel:

If I may, I may hopefully answer many of the questions raised by Deputy Martin, and they are valid questions. To go back to what dialogue and consultation we have had with the 2 principal beneficiary families: the first main beneficiary family is the Janvrin family. That is by far the vast majority of the site. That gift transferred itself into a number of trusts with trustees that were linked to the Church of St. Luke's and St. James. In December of last year, we wrote to the Church of St. Luke's and St. James, and we had a response in January of this year, and if I may, with the

Assembly's consent, just read out that. "Dear Mr. So-and-So [it is one of my colleagues at Property Holdings]. The La Motte Street former youth centre. Thanks for your letter of 22nd December 2015. You are indeed correct that I am presently the incumbent of the ecclesiastical district of St. Luke's and St. James. Having arrived in Jersey relatively recently, I was not aware of the covenant attached to the La Motte Street youth centre, nor am I the successor beneficiary. Accordingly, I have sought the opinion of our legal advisers before replying to you. I am pleased to inform you that we have no objections to the abrogation of the 1904 covenant. As far as we are concerned, you may proceed as you see fit, Sir." So that is from the Very Reverend responsible - I do not want to name the name - of St. Luke's and St. James here in Jersey. So that is the bulk of the site. There is a small area of the site that I circulated to Members yesterday which is, on the forms that people have, the light green shading. This is a small area of the site. That was given to the Parish in 1926 by the late Jesse Boot, Lord Trent. I have to declare an interest. I know many of the family that reside in Jersey. I personally delivered to them the purported proposition in March, so that gave them ample time to go through it. I met with them on site last Friday, and subsequently had lunch later. I have corresponded with them over the last few days, and they understand the position that we currently find in... They do have concerns, quite naturally, that their ancestors are appropriately recognised, and that is right and proper, and that we are not just lifting a covenant out of convenience. With regard to the charitable intent, with the approval of this Assembly, we opened last year the St. James Centre, which relocated the Youth Service and the Prince's Trust to the tune of ... I know the figure was in excess of £3 million for that facility, to free up the La Motte Street site, which had come to the end of its use. Although I do appreciate that the Youth Service and the Prince's Trust activities that had gone on on the La Motte Street site did not comply with the covenant and still do not. We made that decision to invest in that service and to provide them with appropriate accommodation in light of that. As regards to the conveyancing in 1964 between the Parish of St. Helier and the States of Jersey, to my mind that is a legal matter. I would like to maybe ask the Attorney General to advise us on the nature of the transfer of the covenant, how it came to be, as I am advised, erroneously included in that conveyancing.

The Deputy Bailiff:

I do not particularly want to cut you short but I appreciate, as the proposing Minister, your argument is there should not be a reference back because these questions are easy to answer. I propose we keep the debate as focused as possible on whether or not there should be a reference back, and for no other purpose.

Deputy E.J. Noel:

I am just trying to be helpful to Members.

The Deputy Bailiff:

I understand that.

7.2.3 The Connétable of St. Peter:

Sir, just bearing in mind your last comment, I just pressed my light before your last comment, but I was following Deputy Martin. She made a very good comment which prompted something in my own mind. She was talking about the conditions at La Motte Street, how that property is degrading and becoming very dilapidated, and it reminded me exactly of previous debates we have had in this House about Piquet House, 1 Library Place, and of course, the worst one of all, the Le Seilleur Workshop, which has come forward 3 times. I think, on the first time, Deputy Le Fondré was in Jersey Property Holdings. It was valued at around about £400,000. I think that was about 7 or 8 years ago. In my time at Property Holdings it came forward to around about £250,000, so it had gone down, and I think the last offering on it was something like £70,000, because no decisions are

being made to allow it to be used and properly used, and the intent of the trust being passed on in some other form to the people of Jersey. Exactly the same position we are in here now. However, I cannot get past some of the comments made by the Deputy of St. Ouen, and I know from a brief conversation in the Square at lunchtime that the Attorney General is well versed on this particular item, and I wonder if he can help out with what the actual situation is, because I think that if we can get some clarification there, Deputy Martin may well consider withdrawing her reference back, if we can get a fuller understanding of the legal process.

The Deputy Bailiff:

I am going to ask what the question is directed to the Attorney General?

The Connétable of St. Peter:

Basically, just to understand what the background is to this. The Minister is making some quite strong comments here, he has done all his background work and he has legal advice supporting all of that. I would just like to hear the Attorney General's view as to whether that is appropriate.

The Deputy Bailiff:

I do not think the Attorney General can say whether it is appropriate. He can say what the legal position is.

The Connétable of St. Peter:

Exactly. That is what I meant, Sir, yes. Thank you.

The Deputy Bailiff:

Are you able to advise the Assembly?

Mr. R.J. MacRae, H.M. Attorney General

I can assist in relation to the 2 covenants, and also I can mention the 1964 conveyance from the Parish to the public, which I was questioned I think by Deputy Noel about. The position is, as we know, there are 2 covenants or servitudes in this case: the 1840 gift, servitude, from Mr Janvrin, whose name I think lives on through Janvrin School, as I understand it, and the 1926 covenant, the gift from Sir Jesse Boot, as he then was. He was made Baron Trent in 1929 before his death in 1931. Now, neither of those servitudes or covenants provide that the gift should revert to the heirs of the donor in the event that the conditions of the gift are not complied with. Accordingly, the heirs have no status in law in respect of those gifts. The heirs have no power to agree variation or abrogation of those covenants. The covenant in the case of Sir Jesse Boot in 1926 was a personal one and not expressed to be in perpetuity, and his entitlement to sue on that covenant ended on his death in 1931. Nonetheless, both covenants were referred to in the 1964 conveyance from the Parish of St. Helier to the public of the Island, which was not of course a gift. £12,000 was paid to the Parish of St. Helier, and the Parish of St. Helier does have a theoretical right at least to sue in relation to the 2 covenants, but such a right is merely theoretical, as it would be subject to a 40-year limitation period and, indeed, an act of estate from 1963 refers to the former La Motte School and the indication it was to be used for the purposes of further education, contrary of course to the 2 covenants. Indeed, the second covenant in some respects conflicts with the first, and on one view the first covenant has been breached for now over 100 years. But pausing there, the cause of action in relation to the Parish of St. Helier was time-barred 40 years after the conveyance in 1964. Any action must be time-barred and of course, even if there was a theoretical right to sue, any claim would be limited to an injunction or damages; an injunction to ensure compliance with the covenant, or damages in respect of any breach. An injunction could not be granted as it is an equitable remedy defeated by delay, and a delay of 50 years would make it impossible to succeed.

Of course, as to damages, nothing has been lost by the Parish of St. Helier in relation to these covenants. They gained £12,000 and lost the obligation to maintain the premises. So, in summary, the clauses are not enforceable and there are no current rights of individuals that are being ignored or set at nought by virtue of this proposition. As regards the proposition itself, you may wonder why it is being advanced. That is a matter of course for others. The certainty of title is always desirable in these cases, and I do not think I need to say any more. I hope that answers the questions I have been asked.

7.2.4 The Deputy of St. Ouen:

In relation to the submission from the present incumbent of St. Luke's Church which the Minister has read out to us, that incumbent or St. Luke's Church itself is not representative of the Janvrin family. The church was once, or its members were, constituted trustees, and therefore subject to the covenant, but it is really, in my view, the Janvrin family that we should be seeking out and consulting with, as the representatives of the original donor, and not the church, being one of a line of trustees.

The Deputy Bailiff:

Does any other Member wish to speak on the reference back? I call on Deputy Martin to reply.

7.2.5 Deputy J.A. Martin:

It would have been very helpful if some of the information that the Attorney General has just read out would have been put in the report because why do we not know these things? It really is so bad.

[15:00]

It is another thing: "We will just put in as little as possible." We have 2 respected lawyers in the House, the Attorney General and ... sorry, the Deputy of St. Ouen was a lawyer [**Laughter**] and still is a lawyer. I have 2 completely different ideas. When I brought the reference back, it was to get more information. Now, who do I believe? I have not seen any of this written down. I cannot question it. I have to take it on the say-so of the Minister. Even in the proposition, the Minister says they had no reply from the ecclesiastical district of St. Luke's and St. James and now he has just read out a letter. Yes, I am sorry, I cannot say that word either, Minister, but I am sure I am one. Anyway, I maintain that this again is: "Can we do it?" because the Attorney General has just told us that the Parish of St. Helier is time-barred. It was 2004, I think, if we work it out, 40 years. So we cannot do anything, and the bequest or the covenant died when the people died, because they are not transferred to their ancestors, or their children. No, not their ancestors. Descendants, yes, I will get there in a minute. So I am still very, very confused. The Constable of St. John said we are... and I know the Le Seilleur building, and I do not want La Motte Street to be like this. No one has ever come to this House and asked for the Le Seilleur covenant to be lifted. This is a dispute going back years as to what it should be worth, what will it go for? The Parish has offered to take it off their hands and make it an extension of Millennium Park. A complete red herring. What I am asking for and, as I say I did not make this case, the Deputy of St. Ouen did and he made it very, very well, and I absolutely understand that the information that the Minister has received from the Attorney General is the information he has just given to this House, but has anyone really had time to look at it? He has stood up on the hoof and made exactly what should have been in the proposition, not what is in the proposition. So I maintain the reference back, if only you should vote for this to send the Minister back, tell him to do his homework, bring it back. It will go through very quickly and then we will all be happy. But I need these ... lots of States Members and the public do need these questions answered. What is the value of a covenant, and how much do

we respect it? Can we literally, because we are the States, just walk over it? I maintain the reference back and ask for the appel.

The Deputy Bailiff:

The appel has been called for. I invite Members not in the Assembly to return to their seats. I ask the Greffier to open the voting.

POUR: 22		CONTRE: 18		ABSTAIN: 1
Connétable of St. Mary		Senator P.F.C. Ozouf		Connétable of Trinity
Connétable of St. Ouen		Senator A.J.H. Maclean		
Connétable of St. Martin		Senator I.J. Gorst		
Connétable of St. Saviour		Senator L.J. Farnham		
Connétable of Grouville		Senator P.M. Bailhache		
Connétable of St. John		Senator A.K.F. Green		
Deputy J.A. Martin (H)		Connétable of St. Clement		
Deputy G.P. Southern (H)		Connétable of St. Peter		
Deputy of Grouville		Connétable of St. Brelade		
Deputy J.A. Hilton (H)		Deputy E.J. Noel (L)		
Deputy K.C. Lewis (S)		Deputy of St. John		
Deputy M. Tadier (B)		Deputy S.J. Pinel (C)		
Deputy M.R. Higgins (H)		Deputy R.G. Bryans (H)		
Deputy J.M. Maçon (S)		Deputy R.J. Rondel (H)		
Deputy S.Y. Mézec (H)		Deputy A.D. Lewis (H)		
Deputy of St. Ouen		Deputy M.J. Norton (B)		
Deputy L.M.C. Doublet (S)		Deputy G.J. Truscott (B)		
Deputy R. Labey (H)		Deputy P.D. McLinton (S)		
Deputy S.M. Wickenden (H)				
Deputy S.M. Brée (C)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				

8. Draft Education (Provided Schools – Amendment of Law) (Jersey) Regulations 201- (P.14/2016)

The Deputy Bailiff:

Very well. The next item of Public Business is the Draft Education (Provided Schools - Amendment of Law) (Jersey) Regulations 201-, lodged by the Minister for Education (P.14/2016), and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Education (Provided Schools - Amendment of Law) (Jersey) Regulations 201-. The States, in pursuance of Articles 3(4) and 68 of the Education (Jersey) Law 1999, have made the following Regulations

8.1 Deputy R.G. Bryans (The Minister for Education):

Hopefully, this is a very straightforward proposition. [Members: Oh,] It is simply ... thank you for that sitting ovation. It simply assures the wording of the Education (Jersey) Law 1999 is up to date and contains the correct names of States schools. Jersey College for Girls Preparatory School would like to change its name to something more gender neutral in time for the start of the next academic year. This is to reflect the fact that the primary school currently has 374 pupils and 99 of them are not girls. Half of the students in receptions, year 1 and year 2, are boys every year, and

every year the head teacher is asked by parents, quite understandably, why J.C.G. Prep is still referred to as a girls' school when it is clearly co-educational. As the head teacher herself points out, one of the core values of the school is to encourage a sense of belonging, but the current name is at odds with that. So this is a logical, sensible step that will mean the school's name is more appropriate for the girls and boys who go there. In September 2016, it will be called Jersey College Preparatory School. Parents are aware and the name change is fully supported by the board of governors and the P.T.A. (Parent Teacher Association), and provided there are no objections here today, working groups will be set up with parents to finalise the practical steps needed behind the name change. To make sure the law is correct, the States is being asked to amend schedule 1, which is a list of our provided or state schools. We also have to change all of the sentences where J.C.G. Prep is specifically mentioned by name. Just to be clear, the States is not being asked to approve the name change. That is a matter for the school, its governors and its community. The Assembly is being asked to approve the change to the law so that it accurately reflects the new name. Also, while making this update, we have taken the opportunity to remove the name of St. James School from the list. It was mentioned in the earlier proposition. It formerly housed a unit for primary school special educational needs but numbers fell to single figures and the service was re-organised and it was no longer needed. St. James, as it was, closed in 2011. The buildings, again that were mentioned earlier, have been since refurbished and are now part of the Jersey Youth Service headquarters which includes the highly successful art facility in the former St. James church next door. The old school is now the base for the various Prince's Trust programmes which are delivered in Jersey by our Youth Service so it is still very much in educational use for this very important scheme.

The Deputy Bailiff:

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

Senator P.F.C. Ozouf:

Sir, do I need to declare a retrospective conflict of interest, Sir, as a Member who went to J.C.G. preparatory school? Sir, I do not think so. **[Laughter]**

The Deputy Bailiff:

I think you cannot have a retrospective conflict of interest.

8.1.1 Senator P.F.C. Ozouf:

That is fine, Sir. It is a very good school and it is absolutely bringing it up to date. I had no disadvantage being at a preparatory girls' school but I absolutely support the move.

8.1.2 The Connétable of St. Martin:

The Minister is on to a few of the questions I was going to ask. As a former Beaulieu Convent schoolboy **[Laughter]** ... that explains a lot, I know, but it did not have the girls preparatory school name in it and it was not a provided school as such but I think it makes sense entirely to have this change and, as I say, the Minister has answered a couple of the questions about the consultation with the parents. But the only thing that the proposition does state is that there will be no financial implication and I am just wondering if the Minister can confirm. The things like the school headed paper, the school notice boards, maybe the school badges on the blazers for the parents, so I think there probably is some financial implication for somebody and maybe not the States. Thank you.

8.1.3 Deputy L.M.C. Doublet:

I have a question for the Minister on the St. James School which obviously is not there anymore and is a different model which we looked at with our S.E.N. (Special Educational Needs) review with Scrutiny. We did find that the model of including children with special needs within the mainstream schools, that inclusive model did work really well where there was a unit within that school to attend to specific needs such as those with hearing difficulties or behaviour difficulties. But there are some concerns possibly that not all schools have these units and there are perhaps a lack of facilities where children are being, quite rightly, included in mainstream schools and they have needs. Can the Minister just outline please is he intending to expand the replacement for St. James and include more of these special units within all of our primary schools please?

The Deputy Bailiff:

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

8.1.4 Deputy R.G. Bryans:

Thank you for the questions. To answer the Constable of St. Martin, it will be a gradual introduction to avoid extra expense. While the 2 main road facing signs at the school will be changed straightaway, other signage will be replaced over time. Existing stationery will be used up first and the new name will only appear when new stock is ordered. The school logo will be adjusted to remove the "G" rather than completely re-design at this stage. There is a question about the uniform. Currently, the boys wear the gold and black of Victoria College, a completely different school. Again, this will be phased in gradually and be a matter for the parents' working groups so the working groups will be addressing those issues that he has raised. With reference to Deputy Doublet, yes, this allows me to just again mention the nursery education funding and the situation that has arisen with that particular saving. One of the elements we will be looking at is special educational needs and, to some extent, increasing the opportunities offered, as she describes, in as many schools as we can. Thank you.

The Deputy Bailiff:

All Members who are in favour of the principles, kindly show. Those against? The principles are adopted. Does the Education and Home Affairs Scrutiny Panel wish to scrutinise the matter, Deputy?

Deputy L.M.C. Doublet (Chairman, Education and Home Affairs Scrutiny Panel):

No, Sir.

The Deputy Bailiff:

Do you wish to deal with the matter in secondary and how do you wish to propose the Regulations, Minister?

Deputy R.G. Bryans:

En bloc please, Sir.

The Deputy Bailiff:

The Regulations are seconded? **[Seconded]** Does any Member wish to speak on the Regulations? No Member wishes to speak. All Members in favour of adopting the Regulations *en bloc*, kindly show. Those against? The Regulations are adopted. Do you propose the matter in Third Reading?

Deputy R.G. Bryans:

Yes, Sir.

The Deputy Bailiff:

Is it seconded? **[Seconded]** Does any Member wish to speak on Third Reading? If not, then all Members in favour of adopting the Regulations in Third Reading, kindly show. Those against? The Regulations are adopted.

9. Draft Education (Amendment No. 3) (Jersey) Law 201- (P.15/2016)

The Deputy Bailiff:

The next item is the Draft Education (Amendment No. 3) (Jersey) Law 201- lodged by the Minister for Education. I ask the Greffier to read the citation.

The Greffier of the States:

Draft Education (Amendment No. 3) (Jersey) Law 201-. A Law to amend further the Education (Jersey) Law 1999.

9.1 Deputy R.G. Bryans (The Minister for Education):

This is the follow-on from the situation we found ourselves with P.14. We also bring you forward this amendment which will mean the Minister for Education can update the names of schools in the law more quickly and efficiently in future. It simply changes the Regulation making power to an Order making power removing the necessity for a States debate. The reason we have 2 propositions is primarily a timing issue. If a school is to change its name, it is preferable for this to be in place at the start of a new academic year. Under existing regulations, we can specify a commencement date so that the name change for J.C.G. Prep will take effect on 31st August 2016. However, the law drafting team have advised that they cannot guarantee exactly when this law change would come into force because of the requirement for it to go through the U.K. Ministry of Justice and Privy Council and registration in Jersey after approval by the States. To recap, the change of schools' names mentioned in the law simply reflects what the school has decided so that it can be done by Order rather than Regulation. I commend this to the Assembly.

The Deputy Bailiff:

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

9.1.1 Deputy L.M.C. Doublet:

I just wanted to make Members aware that the Education and Home Affairs Scrutiny Panel is inclined to call this in. I want to thank Deputy Le Fondré for bringing something to our attention where we had considered this and believed it to be non-contentious but there is a concern and I would like some clarification from the Attorney General please in this respect. While the panel are content with the intentions of the current Minister in this respect, there may be implications for any future Ministers, whereas if a Minister could remove the school from the list of provided schools, would it then not be subject to the Education Law and, in effect, that would be a privatisation of that school? So I wonder if the Attorney General could just clarify whether that is in fact the case.

The Deputy Bailiff:

Are you able to assist, Attorney General?

The Attorney General:

I am not sure I can answer the question in its full extent but I can indicate that the effect of it will be to amend the Education Law 1999 so that the list of provided schools which is contained in a

schedule to that law can be altered by Order as opposed to Regulation. I am not sure that answers the question.

[15:15]

Deputy L.M.C. Doublet:

So does that mean if the school is not on the list of provided schools, they are not subject to the Education Law?

The Attorney General:

It would cease to be a provided school. Yes, I think so.

The Deputy Bailiff:

Do you wish to speak or is it a question for the Attorney General?

Deputy J.A.N. Le Fondré:

Just as a comment, Sir. Speak.

Deputy L.M.C. Doublet:

Sorry, Sir, if I could continue. We would like to call it in then, so I do not know if that will impact on Members' speeches today.

The Deputy Bailiff:

Thank you, Deputy. Next, Deputy Le Fondré.

9.1.2 Deputy J.A.N. Le Fondré:

Really just to clarify, yes, again, fully understanding the Minister's intent - and I have absolutely no issue with the ability to change names by Order as that makes perfect sense - the ramifications of removing a school from schedule 1 of the 1999 Education Law is significant and, in my view, that ability to remove a school from that list should remain within the Assembly and should be by Regulation. That is my view. I hope that the panel look at it and come back and report to us. To me it only requires a minor change in the wording to split the naming ability versus the removal. If the school is not on schedule 1 in the 1999 law, it is no longer a provided school and that has implications in all sort of areas, as far as I can see. I did raise it with the Attorney General earlier today.

9.1.3 The Deputy of St. John:

I wonder if I could just ask the Attorney General with regards to Article 7 of the Education (Jersey) Law 1999, it refers to provided schools and the duty of the Minister to consult and report to the States Assembly with regards to removing a school or getting rid of that particular school. I was wondering whether this particular change would still require him to bring forward a report to the Assembly and have to come before the Assembly to make that change under Article 7.

The Attorney General:

I have not got the law in front of me, only part of it, so I cannot answer that question now. My laws have been moved for updating.

9.1.4 The Connétable of St. Martin:

That is another interesting proposition. I suppose if it had been brought earlier in the past, we would not have gone through P.14 this afternoon. The query I had for the Minister - and I am sure the proposition will be supported although it may be called back now - while accepting the Minister

for Education could at any time in the future remove a name of a school, and I suppose that makes sense if the school has gone, the Minister could also rename a school. If my understanding is correct, he could rename a school without coming back to the States because you could just do it by Order in the future and that could be to enable the Minister of the time's liking without any consultation with anyone. I take it it could happen. Thinking of schools like Les Quennevais School which is going to be a new school in effect, would the new school just be called Les Quennevais School or the Minister of the time could call it the Deputy Bryan's Academy or the Constable Le Troquer's Progressive High School or something like that. **[Laughter]** So if he could answer me those questions, thank you.

9.1.5 Deputy R. Labey:

Just very quickly, I wonder if the Minister might consider floating the idea with the Jersey College for Girls and those who attend the school as to whether they might want to think about making the inevitable jump to changing the whole school to just the Jersey College. It was the Jersey Ladies College when I went there when I did classics there. It was the Jersey Ladies College when my mum went there and boys of course from Victoria College. Victoria College is not Victoria College for Boys. It is Victoria College. The Jersey College for Girls have got in first and they are the Jersey College. It is a fantastic name. I am not being particularly left wing here but I did spend some time in Islington and I remember directing a production of Benjamin Britten's *Let's Make an Opera* at the Sadler's Wells Theatre and there was a huge school audience for that and we thought we had a winner here. People were enjoying it and, very quickly, part of that opera is you teach the audience the songs and to do that, we were dividing the kids up into boys and girls, *et cetera*, and men and women. There are all sorts of hymns that you learn throughout it. It is quite brilliant. Then after the first show horrified Islington teachers would come up to us and say: "What are you doing?" This, by the way, is 25 years ago: "We never divide people up by their sex." Islington is particularly left wing: "We never divide people up by their sex." I said: "Well, how do you do it then? Like, what signs are on the toilet doors?" They said: "Do not be ridiculous." But we could do apples, we can do pears but we are all moving away from defining people by their gender and especially starting with not defining young people by their gender. So it might be an idea that the Jersey College might want to consider. That is all.

The Deputy Bailiff:

Does any other Member wish to speak on the principles? Attorney, do you want to add to ...

The Attorney General:

Can I respond to the question I did not answer for the Deputy of St. John please? Yes, under Article 7 of the Education (Jersey) Law: "The Minister has a duty to review the provision of school places and where the Minister believes that a new school should be provided or the character of a provided school altered or a provided school closed, he shall consult upon the proposal in accordance with Article 7 giving notice to the governing body, teachers, staff, parents and giving at least 2 months to make representations" and so on.

Deputy J.M. Maçon:

Could I just ask for clarity on that? Within that Article, will consultations have to come back to the States Assembly for approval or ...

The Attorney General:

Yes: "The Minister shall, not later than 3 months after the day upon which the period for consultation expires, report to the States upon the proposal."

Deputy J.A.N. Le Fondré:

Further clarification that it is “report” and not “bring a proposition to the States”.

The Attorney General:

“The report to the States shall state the proposal and the reasons for it, indicate any revision of the proposal and give the Ministers recommendation in respect of the proposal.” That is what the law provides.

The Deputy Bailiff:

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

9.1.6 Deputy R.G. Bryans:

If I can just give some further clarification because I did ask this question earlier and I think colleagues of mine of the department have had a reference from some of the law drafters just to maintain what the A.G. (Attorney General) has just said which is Article 7.3(b) and 3(c) means that the Minister is required by law to go through the consultation and referral to the States if he feels that the character of a provided school should be altered or a provided school should be closed. It is not possible to privatise a school by simple removing the name from the list in the schedule. So I hope that gives you some clarification. With the reference to the Constable of St. Martin, I have not thought of Bryans Academy for Les Quennevais. I will add that one to the list, thank you very much indeed, but I understand the concerns on this. Once again, this is really just making sure that we have got this opportunity to make things speedy and efficient. I think I have just clarified the fact that we would be required by law to come back to the States if there was any kind of consideration to close or to privatise a school. I would need to do that and I will comply with that obviously. With reference to Deputy Labey and J.C.G., it was mooted at the time. It was discussed with Jersey College for Girls when we were going through this and they felt at this point in time that the *esprit de corps*, the very thing that they constructed at this point, would not exist in the same way if they were to change the name at this point in time so I hope that answers the questions.

The Deputy Bailiff:

All Members in favour of adopting the principles, kindly show. Those against? The principles are adopted. Deputy, does the Education and Home Affairs Scrutiny Panel wish to scrutinise the matter?

Deputy L.M.C. Doublet (Chairman, Education and Home Affairs Scrutiny Panel):

I want to thank the Attorney General and the Minister. They have given some reassurance but I do think the panel has a duty to take a closer look at this given that there are some concerns, so, yes, we would like to call it in and I would welcome any Members who would like to come and speak to us and give their views on it. Thank you.

The Deputy Bailiff:

Very well. Can you indicate within the next ordinary sittings in the States Assembly when you would wish to bring the matter back?

Deputy L.M.C. Doublet:

Yes, Sir. I should think we could be very brief. I think 2 sittings should suffice.

The Deputy Bailiff:

Very well. Then the matter is referred to Scrutiny on that basis.

10. Draft Protection of Children (Nicotine Inhaling Products) (Jersey) Regulations 201- (P.23/2016)

The Deputy Bailiff:

The next item is the Draft Protection of Children (Nicotine Inhaling Products) (Jersey) Regulations 201- led by the Minister for Health and Social Services and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Protection of Children (Nicotine Inhaling Products) (Jersey) Regulations 201-. The States, in pursuance of Article 2 of the Protection of Children (Restriction on Supply of Goods) (Jersey) Law 2009, have made the following Regulations.

10.1 Senator A.K.F. Green (The Minister for Health and Social Services):

The increasing popularity and use of electronic cigarettes, also known as vaporisers, will likely not have escaped Members' attention. These products are mostly being used as an alternative to or alongside the smoking of tobacco. Currently these products have no more regulation than the current general consumer products. However, these devices are designed as a nicotine delivery system and indeed most fall within the description of a nicotine inhaling product. On the basis that these products contain addictive nicotine and that the current long-term health risks of using these products are unknown, I have felt compelled to bring forward regulations to protect our Island's young people by restricting the sale and supply of these products to under 18s. The U.K. has already implemented their own regulations to restrict sales to under 18s and we must not fall behind. Over the past 5 years, there has been considerable growth in the use of these nicotine inhaling products with an estimated 2.6 million adults in Great Britain using the product. However, research shows us that use is mostly restricted to smokers and ex-smokers. In Jersey, numbers are low with only 2 per cent of adults reporting using these products daily or frequently. We currently only have anecdotal information on the very low levels of young people using these products locally. In Britain, the surveys show children's awareness and experimentation with electronic cigarettes is increasing although regular use remains rare still. However, a more worrying trend in the use by under 18s has been reported internationally. In particular in America where the Centre for Disease Control and Prevention is reporting a tripling use among middle and high school students between 2013 and 2014. I would suggest we must learn from America. We must learn that it is much harder to reduce an increasing trend than it is to prevent it from happening in the first place. We must act now to ensure that the use of these addictive products for our Island's young people is prevented. So why must we act? Why are we so concerned about the potential use of these products by young people? Well, firstly, the majority of these products, as I have said before, contain nicotine. Nicotine has been linked with harm for people with existing heart conditions and can cause impaired growth as well as brain and lung development problems during pregnancy. Nicotine can stimulate acid in the stomach and therefore leading to ulcers. Nicotine replacement therapy is licenced in use for pregnancy for those with heart conditions as well as under 18s to support them when they are trying to cease smoking. This is because the preferred source of nicotine is licensed from what is known as the N.R.T (Nicotine Replacement Therapy) over smoking. Because N.R.T. is already accessible to under 18s, you might note that the Protection of Children (Nicotine Inhaling Products) (Jersey) Regulation 3 and 4 do allow an exception for under 18s. The reason for these exceptions is to ensure that those who are under 18 who may require support in stopping smoking can access an authorised medical product and/or products including nicotine inhaling products which may be used in their treatment to support their removal from the addiction of nicotine. These exceptions ensure the safe access of nicotine

inhaling products by under 18s within the law providing it is medically supervised. E-cigarettes have been reported as being safer than smoking and this is likely to be the case because there is no combustion or burning as there is in conventional smoking which draws tar, particles and toxic gases into the body. This absence of combustion makes cancer and coronary heart disease risks of e-cigarettes lower than smoking.

[15:30]

However, e-cigarettes are not, and I repeat, not risk free. Our own local health position continues to be one of caution. We believe that in an unregulated market with hundreds of available products, it is not possible to establish a definitive level of harm or relative safety. In addition, as this is a new and evolving situation, the science of research is also new and evolving and we believe that we must continue to advise that medical nicotine replacement therapy should be a choice in supporting smoking cessation rather than a replacement for smoking. In summary, these proposed regulations will bring us in line with the U.K. It will ensure that we have taken the necessary steps to protect our Island's young people from the widely available consumer product containing an addictive substance linked to health harms. Additionally, in the case of e-cigarettes and vaporisers, it will protect under 18s from a product of which the risks of long-term use are not yet understood and are unknown. I make the proposition.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] Deputy Tadier.

10.1.1 Deputy M. Tadier:

This is a slightly strange one because it seems that, in one sense, if somebody is trying to give up cigarettes, e-cigarettes have found a niche and I by no means for one moment think that there is not a cynical exploitation of the explosion of e-cigarettes out there. It is questionable to what extent they are used to help people give up or simply they act as an alternative or it could be argued that they keep people hooked on nicotine because you can endlessly drag on one of these e-cigarettes, whereas when you come to the end of the analogue cigarette, if you like, you know it is finished and you have to at least physically light a new one. You may not want one straightaway when all that tar has been ingested into your lungs so there may be a natural refractory period. I understand all that. That goes without saying. I am not saying e-cigarettes are good but I think it is clear that they do provide a function for those wishing to give up cigarettes. I am not one who normally stands up as some kind of libertarian and is sceptical about all States intervention and I think Members will know that about me by now, but I think sometimes we can over legislate and there can be unintended consequences. I will give one example. I will ask a question first of all. Is it the case that no under 18 year-olds in Jersey smoke? Do we think that there are any 14 year-olds to 18 who come out of college perhaps still dressed in their Jersey College uniform or it could be another uniform and do not light up a cigarette there and then or do they perhaps sneak around the bike sheds? Do they have some of their parents' cigarettes when they get home? I was recently in France just for a short trip and I was quite surprised when I was in a cafe to see a whole group of what I judge to be around about 16 year old students coming out from the *lycée* no doubt all sitting *en masse* in a cafe at lunchtime with their sandwiches buying a drink and I think most of them there, if not, more than half, were smoking and some of them were smoking e-cigarettes. Now if I had a 15 year-old or 17 year-old son or daughter who was smoking and got hooked on cigarettes and was obtaining them from somewhere, it would seem slightly perverse that they could quite happily, not necessarily legally, but still nonetheless smoke their cigarettes but if they wanted to go into a shop and buy an e-cigarette because they were trying to come out of that cycle of dependence, they could not do that. So it seems to me that could occur. In the report, the Minister says: "We must ban nicotine because nicotine is not risk free." Most e-cigarettes contain nicotine.

It is an addictive drug that stimulates the nervous system increasing the heart rate and blood pressure which is exactly what coffee does. Coffee does that. You can replace that and say caffeine is an addictive drug. It is highly addictive. It is one of the most addictive certainly in the short term that stimulates the nervous system increasing the heart rate and blood pressure and it has been linked with heart conditions. We all know what can happen if you drink too much coffee. Other problems can arise. So the question that I ask is, is this the thin end of the wedge? Is it proportionate to what we are trying to solve? Is there really a problem out there which requires this kind of legislation to be put in place? I am not fully convinced that it is. I have been reading a scientific American article which says that nicotine may be no more harmful than caffeine and that by giving up cigarettes and converting to e-cigarettes, you remove 90 per cent of the health risks. It is surely better for people to be using these instruments in the short-term hopefully to get over a much worse drug and a much worse product. Because at the end of the day, it is not the nicotine that kills you; it is all the other pernicious chemicals and tars that are ingested over a long period of time. So I am not completely comfortable or convinced that the proportionality test has been met here. It also strikes me that this Government and the Minister for Health is quite happy ... perhaps “happy” is not the right word but certainly from a political point of view, he is quite willing to allow children under the age of 18 to sit in smoke-filled living rooms with their parents who may be chain smokers inhaling real tobacco smoke, not just nicotine but everything that goes with it, unfiltered with absolutely no choice and no protection in laws for them to be able to come to the States or the police and inform them that their parents are subjecting them to these harmful smoke, and it is a form of child abuse in my opinion. That is perhaps where the Minister should really be targeting his legislation. So at the moment I think the school is out for me on this one, I need to hear more from the Minister because I do not think it is really tackling the real issue and I think it is disproportionate potentially.

10.1.2 Deputy K.C. Lewis:

I do not believe in the nanny state but I believe the youth of the Island need to be protected. I just have a few questions for the Minister, whether a body of work has been done either in Jersey or the U.K. regarding e-cigarettes, liquid nicotine or vaporisers. I also have a question whether the laws will be updated regarding advertising in shops? All cigarette items and advertising has been removed from shops; is it the Council of Ministers intention to also remove the liquid nicotine products, sometimes known as vapes, and other products that are available?

10.1.3 Deputy S.M Wickenden:

There is an Assistant Minister in the House that always says the enemy of a good plan is a perfect plan. Yes, I think we are moving in the right direction. I do have to ask a couple of questions though. Deputy Kevin Lewis there asked some very valid questions about advertisement and making sure it is consistent. I would like to know - this is just dealing with the supply - does this give the authority for confiscation if somebody underage is caught with one of these devices so you can stop them from buying the refills, if that is the way we are going? The other one is: how does this affect online sales? Because it is quite easy at the moment for anyone to go on to such online sites and buy them online, are we protected from that as well?

10.1.4 Deputy J.M. Maçon:

I am very supportive of this proposition from the Minister for the younger people of the Island. I think some Members are missing a trick because it is not just about nicotine as a substance it is smoke inhalation in general which is bad for your lungs, regardless of the source of, whether it is cigarettes or an open fire, for example. A lot of the international work done in less developing countries at the moment is focusing on internal fires because of the smoke inhalation and the health problems that causes. So anything that any Minister, in particular the Minister for Environment,

that is bringing forward propositions that will do things to bring cleaner air to the population of the Island, regardless of the source, in my opinion is a good step forward. I will be supporting this proposition.

Deputy M. Tadier:

Can I ask for clarification of the last speaker, it may be potentially something he said ...

The Deputy Bailiff:

Yes, you can ask for a point of clarification on the last speaker's speech.

Deputy M. Tadier:

Does the last speaker accept that we are not talking about combustion here because e-cigarettes work on a vapour system so there is no smoke generated and one is inhaling vapour?

Deputy J.M. Maçon:

Perhaps no visible smoke but you are certainly inhaling chemicals into your lungs, which is not good for you. Whether you can see what is being passed out is another matter and I am not qualified to start going into that.

10.1.5 Deputy J.A. Martin:

Just a brief question arising from that of Deputy Kevin Lewis and Deputy Wickenden. I have a concern, the questions about purchasing these products online. If a youngster under 18 does, and then found to be, like they do now with not illegal highs but now are illegal highs, are they going to be criminalised in any way? I have a great concern about this and it is not in this regulation. Kids who are trying not to smoke think this is maybe the better option, cannot get it here, they are going to go online and use their power of purchase and would we then make them a criminal? I look forward to the answer because it really will decide which way I go on this one.

10.1.6 Deputy M.J. Norton of St. Brelade:

Firstly from the outset may I say that I support this proposition wholeheartedly? The professor, Dame Sally Davies, England's Chief Medical Officer, has gone on record as saying: "We do not yet know the harm that e-cigarettes can cause to adults yet, let alone what they could do for children, but we do know they are not risk free. E-cigarettes produce toxic chemicals and the amount of nicotine and other chemical constituents and contaminants, including vaporised flavourings, varies between products meaning they could be extremely damaging to young people's health." I am sure this is something we should all be supporting this proposition for. In fact the Electronic Cigarette Industry Trade Association have also welcomed the changes and the person in charge of that, Katherine Devlin, has said they have been calling for these changes - when they happened in the U.K. - for a very long time. You cannot get better endorsements than that from both sides of the fence. On from all of that I should like to add a grateful thanks to the work that has been done, not only in the Health Department but also by Trading Standards, from our own department, who have been working alongside here to make sure that retailers have been fully versed of any changes that may happen to the sales. It is of course the supply of the product, the selling and supply of the product, which this law would prevent and that would mean gifting or purchasing, and that is very important to note as well.

10.1.7 Deputy P.D. McLinton:

The very psychological definition of a drug, in this case nicotine, is any drug is a drug that purports to fix the problems it causes, therefore, keep you hooked on an e-cigarette. Now, we do not want young people addicted to e-cigarettes, and our own Medical Officer of Health is on record as saying

that we are completely - as Deputy Norton alluded to - unaware of the other chemicals that form the vapour and the damage that they may hold in the future. So we would be deeply remiss if we did not pass this proposition and see this through because it is our duty to protect the young of this Island from themselves. We have all been foolish when we were young and we have on our hands an opportunity to see this through to help protect the young people from an addictive drug that is nicotine.

The Deputy Bailiff:

Does any other Member wish to speak on the principles? If not then I call on the Minister to respond.

10.1.8 Senator A.K.F. Green:

Members have heard that these proposed regulative measures will protect our Island's children and young people. In response to Deputy Tadier who does make a valid point in relation to children who we do not want to smoke but who might take up smoking and then wish to stop, the law allows under Regulation 3 and 4 for children to use these electronic cigarettes under medical supervision in order to cease smoking. In answer to Deputy Martin, are we going to criminalise young children? No, this law is about the sale, supply, gift of electronic cigarettes and bizarrely perhaps, some people might think, not the use of them. So a person under 18 using it will not be committing a criminal offence, the person who gave it to them, who sold it to them, will be. Advertising: at this stage I have not looked at how advertising might change except that the suppliers will - if the law is accepted by this Assembly - have to make it quite clear that under the law they are not allowed to supply young people under 18. Online: well it will still be a criminal offence in Jersey, you would have to talk to the Attorney General about where the offence is committed but it will still be an offence in Jersey, under any circumstances, to supply or gift these vaporisers if the Assembly accepts this.

[15:45]

I think I have answered most of the questions but I would like to just remind Members the key commitment of the Council of Ministers and this Assembly is to protect our family and communities from tobacco related harm. Deputy Tadier says we should go further and ban smoking in the home. Maybe that will happen one day but it is not on the debate today. Nicotine is an active ingredient in tobacco, it is an addictive substance, and we should not be supporting its recreational use for under 18s. We have regulations to protect children from health harms of tobacco product and e-cigarettes are a nicotine containing product that are not regulated. Currently under the law any child of any age can go and buy that product, not just a 16 year-old, a 4 year-old could go, okay, they might not be able to get to the shop but a 4 year-old could legally buy that produce at the present time. The E.U. (European Union) changes on regulation on these products are now also in process. There is recognition of the grave trend of electronic cigarettes and vapour devices and the need to control their use in support of improving the health of the population. My officers are currently reviewing the E.U. tobacco product directive that makes regulatory changes to cover nicotine inhaling products and are working to recommend appropriate regulation options for Jersey. But at the current time we are behind the U.K. They have already put regulation in to prevent sales to under 18s. Are our young people and our children less important than those in the U.K.? I suggest not. We must keep pace with international best practice and secure the future health of our Island. These regulations are about protecting our children from the recreational use of an addictive product. I urge Members to support this and vote in favour of children's health and our young people's health through these regulations.

Deputy K.C. Lewis:

Sir, a point of clarification? The Minister spoke about he has no plans to change the advertising laws, but we have had no cigarettes under 18s for many, many years and in recent times we have done away with cigarette advertising altogether. Is it not sending out the wrong message if we do away with cigarette advertising but the liquid nicotine products can be freely advertised?

Senator A.K.F. Green:

I was not saying that I was unsympathetic to the Member's point of view but this law is about restricting the sale and the gifting of electronic cigarettes.

Deputy J.A. Martin:

Can we have the appel please, sir?

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. I will ask the Greffier to open the voting.

POUR: 34		CONTRE: 1		ABSTAIN: 0
Senator P.F.C. Ozouf		Connétable of St. Saviour		
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator Z.A. Cameron				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.J. Rondel (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

Does the Health and Social Security Scrutiny Panel wish to scrutinise the matter, Deputy?

The Deputy of St. Ouen (Chairman, Health and Social Security Scrutiny Panel):

No, sir, we do not.

The Deputy Bailiff:

Very well. How do you wish to deal with the Regulations?

10.2 Senator A.K.F. Green:

I am in the hands of Members. There are 4 regulations, I can run through them or I can propose them *en bloc*. *En bloc*, sir.

The Deputy Bailiff:

The mood of the Assembly is clear. Are the Regulations seconded? **[Seconded]** Does any Member wish to speak on the Regulations?

10.2.1 Deputy M. Tadier:

Yes, I did want to ask about the circumstances under which the products can be obtained medicinally by those under 18. I am grateful for the Minister referring me to Articles 3 and 4 but the basic question is - it is not entirely clear to me - but looking at 4 in particular, is it possible for an under 18 year-old to go into a pharmacy where things like nicotine spray can be bought over the counter without a prescription and then take that out and use that. Just for the record, I may - depending on what the answer is - ask for Articles 3 and 4 to be taken separately.

The Deputy Bailiff:

Very well, you have the right to do so. Does any other Member wish to speak on the Regulations? I call on the Minister to respond.

10.2.2 Senator A.K.F. Green:

The Member has a slight disadvantage but, as I say, the intention here is to restrict the law but it is possible to access currently licenced nicotine therapy treatments through the chemist. But they are licenced, that is the difference. These products, the vaporisers and electronic cigarettes, are not licenced.

Deputy M. Tadier:

Can I just ask for further clarification, Sir, because we are talking about nicotine here as the active ingredient both in cigarettes and e-cigarettes. It seems strange to me if the youths find a loophole immediately, that they can go into their nearest chemist, pick it up off the shelf and buy a spray or any form of medicinal nicotine.

The Deputy Bailiff:

Deputy, that is not really a point of clarification. What are you asking the Minister to clarify?

Deputy M. Tadier:

Can the Minister clarify whether in fact it is a myth that there is a difference between medicinal nicotine and the exact same chemical compound which is not bought in a chemist?

Senator A.K.F. Green:

They are very different products. E-cigarettes and vaporisers are an alternative to smoking cigarettes, ordinary tobacco products. The nicotine replacement therapy - the spray - is to help people control their addiction and to come off the product. That is what the chemists sell them for.

The Deputy Bailiff:

Deputy, did you want any specific regulations to be taken separately?

Deputy M. Tadier:

I do want 3 and 4 taken separately because they do not seem to provide sufficient safeguards to what the Minister is trying to do. They are not consistent with the rest of the proposition so I would ask 3 and 4 to be taken separately, together perhaps but ...

The Deputy Bailiff:

Are you content to proceed that way, Minister, we take 1 and 2 first and then 3 and 4 next but together, and then 5?

Senator A.K.F. Green:

Yes, sir.

The Deputy Bailiff:

As to Regulations 1 and 2, all Members in favour of adopting Regulations 1 and 2 kindly show. Those against? Regulations 3 and 4. Those Members ...

Deputy M. Tadier:

The appel please.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. I will ask the Greffier to open the voting.

POUR: 33		CONTRE: 2		ABSTAIN: 0
Senator P.F.C. Ozouf		Connétable of St. Saviour		
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator Z.A. Cameron				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				

Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.J. Rondel (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

Now we come on to Regulation 5, all Members in favour of adopting Regulation 5 kindly show. Those against? Regulation 5 is adopted. Do you propose the matter in Third Reading, Minister?

10.3 Senator A.K.F. Green:

Yes, Sir.

The Deputy Bailiff:

Is the matter seconded in Third Reading? **[Seconded]** All Members in favour of adopting ... I beg your pardon, I should have invited people to speak. Does any Member wish to speak in Third Reading?

10.3.1 Deputy M. Tadier:

I know this is not being called-in for scrutiny and I am not suggesting it should but there seems to me to be an issue which has come about here whereby I appreciate the intention of the law, and even though I had my own reservations, if the current law as it is drafted does not necessarily do what the Minister would fully want it to do or if there were loopholes, then I think it is important that we discuss it here in the Third Reading as well. That is the point that it seems to me that you can go into a chemist and buy an e-cigarette. No, I am not completely *au fait* with what products are and are not available in most pharmacies, but an e-cigarette is a way of giving up smoking, that is the point, that is why they were initially marketed. They may have become something else which is more of a social phenomenon but at their very base, whether it is a spray, a nicotine patch, chewing gum which contains nicotine, or an e-cigarette, they all contain nicotine. It is not really satisfactory for the Minister to say: "We are waging a war on nicotine" because that is obviously the key priority here in the Council of Ministers to wage a war on nicotine, which is relatively harmless, but to have potential for people to get around it. Do we genuinely think that under 18 year-olds are not going to have thought about ways to obtain nicotine? I do not even think it is a particular fad anyway, that it is the latest craze that everyone is going out to do this, but it seems to me that it may well be that it does not necessarily do what it says on the tin. I would at least ask the Minister keep a monitoring eye to see whether there are ways around this and if the harms that we are doing by this very prescriptive and I think somewhat authoritarian approach that we have taken to do today is doing more harm than good in the long run.

The Deputy Bailiff:

Does any other Member wish to speak in third reading? I call on the Minister to respond.

10.3.2 Deputy A.K.F. Green:

I am sorry that I have not so far been able to convince the Member that this is the right route for our young people. The Deputy is fundamentally muddling up the difference between e-cigarettes, vaporisers, and nicotine replacement therapy. The sprays that he refers to that you can go into the chemist are licenced nicotine replacement therapy to help people stop smoking. The laws that we are bringing in about supplying e-cigarettes and vaporisers to young people is to help, hopefully, to prevent them from becoming addicted in the first place, although we do accept that some young people will have smoked, even though we do not want them to, even though we educate them to, even though we are winning the battle and less young people are smoking, will have smoked and will need help to kick that habit. That is why Articles 3 and 4 are there in the law to allow for people to supply under supervision vaporisers or e-cigarettes in helping young people to kick that addiction. But the sprays the Deputy refers to is nicotine replacement therapy, it is a totally licenced product. With the e-cigarettes there are thousands of different mixtures that you can put into these cigarettes that are not licenced, half the time not knowing what is even in them other than nicotine is a consistent part of it.

The Deputy Bailiff:

All Members in favour of adopting the Regulations in Third Reading kindly show.

Deputy M. Tadier:

The appel, Sir.

The Deputy Bailiff:

The appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

POUR: 32		CONTRE: 2		ABSTAIN: 0
Senator P.F.C. Ozouf		Connétable of St. Saviour		
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator L.J. Farnham				
Senator P.M. Bailhache				
Senator A.K.F. Green				
Senator Z.A. Cameron				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy L.M.C. Doublet (S)				

Deputy S.M. Wickenden (H)				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

11. Draft Dormant Bank Accounts (Jersey) Law 201- (P.25/2016)

The Deputy Bailiff:

The next item is the Draft Dormant Bank Accounts (Jersey) Law lodged by the Chief Minister and I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Dormant Bank Accounts (Jersey) Law 201-. A Law to provide for the transfer, to a fund, of balances in dormant accounts, and for the distribution of money in that fund for charitable and other purposes, subject to a right to reclaim those balances from the fund; and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

Sir, could I ask Senator Ozouf to act as rapporteur, it falls within his delegated areas of responsibility.

11.1 Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):

This law aims to enable balances standing to the credit of what are known as dormant bank accounts to be remitted to a new special fund to enable the setting up of a Charities Commissioner, and surplus funds thereafter to be used for good causes. Discussions commenced on having a U.K. equivalent in Jersey of the U.K. Dormant Bank and Building Society Act, as it was, back in 2008, so this has been under discussion for a number of years. It was originally the Jersey Bankers Association who approached officials and suggested that Jersey should develop a similar law to that which had been enacted in the United Kingdom. A Green Paper on proposals was undertaken in 2009, helpful responses were given. Developments in the U.K. have been subsequently followed closely to establish whether anything could be learned from the U.K. experience and officials have specifically liaised with people who operate the U.K. scheme. Obviously Jersey has a large amount of U.K. banking groups that we can draw on the experience from. In 2012 and 2013 law drafting instructions were drawn-up and indeed there was a further White Paper consultation which was concluded in 2015. That consultation closed again with a good response from industry in September 2015. Generally there has been a considerable amount of work to ensure that this law brought before the Assembly today will work, is fit for purpose, and comes with the agreement of the industry, and indeed after having had the benefit of such widespread consultation which has drawn helpful comments from a number of parties. The law aims to enable monies lying dormant in bank accounts at its heart to be used for good causes, instead of effectively sitting unused on the balance sheets of banks. In fact there is an advantage to the banks themselves in this happening. Monies will be transferred, subject to the States approval, to a new special fund to be called the Jersey Reclaim Fund.

[16:00]

From this fund monies will be able to be paid out to a number of charitable purposes and other related purposes for local community activities. That is after, of course, the issue of the Charities Commissioner, which has been a longstanding desire of this Assembly to set up the payments hopefully will be able to be sufficient to be able to set up this Charities Commissioner. The Dormant Accounts Law aims to avoid the disadvantage that the customer has in losing any money standing to their credit because effectively the customer's rights in all respects are preserved. The bank account holder that is subject to a dormant bank account transfer to the Jersey Reclaim Fund will still be able to make a claim for repayment from the fund via his or her bank at any time into the future. Customers do not have to find out information about the Reclaim Fund itself, in fact the whole arrangement is done through the bank. The law envisages that the fund holder, or perhaps the holder finds the bank account, simply contacts their bank and the bank will repay them from their funds. The bank will in turn be entitled to claim the monies paid to the customer from the Jersey Reclaim Fund to ensure that the bank is not out of pocket. Dormant account schemes already exist in a number of jurisdictions. As I said, that includes the United Kingdom, similar legislation in Ireland, Spain, certain U.S. (United States) states, Australia and the Cayman Islands and many more have already been enacted successfully. The introduction of a dormant account scheme is also underway in the Isle of Man. As I have explained, the law before Members was developed in consultation with the public and has had considerable input from the experience from the U.K. reclaim fund who administer the scheme, that is the body that administers the U.K. scheme. I am grateful for the Members who have attended the briefings that we have held on that. The team of officers that have been working on this have enjoyed Members' questions and answered questions from Members, and we have also answered a number of email questions and queries from Members since the invitation to respond to questions. I am aware that the Scrutiny Panel does wish to scrutinise the Articles, which is of course their right. I will not, therefore, speak in great detail but I will simply summarise - because it is just the principles - what effectively the law, if enacted, will do. Just very simply, firstly the responsibilities, duties and the functions to run dormant bank accounts are given to the office of Chief Minister. Those responsibilities focus on effectively 3 main areas: firstly, to ensure that the Jersey Reclaim Fund makes payments to customers to meet reclaims, secondly, to manage the Jersey Reclaim Fund appropriately so that it can pay claims to customers, and finally to discharge the duties to distribute monies to charitable purposes and of course the Charities Commissioner. As the scheme is new to Jersey it is thought the appropriate limit to limit the scope of the Dormant Accounts Law to banking deposits and other limited asset classes. The scheme does apply to precious metals and precious stones, that is the kind of commodity side of metal and precious stones, not grandmother's jewellery. In other words it is metals and stones who are analogous to a commodity, such as gold bullion or graded stones, not rings. I am not aware of a huge amount of such deposits in Jersey but they have existed elsewhere. The decision whether to transfer the asset is of course at the option of the bank and the test for concerning whether an account is dormant is 15 years. Here we have mirrored again the test that was set out in the United Kingdom scheme. The law will enable the Jersey Reclaim Fund to be set up with the minimum of cost base in order to pay for the cost of the much needed Charities Commissioner and maximise funds standing to the credit which will never be, in most cases, unclaimed - that has been the experience in the United Kingdom - paid across for specified good causes which the law goes on to explain. Each bank would act as the agent of the Reclaim Fund in respect of matters such as customer claims for repayment and any legal and regulatory compliance aspects. There are a series of transitional provisions for the banks to develop systems if they do not have any, systems that can identify dormant accounts, and they must effectively put those systems in place to identify dormant bank accounts. I welcome Scrutiny's interest in this. They were notified of the Dormant Account Law in a long list of all the laws from the Financial Services Unit in 2014. I think at the time when we were discussing civil penalties legislation, officers in the

Chief Minister's Department notified Scrutiny officers at the time of the 2015 consultation, and when we brought the matter to Scrutiny's attention again when we lodged it in March 2016 we offered any briefings that the panel may have had. We arranged an informal briefing with the panel, which I was pleased to attend with my officers on 5th April, and it was at that meeting that the panel informed us that they would wish to scrutinise the draft law. I will make no secret of the fact that we would like to get on, if we can, with bringing back this law with the Articles in due course, but we will work of course constructively. We want to enable the enactment of this legislation, subject to this Assembly's approval and Scrutiny's review, so that we can effectively unlock dormant account balances that will simply have no other use, for good causes. This has been a path that has been followed in other jurisdictions to great benefit, and there is a benefit to the banks themselves in removing balances from their balance sheets which there is no known owner and it does not conflict with any other issues about banks. We all know that banks have been doing extensive remediation of their clients, as some of them call them that. Nothing of this will take away the banks' obligations to fulfil their anti-money laundering requirements, *et cetera*. This is simply the case for an enactment of a piece of legislation where genuinely there is no owner of a bank account and 15 years is a long period of time that that can be transferred to good causes. Again, this has been subject to a lot of debate. This is now an established principle in the United Kingdom and it has been hugely beneficial to good causes and I hope that it can be both beneficial to good causes, but also solve the issue of the funding of the Charities Commission. So I will leave it there. I will answer any questions that Members may have on the principles. I propose the principles of the law.

The Deputy Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? The Connétable of St. Martin.

11.1.1 The Connétable of St. Martin:

I thank the Senator for the briefing he arranged for Members on this proposition earlier this month and bringing the legal adviser or draftsman he had with him, the lawyer. Like all good Jersey men, I am not sure what "good" means, but I think it means careful with your money or tight. I come from a breed that what is mine is mine until I decide to give it away. There are far greater minds in this Assembly, and I accept that is not hard, but with both legal and financial experience. I just wanted to make a few points during this debate and I am sure the Senator will correct me or explain a bit further. This is a difficult proposition today and really because it results in Government deciding what to do with someone else's money, metal or precious stone, excepting the provision remains for their money, metal or precious stone, to be returned to them, or just the money really, they can have it back, but the precious stones would not be, I do not think, if the rightful owners come forward at a later stage. I am sure, and I hope we all have some unease with the concept, while accepting that it may be put to a good use elsewhere. Of course we are talking about somebody else's money, not ours, and that is the uneasy part of the proposition. Maybe for some Members the other part of the proposition that might be harder to accept is that, when we read through the papers, that this will be put through by the Chief Minister, and we all respect his astute mind and knowledge in these, but it will be on the recommendation, I would have thought, from an officer in the department as well. As we know from the proposition itself, also probably later on from Ministers in different Ministries to asking for use of some of that money, so it is not just down on to the Chief Minister. He will have the final decision; I accept that, as to where that dormant money will be removed and from the dormant bank account and where it will go to. What we would all like to know I think, and nobody will know that at the moment, is how much is dormant in Jersey bank accounts at the moment. I would like to know that because I have no idea about the sums expected. The Senator has suggested other schemes that we should compare and follow in the

U.K. and Ireland and the Cayman Islands. I have concerns on the calls on the money that we have taken from a dormant account and put into this new account. Because there will be fees taken out of it, first of all I would assume from the banks, and then there may be fees taken out of it by the Chief Minister's Office to pay for the work that was undertaken to administer that money once it is in the account. So, assuming that the account is reduced before we even get sight of the pot, and while accepting that there are exemptions and exceptions in the draft regarding holders who have accounts with the bank and who will not see a movement, they have a long-term fixed account on that, that is only common sense. I do not think it is anything we are giving away. If somebody has a 20-year fixed account it is not going to be moved during the 15 years. So my understanding is that the aim of the scheme is to maximise the money that can be used for charitable purposes. I am not sure why we would want to take over the matter that is between the bank and the private customer, and we have heard from the Senator this afternoon several times, the banks are quite keen to get rid of this money and hand it over to somebody else to administer and look after. The banks do not want it anymore. I also find it a little bit uncomfortable that it is likely that the money will cover the costs of the Commissioner for Charities and other related grants under that law. The various charities obviously will be delighted because they will not have to pay out of their fees and the Commissioner's fees, and also the running of the office, and I am sure the Minister for Treasury and Resources will also be delighted that neither will he. So, in conclusion, I know much hard work has gone into this piece of work and indeed it may pass the human rights criteria, but basically my understanding of what we are being asked today is for us to make use of somebody else's money to pay for something that we are finding difficult to fund ourselves at the moment, in particular the Commissioner. Money to be distributed from a fund that we have no idea how large that fund will be and how long it will stay that large and increase or decrease, with a decision on the distribution of those monies being made by the Chief Minister, probably through one of his officers. To use that money to also fund work undertaken by the officer in his department and with likely calls from that fund from time to time from other Ministers, bringing forward ideas to funding on a vision or an event or a scheme they believe to be a charitable purpose. Those charitable purposes could include sporting events, advancement of arts, culture and heritage, health, education, and environmental projects, and with arrangements made by Government to be able to refund a bank with all the money if the rightful owner surfaces and decides to call in his money or her money. Then, if we do not bring in such a piece of legislation, the concern is that the Island banks could return that money to the U.K. Government banks, to their main branches in the U.K., and I think there is a concern there. So I am looking forward to hearing the views of other Members and concerns that they may have this afternoon before deciding how I would vote on this.

11.1.2 Deputy J.M. Maçon:

Similar concerns to the Connétable of St. Martin's. While I am broadly supportive of the Minister's proposal, I am not sure whether I would necessarily sign up to the mechanism as to how it will then be discharged. I would have preferred myself, if I were formulating this, depending on the amount, seeing how much was generated in capital, use that as an investment, and then give to the charities the interest off of that capital sum, rather than, as the Constable has insinuated, that it might be frittered away and the capital spent, one way or another. Charities do need sustainable funding and I just wonder whether there was a better way forward in doing that. I do not see why it could not have been given to the Association of Jersey Charities to determine who gets the funding and how and when, as opposed to a government official. I just think there was a better way in which it could be formed and I welcome the fact that the Scrutiny Panel will be looking at this and deciding what the best mechanism to distribute these funds would be. Because, as the Constable of St. Martin pointed out, it could be used for different governmental stopgaps in education, health, in other places, so it is a nice little pot for the Council of Ministers to have, not of course that the

honourable Members would use it in that manner, but I just think at the moment the way that the Regulations are structured, and for my liking are a bit too vague, and I think there is a better way in which it could be formed. But that is just my personal opinion.

[16:15]

11.1.3 Deputy S.M. Brée:

To confirm to both yourself and Members of the Assembly, the Economic Affairs Scrutiny Panel will be calling in this draft legislation, so it would be wrong of me to talk on the principles itself at the moment. However, I would like to refute a comment made by Senator Ozouf that the Economic Affairs Scrutiny Panel knew about this since 2014. We did not and I fear that the Senator may have inadvertently misled the House. The first we knew about it, as a panel, was in an email, i.e. the details of the draft legislation was in an email dated 15th March 2016 from Senator Ozouf to myself as chairman and I start, it says: "As you will have seen, we have today lodged the long-awaited Dormant Bank Accounts." That is the first we came to know about it. So the reason that we are looking at this is we had a very comprehensive briefing from the Senator and his departmental team, which I thank him greatly for that. We have issued our terms of reference already on this review, we have provided a copy of it to the Senator, and one of the things that we are looking at is going to be: is it appropriate for Government to be doing this sort of thing in the first place? I merely mention that. The terms of reference are, as I say, now freely available and this may or may not affect the way in which Members of the Assembly wish to continue discussing the principles of this particular draft legislation.

11.1.4 Deputy M.R. Higgins:

I am broadly in favour of the proposition to use the dormant bank accounts in this way rather than leave it in the banks' hands and they get the interest on it. However, what I would like to know is what is the estimated size of the bank deposits? Surely there must be some figures; otherwise we would not be going to the effort, so I would like to know what the estimated size that we are going to be depositing in this scheme. Secondly, I would like to know what sort of salary they are looking at to pay the Charity Commissioner. So I would like to see and I would like to know those figures so that I can work out how well charities are going to do from this exercise.

11.1.5 Deputy M.J. Norton:

I am very much in favour of the principle of this idea, as it has been seen to work elsewhere, and it seems like a damn good idea. I do support this proposition. Forgive me for using that word. It seems like an extremely good idea. Indeed, I welcome the mention of the monies going to charities, not surprisingly to heritage, the arts and the sports, no surprise there. I would at some point, and perhaps this will come out in Scrutiny, like some clarification on who decides who gets the money. As a previous speaker has mentioned, in the case of the profits from the Channel Island Lotteries, as Members will be aware, the system the States Assembly decides upon, tried, tested and currently undergoing improvement, gives the difficult decision of who gets the money, which good causes should benefit, that is decided, and it is a very onerous decision, by an independent panel. It is arm's length away from myself, any Minister, Government, it is decided for by an independent panel. It works extremely well, and it is a system that the States already uses, and works. So I would like some clarification on that if I may ask the proposer.

11.1.6 The Connétable of St. John:

I have 3 issues on this. The first is attempts to contact the beneficiaries of an account. I personally had an experience in the late 1990s when a large yellow digger turned up at my farm and I was asked by the driver can I shoo my cows out of the field, he is going to dig a trench and put a mains

drain through my field, to which I said: “Well that is very interesting, have you asked permission of the owner?” Eventually spoke to somebody at Property Holdings or one of the States departments who said: “We have made every attempt to contact you.” I found that quite extraordinary, they had been writing to the wrong address, but they had made no other attempt to either contact the Parish Hall or simply turn up at the farm and say: “Who owns that field?” It concerns me as to just how much effort will be made by individuals and by banks to ensure the true owners of these accounts. That is my first concern. The second concern is that the money should be given to charity, but it is left very open and other Members have spoken on this: “And good causes”. Who decides what those good causes are and that provides me with very real concern and the fact that the top of the list of a good cause is a Charities Commissioner, in other words the employment of someone. My third concern is that we are here, and this is more to do with Standing Orders, but we are here debating the principles when it has not been scrutinised. We do not know what the pitfalls are. We do not know what surprises might be brought up. I think this is something that needs serious consideration and that we should discuss the principles after Scrutiny has had a chance to examine them and not before. I will be opposing this on principle, but the idea is absolutely correct, but I am not convinced it is correct in its proposal at the moment.

11.1.7 Deputy M. Tadier:

I am sure these arguments have been well rehearsed, but it seems to me that the obvious question to ask is: is it right for any state to necessarily presume that it can take money from a dormant bank account, which does not belong to the state, and then use it in a way that it chooses to see fit. I could imagine that if I, for example, and it is difficult perhaps to use big banks as an example in a global nature, but if you are a member of a small bank, perhaps a co-operative, and there are dormant bank accounts there, it seems that the excess found in those bank accounts, in the dormant bank accounts, should in the first course be shared among the membership of that bank or the shareholders, *et cetera*. It seems strange to me, especially given the fact that the very banks will put charges on in case of overdrafts, *et cetera*, and it seems that there is an argument for things to be done in that way. But of course we have to accept the fact that this is a well-established process and system. It does seem slightly strange to me that the banks are so ready for Government to take over this. So I guess I have 2 questions. The first is: what considerations are there when it comes to K.Y.C. (Know Your Customer) and due diligence? Some of these bank accounts may have been opened at a time when these considerations were not there. Certainly I know it was not that far back in the past when it was relatively easy to open a bank account. Will those processes have already taken place before the money is transferred into the States administration processes and is there any risk associated with that? I simply ask that as a question. I do not know the answer to that and I am sure it is something also the relevant Scrutiny Panel will want to look into. In fact I will leave it at that question; I think that is probably sufficient at the moment, but I think those points needed to be put on record and I am certainly reassured that the ... yes, the other point I wanted to ask is about consideration as to how this scheme is administered. Was there an offer perhaps for a third party to administer this scheme? Was consideration or an offer given, for example, by something like the Community Savings Bank? Did they ever offer to take over this scheme and administer it on behalf of and instead of the States? Was consideration given to that? Would they maybe have been a worthy charity to administer the scheme and also perhaps to provide an income stream, a secure income stream it has to be said, rather than necessarily having to rely on late payments and handouts from this Government. Was that a consideration, which was considered, or could still be considered, because I think that organisation does a great job for many individuals in the Island who are temporarily finding it difficult to manage their money or who cannot open a bank account for whatever reason?

11.1.8 Senator I.J. Gorst:

I will not be long. This job, the Charities Commissioner, because Senator Ozouf is more than able to deal with all the other questions, we have spent a long time, the Members of the Assembly will know that there are many reports recommended to this Assembly why we should have a Charities Law and a Charities Commissioner, both Public Accounts Commissions, the Law Society, the very first Corporate Services Scrutiny Panel chaired by then Deputy Ryan. I myself, when I was a Back-Bencher, got the then States to agree to the creation of a Charities Commissioner and a Charities Law. So that has been scrutinised, it has been approved and agreed by previous Assemblies on numerous occasions. What we have been trying to do is find a suitable source of funding and to limit the amount that would be spent on such a body, but it was initially thought that such a body might cost a quarter of a million to run a year. We have reviewed that and reduced that down and we now are looking at that cost at being somewhere of between £100,000 and £150,000 for the full operation of the office, not just for the simple appointment of the Commissioner, so you would have an office and administrative support for that amount. I think it is extremely important, this is a good source of funding that and therefore I hope that Members will support the principle of what is being asked today. There are a number of issues, which Members have raised about who would be the appropriate body to distribute such funds for charitable purposes once the Commissioner's office has been agreed. It is an intention to use a third party independent body to do that and I think it is the intention to bring forward Regulations or Orders in order to do that in due course, but all that of course will come in the detailed scrutiny that the Scrutiny Panel will be doing of the Articles.

The Deputy Bailiff:

Does any other Member wish to speak on the principles? I call on Senator Ozouf to respond.

11.1.9 Senator P.F.C. Ozouf:

I completely understand some Members' trepidation here and if I may just address to the Constable of St. Martin. It is not really somebody else's money. It is in fact, to the extent that it is going to be transferred to the reclaim fund, it is no one's money, it has no owner, and that is by fact. If there is an owner found then they can have their money back. So I think it is not quite as black and white as the Connétable says and I hope that he is given sufficient comfort that this is genuinely money that has no owner, and if an owner does turn up they get it back. Now, in the interregnum, and the reality is that there are ... and it is very difficult, I have been almost quite loathe in all of the presentations that I have given on this, to raise any expectations of what the sums could be, because we really just do not know, but I can say that the U.K. scheme ... obviously the U.K. has a very different deposit base, but they have yielded something of the order of £800 million from dormant bank accounts. It is a very sizable amount of money, and obviously *pro-rata* that would indicate £1 million. Now, I do not know, I would imagine that ours may be larger, but I do not know, because we are better regulated and there has been remediation; we may be smaller. A lot of the funds from the U.K. are relatively *de minimis* amounts of money in really sort of large chunks of lots and lots of small balances. I would say also to the Connétable that there really is widespread agreement that there has to be something done with these effectively no-owned balances, it is not right for them to be sitting on a bank's balance sheet. That causes issues for the banks themselves in terms of what they have long term to do with them. I have to say also that we really did need to say very clearly to the U.K. banks, when the U.K. scheme was introduced: "No, this is not everybody knows that we are a U.K. deposit sender." We collect money to a large extent in Jersey and we upstream those deposits to the U.K. Many of our banks in Jersey are U.K. banks. We needed to, lest there be any doubt that the monies would be remitted somehow with U.K. parents to a U.K. scheme: "No, we are a separate jurisdiction."

[16:30]

We did want to make it very clear that there would be a dormant bank account scheme in Jersey, because I did not want to see, and certainly officers and others did not want to see effectively, dormant bank balances going to any U.K. scheme. I think demonstrating the putting in place of legislation was one of the important things that stopped that, lest there would have been a risk of that happening. I say again to the Connétable and all those Members that spoke that the money, at any time, can be reclaimed from a found owner. That is indeed the reason why the legislation, and again we can deal with this at Scrutiny, that is why this scheme and the law has some flexibility in it. Deputy Maçon has a good suggestion of the idea of limiting it to capital, the law allows that. It could be, I do not know, that there may be 5 £1 million amounts that are remitted. I do not know. If it could be one £6 million, I do not know, 10 £100,000s. What we are looking to do is to give sufficient flexibility for whatever comes in for decisions to be made as appropriate. The law also envisages that there is going to be Orders and Regulations that will prescribe many of these issues that can be done. So, if we need to explain further in the consideration of the Articles to put additional safeguards, to set out what a scheme arrangement could be and how that could be, it is difficult to think of all eventualities because we really do not know how much money there is going to be. So I think one needs to almost make those decisions when one knows and have an orderly process to deal with it. I do not want to argue across the Assembly with Deputy Brée. I think genuinely there has been perhaps almost a falling between 2 stools, there has been my area and indeed the other areas that we have taken perhaps have not received the due consideration, through nobody's fault, of awareness of legislation. We do a huge amount of legislation, as the Deputies will know; we are going to keep them fairly busy I think. We are delighted to have our legislation scrutinised. Unfortunately, and it has not been the practice until now, our legislation has been remarkably uninteresting or perhaps we just feel a bit unloved by the Scrutiny Panel. If they want to scrutinise us then we are more than happy to share. But sharing is a 2-way street and I just do say respectfully that it was alerted in the list of legislation that was coming forward. I think I have answered Deputy Higgins's questions. I would just say one thing; of course I think Deputy Higgins or one other Member raised the issues of charges. Well of course we do have a Banking Ombudsman now so if there is a question about unfair charges or anything in respect of that then of course the Ombudsman is there also to make adjudications about unfair charges, *et cetera*, and that could be obviously for somebody in the event of a dormant bank account. I am not sure of the Constable of St. John. He is a difficult man to convince, but I am not sure that there is an analogy that is immediately transferable between a field in St. Ouen and ... a field in St. John, I beg his pardon, maybe fields in St. Ouen are more difficult to identify who the owner is, but St. John should be pretty easy. I agree with him absolutely, it is crazy, the example that he gives, but not because nobody tried to find out who the owner of the field that he was a tenant is, is not a good argument to say that there are not exhaustive attempts undertaken by banks to find the real owner of money. They need to. It is not an uncomfortable situation for an account not to have a known owner, because they are regulated, because the regulator comes a-calling and the regulator comes a-calling and says: "Who is this? Where is this person? Where are they?" They have to do due diligence, K.Y.C., all the onerous obligations that our banks have. It is in the bank's interests, they need to know who their customers are. We have been through huge amounts of effort in recent years and now the requirement of having the tax domicile, the residence, all the K.Y.C. arrangements in place, there are exhaustive efforts made because of those requirements, if nothing else, for banks to find out who the owner is. These are really genuine cases and nothing cuts across from the obligations, there is nothing that means that in transferring a dormant bank account that the bank has listed for any of the obligations of A.M.L. (anti-money laundering) responsibilities, those things absolutely are paramount and they must be maintained. You cannot just say: "Oh well, I am not sure who the owner is. I do not really have any sort of information on that one so we will just pop that into the Reclaim Fund." I doubt with the J.F.S.C. that will cut muster. They have to

show “know your customer” and no suspicious transaction reporting and all the rest of it. I really hope that the legislation is going to be passed at the principle stage. It has been spoken for a long time. It has been called on for many years. I think it has been expected for many years. We finally have it, it is going to work, but happy to have it scrutinised and if there can be any improvements made in terms of the Articles I very much hope that will be undertaken. I move the principles of the Bill.

Deputy M.R. Higgins:

Sir, can I just ask a point of clarification from the Assistant Minister? I was obviously concerned to... or wanted information as to how much money was going to be in this fund, and it has obviously come out that you do not know. Is it right then that you have brought forward this legislation without having any idea whatsoever of what money the banks are holding in dormant accounts? So, can the Minister tell us what work has been done to identify the sums and what those figures were please?

The Deputy Bailiff:

Senator, can you clarify further?

Senator P.F.C. Ozouf:

I think the answer is that we do not know and I am not in any way embarrassed about that. I think that once the knowledge ... it is going to be between something reasonably substantial and something very substantial. It is obvious. We are a banking centre. These situations will have emerged in times past when banking regulations had not been. But certainly it is ... the work has been done and there was a risk that the U.K. legislation would have effectively meant that this money could have been hoovered up to the U.K. and I would have thought that the Assembly at this stage, having done the work, got a good scheme in place, built upon the U.K. scheme, international precedents, would be pleased to now pass this through the principles and then send it to Scrutiny, so let us see if we can make any refinements in the arrangements. So I move the principles.

The Deputy Bailiff:

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

POUR: 31		CONTRE: 3		ABSTAIN: 6
Senator P.F.C. Ozouf		Senator Z.A. Cameron		Connétable of St. Ouen
Senator A.J.H. Maclean		Connétable of St. Saviour		Deputy J.A.N. Le Fondré (L)
Senator I.J. Gorst		Connétable of St. John		Deputy L.M.C. Doublet (S)
Senator L.J. Farnham				Deputy S.M. Wickenden (H)
Senator P.M. Bailhache				Deputy S.M. Brée (C)
Senator A.K.F. Green				Deputy of St. Mary
Connétable of St. Clement				
Connétable of St. Mary				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of Grouville				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy M. Tadier (B)				

Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy M.J. Norton (B)				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

The Deputy Bailiff:

Does the Corporate Services Scrutiny Panel wish to ...

Deputy S.M. Brée:

My apologies, Sir, it is the Economic Affairs Scrutiny Panel.

The Deputy Bailiff:

The Economic Affairs, I do apologise. I have it written down incorrectly, but I should remember that.

Deputy S.M. Brée (Chairman, Economic Affairs Scrutiny Panel):

Yes, Sir, we do wish to scrutinise it.

The Deputy Bailiff:

Could you say within the next 4 ordinary sittings of the Assembly when you would want to bring it back?

Deputy S.M. Brée:

We will be reporting back to the Assembly by 28th June, being the fourth sitting after today.

The Deputy Bailiff:

Very well. The matter is referred to Scrutiny on that basis.

12. Draft Extradition (Amendment) (Jersey) Law 201- (P.26/2016)

The Deputy Bailiff:

The next item is Draft Extradition (Amendment) (Jersey) Law 201- lodged by the Chief Minister and I will ask the Greffier to read that citation.

The Deputy Greffier of the States:

Draft Extradition (Amendment) (Jersey) Law 201-. A Law to amend further the Extradition (Jersey) Law 2004. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

Could I ask Senator Bailhache to act as rapporteur? Thank you.

12.1 Senator P.M. Bailhache (The Minister for External Relations - rapporteur):

As outlined in the report to this proposition, Jersey's extradition arrangements reflect those of the United Kingdom with the exception of those in connection with the European Arrest Warrant, which is not part of Jersey Law. The Extradition Law of 2004 was introduced in order to enable Jersey's courts to deal directly with applications for extradition, which before 2004 were dealt with by the Bow Street Magistrates Court in London. About 5 years ago, there was considerable controversy about the Extradition Act in the United Kingdom, which reflected concerns that the U.K./United States Extradition Convention was unbalanced and not working properly. As a result, Sir Scott Baker, a retired Lord Justice of Appeal, was asked by the United Kingdom Government to investigate and to report. He did and a number of recommendations were accepted by the United Kingdom Government and reflected in amendments to the United Kingdom Act. This proposed amendment to the 2004 law will ensure primarily that equivalent rights exist for those individuals whose extradition is sought. I will summarise the principal changes that the draft amendment will bring about. The 2004 law contains a number of bars to extradition and this amendment proposes the introduction of an additional bar, which is called the forum bar. The issue of a forum bar arises where it is argued that the requesting state is not the best place to try the alleged crime, but rather that the alleged offender should be tried in the courts of his country of residence. So United Kingdom extradition legislation now allows a requested person to raise appropriate but limited arguments in this regard and the draft amendment provides similar provisions for our legislation. Examples of that are that the interests of the victims would require that or would indicate that the crime would be better tried in Jersey, the residence of the witnesses might give the same indication, the evidence is in Jersey and therefore the alleged offences would be better tried here. The amendment does not attempt to introduce a general presumption in favour of domestic proceedings, but allows these considerations and arguments to be taken into account by the court. If an individual is tried with the offence in his home jurisdiction, then of course extradition will be barred under the double jeopardy principle. It may be however that the Attorney General in Jersey would decide not to prosecute a case, either because there is insufficient evidence in this jurisdiction or because he does not consider that Jersey is the most appropriate territory for a prosecution. All these are matters that the court would be enabled to take into account. The second principal amendment concerns the issue of extraterritoriality, which comes into play when a state requests extradition for crimes committed outside its territory and relates to the extent that another state will recognise that request. The amendment to the Extradition Law would make it clear that Jersey would only extradite for extraterritorial offences if our criminal law applied to the offence in question and that the offence could be tried in Jersey in similar circumstances if the roles were reversed. The third amendment deals with the jurisdiction of the Attorney General and seeks to make it clear under Article 7 that the Attorney General will not consider human rights issues at any stage after the extradition process has been set in train. The reason for that is that human rights issues should be a matter for the courts and not for the Attorney General. This reflects a similar change in United Kingdom legislation.

[16:45]

The fourth main change relates to refugees and the draft amendment would make it clear that where a person has been granted asylum by the Secretary of State in the United Kingdom or permission to stay under the Immigration Act on the grounds of his right to life or freedom from torture, human rights considerations, the Attorney General may refuse to certify a request for extradition and thus ending the proceedings at the very beginning and ensuring that complicated legal processes do not

take place when the outcome is clear; that is to say that the individual is not going to be subject to extradition. Fifthly, the amendment deals with a rather technical matter concerning changes to schedule 2 of the law dealing with re-extradition and that might or would apply where a person has been extradited from Jersey to another country, has been sentenced there, but returned to Jersey to serve part of his sentence in the Island, and the requesting state then seeks the re-extradition for other purposes. I think I can say it is a scenario, which is very unlikely to arise, but in any event changes to schedule 2 would be brought into effect to deal with that possibility. They are technical changes, but fairly straightforward changes in essence, and I move the principles of the Bill.

The Deputy Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All Members in favour of adopting the principles kindly show. Those against? The principles are adopted.

Senator P.M. Bailhache:

In the light of that response, I wonder if I might move the Articles and the Schedule *en bloc*.

The Deputy Bailiff:

I apologise, Senator, I should have asked whether the Scrutiny Panel wishes to pull the matter into Scrutiny, I apologise. Does the Corporate Services Scrutiny Panel wish to scrutinise the matter?

Deputy J.A.N. Le Fondré (Chairman, Corporate Services Scrutiny Panel):

No, Sir.

The Deputy Bailiff:

Thank you very much. I apologise. Please carry on, Senator.

Senator P.M. Bailhache:

I seek your leave therefore to move the Articles *en bloc* together with the Schedule to the draft law.

The Deputy Bailiff:

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on the Articles? All Members in favour of adopting the Articles and the Schedule kindly show. Those against? The Articles and Schedule are adopted in Second Reading. Do you move the matter to Third Reading?

Senator P.M. Bailhache:

I move the Bill in Third Reading, Sir.

The Deputy Bailiff:

Is it seconded in Third Reading? **[Seconded]** Does any Member wish to speak on the Articles or the Law in Third Reading? All Members in favour of adopting the Law in Third Reading kindly show. The appel is called for. I invite Members to return to their seats. I ask the Greffier to open the voting.

POUR: 37		CONTRE: 0		ABSTAIN: 1
Senator P.F.C. Ozouf				Deputy M.R. Higgins (H)
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Senator A.K.F. Green				

Connétable of St. Clement				
Connétable of St. Mary				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Brée (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

13. Westaway Donations Council: appointment of member (P.31/2016)

The Deputy Bailiff:

The final item of Public Business is the Westaway Donations Council: appointment of member, lodged by the Minister for Health and Social Services. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to approve the appointment of Mr. Simon Spottiswoode to the Westaway Donations Council.

13.1 Senator A.K.F. Green (The Minister for Health and Social Services):

As has already been said, I am asking the Assembly to approve the appointment of Mr. Simon Spottiswoode to the Westaway Donations Council. By way of background, in 1930 the Westaway Trust (Jersey) Law was passed, which covered the Westaway Trust created by the Will of the late Ms. Julia Westaway. The law established that the Westaway Donations Council ... and they are responsible for administering the grants from the trust. The trusts have approximately £60,000 in assets and make distributions of approximately £2,000 each year. Membership of the Council is a

voluntary matter and it is not paid. Mr. Simon Spottiswoode has offered himself for nomination to the Westaway Donations Council in place of Mr. Alan Le Pavoux, who ceased to hold office in 2014. Mr. Spottiswoode is a committed Christian, sympathetic with the aims of the Westaway Trust, an active member of St. Paul's Church where, among other things, he heads up the team that oversees the church's financial support to missionary agencies and other charities. He is also a trustee of a local charity that builds schools and orphanages in Africa. Mr. Spottiswoode was proposed by one of the existing Council members as someone who had the appropriate experience of acting as a trustee, who would be sympathetic with the aims of the trust, and with succession planning in mind. The Council was keen with that succession planning in mind to appoint a younger person to the board and ideally someone who has the financial skills that Mr. Spottiswoode has. The Council met with Mr. Spottiswoode for a discussion about the purposes of the trust and the skills he could offer and at the end of the meeting the Council agreed to proceed with proposing the appointment to the Minister. I make the proposition.

The Deputy Bailiff:

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition? All Members in favour of adopting it ... I beg your pardon, Deputy Southern.

13.1.1 Deputy G.P. Southern:

Just briefly, could the Minister explain what the Westaway Trust donates to?

Deputy M. Tadier:

It is fine. It has already been covered.

The Deputy Bailiff:

Does any other Member wish to speak on the proposition? I invite the Minister to respond.

13.1.2 Senator A.K.F. Green:

I think the trust is probably best known for, although it does do one or 2 other things, the provision of clothing and shoes to the poor; originally only to Protestant families, but that has changed to those in need. Last year it made donations or made 24 awards of £75 each primarily for clothing and shoes.

The Deputy Bailiff:

All Members in favour of adopting the proposition kindly show. Those against? The proposition is adopted. That concludes Public Business for the meeting and I would invite the Chairman of P.P.C. to propose the arrangements for the Public Business of future meetings.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

14. Connétable L. Norman of St. Clement (Chairman, Privileges and Procedures Committee):

Before looking at the immediate future, the Council of Ministers has indicated that it would be looking to debate the Medium Term Financial Plan addition on 27th September and the Minister for Treasury and Resources has indicated that the Budget debate should take place on 13th December. It has become tradition that we sit on the Monday before that at 2.30 p.m. to take questions, statements and occasionally one or 2 uncontentious items so that we can hit the ground running on those major debates on the Tuesday morning. So firstly I would like to propose that we do meet on

Monday, 26th September, at 2.30 p.m. and Monday, 12th December, at 2.30 p.m.; that we commence those sittings at those dates and times.

The Deputy Bailiff:

Do Members agree that the States will meet at those times specified by the Chairman?

The Connétable of St. Clement:

For the immediate future, the Arrangement of Public Business is as per the Consolidated Order Paper. There has been no additions or changes that have been notified to me and I would suggest that the sitting on 10th May should take no more than one day. I propose that as the Arrangement for Public Business.

The Deputy Bailiff:

Do Members agree? Very well; that concludes the business of the Assembly and the States stand adjourned until Monday, 9th May, which is of course the special Liberation Day meeting, and will commence at 10.30 a.m.

ADJOURNMENT

[16:54]