

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 20th JULY 2010

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

[09:30]

PUBLIC BUSINESS

1. Income Support: eligibility for educational or training courses (P.66/2010)

The Deputy Bailiff:

We now come to Chapter L of the agenda, Public Business - Income Support: eligibility for educational or training courses, Projet 66. I 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 request the Minister for Social Security, in consultation with the Ministers for Education, Sport and Culture and Economic Development, to review his policy on the eligibility for Income Support for those who wish to pursue an educational or training course in order to (a) produce a definitive and clear list of acceptable courses; (b) amend Income Support Guidelines for Social Security staff appropriately; and (c) ensure that this list is widely communicated to all stakeholders in ample time for the September 2010 intake of students.

1.1 Deputy G.P. Southern of St. Helier (Chairman, Health, Social Security and Housing Scrutiny Panel):

Until last night I thought this was going to be a very, very straightforward proposition because I thought I was going to simply accept the Minister's amendments to my proposition and we could get on with it because I am sure we can all agree that the principles behind what I am proposing today are universally to be welcomed. However, I have had time to re-examine the wording and in particular some phrasing in the report and I am not sure that I should be just straightforwardly accepting the amendment. I think I will seek some reassurances from the Minister before I accept his amendment - if I accept his amendment - before proceeding. Now, the case here is a fairly straightforward one. Given the current economic situation we should ensure greater flexibility in accepting a wide range of training opportunities to support young people in the absence of jobs that they can take up. Indeed, we do have, and there is evidence in my report, evidence that a large number of people, mature students, some of whom are parents, are applying in particular for 2 courses which enable them to expand their opportunities, increase their skills and their qualifications and therefore lead to a better-trained workforce and better job opportunities in the long run. I think this is an aim we should be aiming for. The problem occurs here because there appears to be a 2-stage process in that people go to the careers officers and say: "I am unemployed. I am looking for some educational course that will improve my prospects, what can you offer?" The 2 courses on offer, by and large, in Highlands, are the Return to Study course which gets your learning skills up to scratch and the Access to Higher Education course and that receives a great demand and there appears to be a 2-stage process. The careers officers assess this person and say: "Yes, this is an opportunity for you to improve your skills, improve your job prospects in the long run; we will offer you a place on the course." Then it seems that somewhere down the line Income Support gets involved and says: "Ah, if you are going to train on a course, then you cannot be actively seeking work and to get income support you have to be actively seeking work." Somehow a second bite comes in there and a judgment is made that despite the careers advice given to the student: "You are perfectly eligible for this course; it will improve your job prospects; improve the workforce long term", Income Support seem to be saying: "Uh uh, no. Despite that advice we are not going to allow you income support while you are studying because you are not actively seeking work." What my proposition would do is to take out that second stage to make it automatic eligibility for income support through a specific list of acceptable courses, given that careers advice is: "That course is appropriate for you; you are likely to benefit from it and improve your job prospects." What the amendment does, I think, is seek to review it. The Minister says that he is

loath to do that because essentially it might cost him some money and he throws in a figure of £500,000. If Members look at my report they will see that the likely figures are, of course, much less than that. What I want from the Minister when he proposes his amendment eventually is some sort of assurance that I will not, come September, be receiving letters like the one I have in my hand. I hope the Minister does not say: "We have already sorted the problem; everything is hunky-dory" because this is evidence that we have not and this letter from a mature potential student says: "Secondly, regarding my request for financial assistance, approximately £92 a week; the personal component of income support while studying at Highlands College from September, I again would contest the decision that 'my family should support me' and I ask that this matter be looked at by a second determining officer as I have been reliably informed that I am entitled to the personal component part of the claim while studying." This is dated 19th July; it was faxed to me this week. So there are students out there still going through this, it seems, minefield. They have been accepted on a course and Income Support is saying: "But we will not grant you income support, therefore, you are unlikely to be able to take that course." So it is still happening now; it is a problem. I want assurance that as a result of this review that I would argue, as a result of creating an automatic right, if you are vetted and deemed suitable to go on the course, then you should have a right to the personal component of income support in order to enable you to do that as a mature student without the guarantee that those such letters will not be coming to me in September and throughout the year where problems are found. I do not think I will be accepting the amendment and I would be urging Members to support this proposition which does give clarity on the way forward and addresses a serious problem of job seeking for mature students and training opportunities for mature students at this time of recession. Thank you.

The Deputy Bailiff:

The proposition is made, is it seconded? [**Seconded**]

1.2. Income Support: eligibility for educational or training courses (P.66/2010): amendment (P.66/2010 Amd.)

The Deputy Bailiff:

Now there is an amendment in the name of the Minister for Social Security and I would ask the Greffier to read the amendment.

The Deputy Greffier of the States:

On page 2 for the words "in order to" and paragraphs (a) to (c) substitute the words " , with the review to include consideration of (a) the range of courses that are available; (b) the relevant Income Support Guidelines used by Social Security staff; (c) the communication of any new policies to stakeholders."

1.2.1 Deputy I.J. Gorst of St. Clement (The Minister for Social Security):

Yes, I believe that the proposer of the original proposition is not all that bad at cricket. He appears this morning to have thrown me a googly but there we are. I was under the impression - obviously now falsely so - that the Deputy was minded to accept my amendment.

[09:45]

The reason I brought the amendment was because I wanted to give some clarity to the proposition and to Members so that they could understand exactly what it was that we were able to do and what it was that would be achieved by the proposition. The mover of the proposition has asked for some reassurances and I will get to that later in my opening remarks. I hope that Members will see that my amendment was brought forward in that spirit, in the spirit of bringing clarity and understanding to this area, which is not necessarily as straightforward as the Deputy might want us to believe it is at first sight. The original proposition suggests that a review should be undertaken. I do not think any of us would have concerns with that but then it goes on to, in my opinion,

suggest exactly what the outcome of that review ought to be. So it is very difficult for me to say: “Yes, I am prepared to undertake a review but I have already decided what the outcome will be before I have done the review.” I would then suggest there is no need for a review. Let us just vote on whether we should change to the list that the Deputy wishes. Therefore, in the spirit of trying to, yes, have the review but have it in an open-minded and above board fashion, I believe that Members really should support my amendment today and not just the proposition. The other point that I wanted to make about the original proposition unamended is that it suggests that this work can all be undertaken in time for the September 2010 intake. I believe also that that is an unreasonable timescale. A lot of individuals wishing to go to Highlands in September have already had their offers made to them. A good majority of the figures I have have been accepted and they are due to start in September. We all know that educational establishments have, I might call it the “luxury” of, in effect, closing down during the summer months. It is the only time of the year that some in education can take their holidays. This work will continue but there will be fewer people around because there are not sufficient in Highlands and therefore I do not believe that this timescale is either reasonable or acceptable. Therefore, I have sought to clarify what it is that we can do and in what timescale. Having said that, if Members have read the Deputy’s original report they will note that we have already introduced a new applications process in conjunction with Highlands for September 2010 and anyone wishing to go on a training place which they would be taking up in September 2010, we have sought to clarify in the original documentation they have received that if they required help with income support or if they were currently receiving income support and needed that to carry on, then they should, as a matter of course when they spoke to Highlands, also come down and speak to us at Social Security. The Deputy did quite rightly say that it was currently a 2-stage process and he disagreed with that 2-stage process. What he is endeavouring to do with his proposition and this, I have to say, I am caveating all this; we are saying that this might be what the review says is a suitable way forward. I do not want to make that a second-guess at this stage but the Deputy is saying that we should not have a 2-stage process; it should be purely an education or a careers decision and the benefit decision should automatically sit behind that if you are accepted on a course by the Education Department, which probably in this case will mean Highlands, that my department, my officers or I, should change the current policy that exists whereby you can automatically receive income support to undertake that training. This is what the Deputy is asking for in his proposition. It was not necessarily clear from the proposition but I am grateful to him that he has made that clear this morning because what he is asking for is an automatic right to income support should Education deem that the course is appropriate. Now, as I say, I have to tread a little bit carefully here because it is right that there can be from time to time some tension between departments and decisions that the departments have to make. I fully appreciate and understand that the Education Department makes its decisions with regard to education and the educational benefit that a course might bring to an individual. In my department, in the policies that we, as an Assembly, put in place with regard to Social Security, I have to have mind also to the benefit decision. The Deputy used some interesting phrases in his opening remarks. He talked about getting “better job opportunities in the long run.” What he did not explain to us was exactly how long the long run is. The policy that is in place in the department is that, yes, a course should look to providing or improving job opportunities. But is it appropriate, and I am far from certain that it is, that an individual should be entitled to go on a course that might be 2 or 3 years? The ultimate aim of where that individual wants to go might lead to another course of another number of years. That, of course, would lead to better job opportunities in the long run but what the Deputy does not tell us is exactly what is an appropriate length for this long run that taxpayers should be paying for and that we, as an Assembly, believe is appropriate when it comes to a benefit decision and that is not covered in the proposition. The Deputy also suggests that his proposition would give a greater flexibility and a wider range of courses. I would refute that statement because in actual fact the decision that we currently try to make in the Social Security Department is one which is tailored towards individual’s educational and training needs. Therefore, it is not inappropriate that a good majority of courses on offer at Highlands would not be

acceptable for specific individuals should they have already an education-specific job history that is going to mean that a specific course will help them to get back into that job market which might not be acceptable for lots of other individuals who are receiving income support. What the Deputy is seeking to do by this proposition is bring forward a specific list which, to my mind, indicates that it is going to be less than the prospectus of Highlands. I might, of course, be misreading and he is shaking his head at the front, so perhaps I will be quiet about that now in case I am misunderstanding what exactly he is trying to do there. But let us not forget what he is proposing is that we would have a specific list. If you were accepted by Education on to this specific list, you would automatically receive benefits to entitle you to do that course. That is what the Deputy is suggesting. What I am suggesting in my proposition is that that might be the outcome but in actual fact there could be any number of other outcomes which the review suggests is appropriate. It might be we, together with Highlands, should look at more part-time courses, more evening courses or even more distance learning courses. I know that the Deputy is a little bit disparaging **[Interruption]** ... I hope that is not for me. **[Laughter]** It could, of course, be my Chief Officer correcting something I have just said.

The Deputy Bailiff:

It is not for you, Minister, but there is a £10 fine for Deputy Fox. **[Laughter]**

Deputy I.J. Gorst:

The Deputy is somewhat disparaging about distance learning courses and I find that unfortunate because they improve and are improving all the time. What I would say, however, is that perhaps there is not the appropriate level of support on-Island for those who are doing distance learning. Should the review decide that distance learning is a better and more appropriate way, let us not forget this is what they are now suggesting in the United Kingdom. The new coalition Government is saying: "No, we should be beefing-up distance learning." But should the review decide that is the way to go, then I would suggest that what we should be doing is working together with Highlands and setting up a local support group that ensures that individuals do have somewhere appropriate with that educational background to go to to help them through that distance learning process. If I could just spend a moment now talking about Deputy Le Claire. The reason I do that is because I want the review; I do not want it to be decided exactly where that review is going before it is undertaken. I mention Deputy Le Claire because he has experience of what it is like to try and re-train and to look for work in what can be very difficult circumstances. He very kindly came to see me - I accept that it is some months ago - about a whole host of new computer and internet training possibilities. We do already, as I have said previously, have some computer courses available to those looking for work but his idea is an excellent one and it is one that I have asked to be included in the review which we will be doing as a department whatever the States decides today. Although, even if we accept Deputy Southern's proposition we are still only asking for a review, it is just that we think we have already decided what that should suggest. So I want to take this opportunity just to thank Deputy Le Claire for coming forward with that idea. We will now be taking it forward and I will be inviting him and any other interested Members to come in and sit down with officers and look at that whole range of courses which I know he has found helpful, which are I.T. (Information Technology) and internet-based. So I think it would be premature for us to say: "No, that is not a way to go. This is the only way that we should go and this is exactly what the review should suggest" before we have even undertaken that review. I also wanted to spend a very brief moment talking about money and the cost of this proposition. I have included some amounts in my amendment. The Deputy says: "Well it is certainly not going to cost that much because of the number of individuals coming forward now looking for income support who want to go on a course." In one respect, should the numbers remain at the level that they are now looking for a course and help with income support and the process remains as it is, then that would remain low. What we have to remember about income support is we will be changing the policy and therefore the department would have no choice that should Education accept you on a

course, the money would have to follow. We would be opening the door, but that is a decision we have to make as an Assembly: to allow anyone in this situation who wanted to go on that course for the support to follow them. Therefore, it is not possible for us to say: "Oh no, it is only going to be 10. Oh no, it is only going to be 8." We would be changing the policy to allow anyone that came through our door that had an offer from Education, or Education recommended this course was suitable for them, then automatically, in the Deputy's own words, the money would follow. Therefore, it is not right for the Deputy to say it is going to be much less. We cannot say exactly what it would be because it is a universal benefit. We cannot say: "Oh, you are going to get it but you are not." Let us not forget that I think probably the majority of people that find it difficult are single parents who want to go on an educational course; we exempt them from looking for work if they have a child under 5. We made a decision as an Assembly to do that for social reasons because we recognised in that decision that we want carers to be able to stay at home and we do not want to force them to go into work. What we would now be saying is that those individuals do not have to look for work but we are also going to pay for childcare so that that individual can go on a course while they are being exempted from work as well. That is a whole different magnitude of decision. It is a decision which is right to be taken by this Assembly but we just need to be aware of what it is that we will be deciding if that is what we decided by accepting the proposition unamended today. So in trying to draw to a conclusion, I am sorry that the Deputy has taken it on himself not to accept my amendment today because it was brought in the spirit of bringing clarity to the proposition and not second-guessing what the outcome of the review might be. I know that the Deputy will not have received the assurance that he asked for when he was proposing his proposition because he asked me to give him an assurance over the actions of others, whether individuals would complain about the way income support was administered and whether they felt they had been accepted on a course appropriately or not.

[10:00]

Obviously, it is not within my gift to give an assurance which relies on the actions of third parties outside of my department. Therefore, unfortunately, I suspect he may not feel able to accept this amendment which, as I say, is unfortunate because I believe it gives the clarity, it does not second-guess the outcome of the review and it gives a reasonable timescale going forward. Therefore, I ask that Members do support this amendment. I believe that it is fair; I believe that it is reasonable. One thing I should say about timescale which I did not, I do undertake to complete this section of the review by the end of this year and therefore there will be absolute clarity for next year. Thank you.

The Deputy Bailiff:

The amendment is proposed, is it seconded? **[Seconded]** Senator Ferguson.

1.2.2 Senator S.C. Ferguson:

I just have a query on this. As I understand it, if you take time out from work for further education, particularly as a mature student, you are not eligible to have your social security covered i.e. when you get to retirement age you are a commensurate number of years short. If this proposal, the main proposition and the amendment are adopted, we will end up with one tranche of students; those on income support, getting their social security paid, while the other, who are taking time out from work, do not. I think this is what one might call collateral inequity and there would certainly be collateral expense. I would be glad to hear the Minister's and Deputy Southern's comments on this because it occurs to me that this could prove expensive if we then try and solve the inequity.

1.2.3 Deputy D.J.A. Wimberley of St. Mary:

A few points. The first is about the list of approved courses. I must say, when I first read that I was straight away dubious because it seemed a bit like a straitjacket and the Minister has pointed that out. But there is a problem where what we have at the moment seems to be like a double

system: you go for your course; you discuss with your careers adviser and so on if you unemployed, and then you go down to Social Security and you are re-vetted as to the suitability and the process seems to run again. I am not sure if that is a very economical use of civil servant time and if it is the right way to go. If we look at Appendix 1 of the main report on P.66, page 11, we can see it in an answer to Deputy Shona Pitman how this process works out. In his written answer the Minister says: "Support is provided depending on the individual circumstances and the course proposed needs to be appropriate to the current education, background and potential of the applicant." But that has already been done by the careers people - the 12 careers people, I might add, because of the question of Deputy Le Claire, so there are quite considerable careers staff - and surely that is where the responsibility lies for getting it right or not. But what we have now is a double responsibility. We have the careers people working with a client to establish where their current qualifications sit, where they would like to go and what sort of course would be appropriate. Then we have, apparently, Income Support staff doing the same thing all over again. Then the answer says: "For this reason it would not be practical for the department to produce a 'definitive list'." Well, I agree with that really that there should not be a definitive list. I think that is a wrong bureaucratic way to solve this problem, if you like. The better way would be just to say that it is automatic, that when you go to Income Support with your course that is already agreed and discussed and so on with Highlands as part of a proper careers appraisal process, then the income support is built into that and it is simply a paperwork matter down at Social Security. So I do have a problem with this 2-step system where 2 lots of civil servants seem to be doing the same thing. I fear that what the main proposal is by saying: "Let us have a definitive list" is like a bureaucratic way out to say: "Okay, we will have a list and then there is no discussion about it." A better way might be to say that the careers process is up at Highlands or wherever it is and that, if you like, gives clear guidance, unambiguous guidance, to what the Income Support officers have to do. So that is my first point. The second point is the situation, and this really is, I suppose, a question for the Minister for Education, Sport and Culture, with regards to courses off-Island. All I see in these 2 documents here, the original proposal and the amendment, seems to be all about Highlands. I have in my casework at the moment an issue of going away and not getting support - and it came up with Rural Economy as well - that a degree level is all topped and tailed and sorted and there are clear processes. But at 16 to 19 if you go away off-Island because the course is not available in Jersey, then I do not see anything about that here in either document. So if there could be some clarification, please, on that from someone (probably the Minister for Education, Sport and Culture) on what the situation is and with regard, of course, to Income Support. The third point is about the costs. Now, Deputy Southern in his opening remarks said that the £500,000 the Minister referred to was plucked out of thin air. I do not know if it is or not. What I know is that on page 10 of the Deputy's report there is a table where the Deputy estimates the possible future costs of his scheme and there are 2 figures there depending on the number of claims. What I would like to ask the Deputy is clarification on that table because it is not clear to me that this is additional spend. It looks to me as if it substitute spend.

Deputy G.P. Southern:

May I clarify straight away? Indeed, if you are eligible for Income Support and job seeking, that level of support would be supplied. I am suggesting that if you are training and eligible for Income Support the same level should apply. There is no additional spend there, it is merely substitute.

The Deputy of St. Mary:

The Deputy is almost overly clear in his report then because he has figures there that are not additional costs, so I am glad for that clarification. But I think there is a real issue around the costs. The Minister has suggested to us that it is an open cheque book which is, of course, always alarming but I really am concerned just how open that cheque book is and what the real figures are and how many people who will be doing this are in this particular category. So, 3 points then in summary: we do need to review this issue of the eligible courses and how the relationship works

between careers advice and income support. The second part of that subsidiary point is what happens in relation to off-Island courses where people are on income support? The third point is to decide on the funding and to be clear what sort of liability we are entering into and have proper estimates of what the likely costs might be under the 2 versions. Thank you.

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

It does sometimes amaze me that I am sitting in the same House with people, obviously not all people, who were there when we passed this law of Income Support. Let me just reiterate, I really get angry when I hear the Minister for Social Security say: "Well we are paying for these and we do not know how much it will cost." Now for anybody out there let me tell you, if you are 16, you are not working, you are actively seeking work, it does not matter if your mum and dad are millionaires, it does not matter if they are on income support, it does not matter if they are working, you are eligible now and please do it. Go down to Income Support. You are actively seeking work and you will get £92 and some pence a week. So do not tell me that this is going to increase. I had to tell the Council of Ministers in January 2009 that this was the case and basically they all looked at the Minister for Social Security and then we came up with a scheme called Advance to Work. I said at the time: "You are going to be paying these kids, let us help them get back into work." I do not take any sort of responsibility. It was at a meeting of the Council of Ministers and 6 months later it was there on the table. The Assistant Ministers were invited that day, the Constable of St. Lawrence was there and Deputy Hilton. So, I really get annoyed when people say: "What is this going to cost? How long are these kids or single parents going to stay on these courses?" Well how long do you want to pay them to sit in their beds because that is what they do? I will tell you they have come up with a lovely thing down there now. It is an Actively Seeking Work form and they will give it to you every week you go down. It says: "How many jobs have you applied for? How many interviews have you gone for? How many phone calls have you made?" There are some lovely ones playing the game. The last one I heard they had gone for a couple of jobs that needed degrees and they did not even have a G.C.S.E. (General Certificate of Secondary Education) but they were playing the game. So, it is absolutely ridiculous. I cannot believe still that the kids or single parents who want to go out there are then told: "Well we cannot give you your £92 a week because you want to learn. You want to make your prospects a little better" especially in the workplace we have today. It really amazes me. The Minister said: "How long are they going to stay on these courses?" Well, I would say as long as they need and it will be a 2-year course if they are going to just go back in. A lot of them have left with no G.C.S.E.s so they are going to return and get a level of G.C.S.E. so they can then take a course that would be acceptable. As for the statement: "Everybody has got their courses" no, most of the kids have their preliminary acceptance to Highlands dependent on what their courses will be. You are going to have some very unhappy kids in September and the only place for them to go is down to Income Support and they are entitled to it. They are actively seeking work; there is not a lot out there and they either get £92 a week for doing nothing or they get £92 a week for the supported work scheme where they have a couple of days at Highlands; a couple of days with the employer. So what is the easiest? I do not understand. It is all about control with Social Security: this "provide a definitive and clear list of acceptable courses." Now the Minister for Social Security said: "Well, that is an outcome before we know it." No, it is not because it might be at the top that they know what they want. Once you get down to the bottom and you are dealing at the coalface, if there is not a clear, acceptable list and there could be some discretion they say: "Oh, no. Computer says 'no'. You cannot go on that course" and that is exactly how it works. It does not filter down. So, yes, we do need a clear list, and amend the Income Support guidelines for Social Security staff appropriately. Well, the other one said: "The relevant Income Support Guidelines used by Social Security staff." Are we playing with words here or are we being played? I really think the Deputy is being played. It is a no-brainer. There are no figures in here because the Minister for Social Security and the Deputy of St. Mary said: "We do not know what it costs because we do not know who is going to walk through the door." What this does not tell you in here is how many are already claiming their £92 and

doing nothing. Absolutely nothing. They all left school on 30th June and they should be doing this now. You make a law and then you do not advertise it and then you do not really know how to deal with it. So, to me, anyone who wants to take their money and do education, it is an absolute no-brainer. I cannot accept the amendment because I do not understand it. I think the proposition is totally clear. It is going where I think we want to go for our youngsters who are on income support and single parents. The Minister for Social Security has obviously discussed it with officers and said: "I do not know, that is going a bit too far, let us amend that." It makes no sense to me. It is quite clear what the proposition says.

[10:15]

It is quite clear to me. If you are allowed the money to do nothing - and I mean do nothing - I would like the Minister for Social Security to absolutely tell me that that is wrong and to tell the House that that is wrong, because he cannot do that. All you have to do is attend Social Security once a week to prove you are actively seeking work and, as I say, sometimes fill in this silly form that they give you now and you might have to go for a few interviews. So, unless he can deny that, this is a no-brainer. If you want to give money to kids who are sitting at home doing nothing but you do not want to give it to kids who are on an educational course, I am ashamed to be a Member of this House. Thank you. **[Approbation]**

1.2.5 Deputy D.J. De Sousa of St. Helier:

I am very happy to be following the last speaker and she has said most of what I would want to but much more eloquently than I could. When the Minister spoke in his opening speech he mentioned the word "clarity" and I wrote it down straight away. I feel that what the amendment does is take the clarity away from the initial proposition. One of my amendments to the Strategic Plan for the life of this House was about appropriate training for appropriate jobs and it was fully accepted by all Members of this House. This proposition helps with that strategic aim. Also, one of the big aims of the Strategic Plan is for everybody to achieve their full potential. Again, this proposition will assist in this strategic aim. Single parents, we have been told, do not need to work if they have children under the age of 5. When do those people start training to get back into work? Once those children are 5? Surely it is better to start training, ready for work, while those children are under school age. So I will finish there and I will say that I am going to back the proposition; not the amendment.

1.2.6 Deputy P.V.F. Le Claire of St. Helier:

It was very kind of the Minister for Social Security to highlight my visit to him some months ago and I am very pleased that he has agreed to look at the suggestions in relation to the internet programmes that I highlighted to him at that meeting, however, if I could just touch upon those. They were courses that are available on the Internet for people to understand and gain certification on any topic that anyone would choose to want to learn that involved a computer. So whether that is graphic design or how to use a calendar or a Microsoft Word application or a painting project or something like this, or an accounting piece of software, those internet skills could be learnt extremely quickly and extremely easily for the sum of £35 a month per user. Now the 2 companies that I mentioned to him - I showed him and emailed him - that were available were 2 companies that I had used and I had signed-up to learn certain types of programmes to help me in some media applications that I was choosing to learn. The interesting thing about it was that certification was achievable after one had watched maybe 6 or 7 small instructional videos. So, the cost for one individual is £35 a month and you can stop at any time. A corporate licence possibly could be achieved by the States of Jersey to enable a small workspace for people to go in or have access to that from home. But my point is it does not take a great deal of time or a great deal of investigation to understand that. I left school I think with 7 G.C.S.E.s and one O-Level and I managed to grasp it pretty quickly. We have some intelligent people in the States Social Security Department; I am sure that they can fathom that in a couple of minutes. The Minister also pointed out that I had

experience about being unemployed. Well he, himself, had experience of being unemployed for over a year. In fact, many of us in the Chamber now are totally without jobs so we all have an understanding of what it is like to have no active role in life. While that is a bit of an attempt at humour, it is not so funny really to look at yesterday's highlights in the newspaper from Jersey Post where they are looking to make redundant 90 people. We have possibly in the future, through the reorganisation of Jersey's infrastructure, to look at these sorts of numbers, perhaps in the finance industry. So, when I listen to the comments that it could be expensive to solve this issue, I really scratch my head and start to ask Members to focus on why it is happening. We have an Island that is gainful because of a finance industry. It is attracting labour, it is attracting people from all over the world because there is money to be made making money. We have a woeful Immigration Policy that is iniquitous, we have a woeful Housing Policy which is iniquitous, we have a system which some people think is great and if you are working, and if you are capable, and if you are running fast, it is great. But if you fall by the wayside at any stage whatsoever, it is not great. I was recently in the Social Security Department - I have been there a number of times to help people - and on this recent visit I was there with a Polish gentleman who was a head chef who had undergone an operation. The operation had gone wrong, he was in a state of being unemployed and in a state of also suing the States of Jersey. Yet, because he had not been here 5 years he was ineligible for low income support. I asked if they could not give him the money because he could not feed himself, his wife and his child, would they at least help him by giving him some training and I would go to the Parish and see if I can get some money from that perspective. I must say, I went through quite a bit of time and tension - I must say tension - with the officers to try to understand the guidelines and eligibility that individuals have within the department. I emailed on several occasions to try to find out what the policy was and where the guidelines were, urging and expressing a desire to understand those so that when I brought a constituent before them, I would have a clear understanding of what the issues were. If their English was not as good as it might be or if there were not enough translated leaflets, there would be an opportunity for me to express what exactly is happening and explain it to the constituent. I think those are areas where the department needs to look hard at itself. I think that is what we are doing today. We are asking the States to focus for a brief period of time upon one area of the States which is not really working properly, strangely enough. I do not blame at all the Minister, because I think he does a really good job. He is an excellent politician, in my view. I hold the candle out to both people in this debate, Deputy Southern as well, for the work that he does in this area. I am taking Members' time this morning to speak about this because I think it is important, maybe more so than other debates I throw myself into to say something, that I just spend a little bit of time trying to make Members understand what happens if you are unemployed. Many Members in this Assembly are well educated and perhaps have not been unemployed with young children. I have been, through no fault of my own. I found myself out of work and it is not a very pleasant place to be. In fact, your confidence takes a fall after the first 20 or 30 refusals and forms and bureaucracy to ensure that you have been making phone calls and attending job interviews do not do anything to your self-esteem whatsoever. In fact, they drive out the initiative; they drive out the enthusiasm and they drive out the hope that you are clinging to when you are unemployed. Apart from the fact that you have bills to pay, food to find, shoes for the children, *et cetera*, you are a part of society that is now no longer happy, no longer functioning, no longer productive, no longer achieving plans, no longer paying into society, no longer purchasing from society and you have become, through no fault of your own, what society deems as a burden. So on top of it all you have that stigma about yourself that is really unpleasant. Unfortunately, most Members, in the past, anyway, and still some members of the public, have adopted a holier-than-thou attitude to people that are in these circumstances. We have moved in leaps and bounds in recent years on the homeless issue and we are now providing very decent homeless services but in the main the homeless services are also being provided by the private sector to help where the States are not helping there. We have an issue here ...

The Deputy Bailiff:

Can I bring you back to the amendment?

Deputy P.V.F. Le Claire:

Yes, Sir. We have an issue here about the eligibility of courses for people that are unemployed and whether or not we should be putting money on the table for those people to be trained. But it is the same old story, if we do not invest in those people and get them back into employment then we have those people here, in any event, who are a drain upon ourselves and upon their families and are not achieving *et cetera*. So I urge Members to support Deputy Southern and to not support the amendment because I think that the Minister has within his power the ability to do these things on an ongoing basis. He does not need more time; he has all the time there is. He is not going to run out of a Ministerial position at the end of the year; he is still going to be there so he can still do more. Another area that I asked him to look into about courses was the Skills Club, not just for those that are young that Deputy Martin has pointed out that are eligible for £92 a week, but for those, for example, like myself. If I were to not get re-elected next time around I would like, if possible, to either enter into the finance industry or some other industry. I might not be successful. So where would I re-skill myself to be a plumber or a bricklayer or a mechanic whose wages are extremely good? £35,000 a year or more as a mechanic, a plumber or a bricklayer; where is the access to those courses for adults? I have mentioned this time and time and time again. Would the Minister for Education, Sport and Culture please talk to the Minister for Social Security and look at the Skills Club that I have mentioned in England. I have emailed them (his predecessor anyway) before. Give these courses to adults that want to re-train and re-employ themselves. These courses are important. Finally, I think it is quite important the issue about funding. Recently, I commented upon the Minister's strange pot of health funds that he had accumulated from the Social Security Fund that he had to assist doctors while Health had no money. Here we have a situation where Education has no money and we have the ability to put a portion of each working day's Social Security contributions into a training fund. So a set-aside training fund could be used to make sure that we invest in these sorts of things regularly because I am very, very certain that our future is going to face an enormous challenge in re-skilling large numbers of people, not only that are coming through school but that are in employment at the moment. It is a job that needs to be undertaken with great haste, in my view. So I am not going to support a delay in this today. I saw the Minister 18 months ago, maybe longer, about this. He does not need more time. He is there, he has the job and he has my confidence. You have the job today, you have the job tomorrow, through the Chair to the Minister; however, he does not have my support for the amendment.

1.2.7 Deputy T.M. Pitman of St. Helier:

I will try and stick to the amendment. I really just wish to endorse what Deputy Martin outlined in, I think, an excellent speech, and Deputy Le Claire too, to be fair. The proposition is indeed, in my view, a no-brainer which is probably an unfortunate term to use with a proposition that fundamentally is linked to education. But the key part here, I believe, is about what we want likely claimants or beneficiaries - call them what one will - to do. To either sit at home, possibly with increasing frustration, vegetate and continue to be a long-term drain on States coffers, taxpayers' money, let us not forget; or make it easier to begin to transform themselves and to improve not just their self-esteem but that sense that there are some opportunities ahead and that is a big difference. Here I would just add that in my view, as someone who has worked with young people in such circumstances for a good number of years, at first glance the bureaucratic step of a definitive list is, I believe, positive and helpful. We are talking essentially about investment. Any investment in young people, be it teenagers or young parents, of which there are quite a number, is an investment in the Island's future. I have to say that that definitive list would be a good thing because it would provide clarity and I am disappointed, I think, possibly (and I hope I am not doing him a discredit) the Minister's objections are about losing control.

[10:30]

This should not be about control; it should be about long-term assistance of young people and helping them to be what they could be and all Islanders to be what they could be. I would really ask the Minister to consider withdrawing his amendment and then we could move forward because, as I say, I think this is really very clear: we should be supporting the proposition. If the Minister is not going to withdraw, then I would urge people to vote against the amendment. Thank you.

1.2.8 Deputy C.F. Labey of Grouville:

I think it is quite simple what we are trying to achieve here and we seem to be making incredible heavy weather of it. What the Social Security Department and Education, I would suggest, need is a definitive list with clear, unambiguous instructions to the officers that work in those departments as to what courses people on low income support can go on. Now, it has to be unambiguous and I understand that and it needs clear direction. This is all about enhancing people's opportunities in the workplace. I think there cannot be many Members in this Assembly that feel it is better for somebody to be sitting at home on their backside claiming low income support when they can be sitting in a classroom bettering their skills. As Deputy Le Claire highlighted, it is not just the financial implications. If somebody is sitting at home applying for jobs and getting the knock-back all the time, surely being in a classroom, achieving things, taking exams, bettering their skill base is far more motivating; confidence is enhanced rather than endless form-filling and interviews. So, I can understand that the Minister for Social Security has issues that need to be resolved. This is why we need the list. For example, there are many courses on offer at Highlands. Tai Chi and Introduction to Watercolours should not necessarily be on the list to enhance one's skills in the workplace. I do not know. That is why we need clear instructions; the Ministers need clear instructions and in this I include the Minister for Education, Sport and Culture. Because I had a case, a constituent came to me, he had received conflicting advice from ... well, he was encouraged to go on a course by the careers staff, the many careers staff at Education. So he enrolled on the course; he had been on low income support. The officers, not the senior officers but the ones at the coalface, at Social Security knew nothing about this and in the January he was rendered a bill of £1,400 while taking a course at Highlands. So he gave up the course and is back sitting at home on his backside claiming low income support. So, I would suggest that is not the way to go. The only thing I would take issue with Deputy Southern is do we really need a review to achieve what we are trying to achieve here? Surely, it would take the Minister for Education, Sport and Culture, the Minister for Social Security and the Chairman of the Scrutiny Panel to sit down, discuss this issue, so we can have a way forward. I would just like to say on the case that I cited that Social Security were very, very helpful when I went with him and matters were resolved. However, I was dealing with the Minister and the senior officers. I do not feel it is necessarily the case with more junior officers, and that is not necessarily a criticism of them, but I think it is imperative that we have a list and a clear way forward so we can empower the workforce, skill them up to suit the economic climate and people on low income support can enhance their skill base. I think we should all agree this is what we are trying to achieve. Like I say, I think we are making incredible heavy weather of this and I would like to get on and support Deputy Southern's proposition. Thank you.

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

First of all, I fully support the need to address this particular matter. I am well aware, like many States Members, of individuals who have found themselves in difficulty with regard to accessing career and training opportunities because of the current system in place. Unlike the previous speaker, I do believe that there is a piece of work that needs to be done, some of which has already been undertaken, and equally there are issues which the panel have flagged-up that need to be further considered. I also believe that it is important for all Ministers who make up the Skills Executive, as identified by Deputy Southern, to be involved in this process and determine how we provide the appropriate support for everyone, including those who may be eligible for income support, to pursue an educational or training course. The Skills Board, who are the body that supports the Skills Executive, have been actively working in a number of areas to develop training

opportunities and they believe that the essential issues are those of access and flexibility. They maintain a view that it expressed as a recommendation to training providers published earlier this year that all training providers should consider how best they can make their provision more relevant, flexible and accessible. This means that it is not just access necessarily to Highlands' courses; this needs to include the opportunities for distance learning and other methods. In the best interest of employed and unemployed learners, training providers should be encouraged to develop programmes of learning which can be accessed without the need for learners to give up employment or job-seeking activities. In addition, the board is currently undertaking work in establishing means by which learners can invest in their own development through access to a careers development loan aimed at ensuring that the financial circumstances of an individual are not a barrier to improving their own skills. I think those simple words, and few words, sum-up some of the issues that need to be addressed in the review that both Deputy Southern and the Minister for Social Security are proposing. I do have concerns over the timescale proposed by the Deputy but I equally understand his frustration that this issue which has been known for some time has not been addressed in the timely manner that it should have. In summary, I still believe that the Minister for Social Security is going to, in proposing in his amendment, deliver the needs and address the matters expressed by the many individuals that have spoken to date. I would ask Members to support that amendment. Thank you.

1.2.10 Senator P.F. Routier:

Since income support has been in place there has obviously been a need over the period to review the way it has been implemented and the help to support people. I think this is one of these occasions where a review is well and good and timely. The issue that I have a problem with in the main proposition is that there appears to be a desire to enable people to go on to courses which is good; they need to be able to go on to courses, but it is at their own desire and obviously with the advice of the educationalists to improve their skills. But there does not seem to be in this proposition an endgame to it. It looks as if, to my mind, somebody wants to go on to a course they can go on to a course and then go on another course and then go on another course and this appears to me what is being proposed by the proposer of the proposition. So I would really hope that whatever is brought forward there is a mechanism which will avoid that happening because the whole process of supporting people with income support is on the basis of them trying to get a job and trying to support themselves financially. Of course, the priorities of Education and Highlands are to educate people, and quite rightly so, and we need to ensure that people are able to gain the skills that they require. But their priorities are different to what Social Security's priorities are. Social Security's priorities are to support people financially where they are in financial need. We need to marry those 2 things up. I quite agree that the 2-decision process is a difficult thing to get right: whether it is possible that perhaps a decision about supporting somebody in going to education should be a joint decision; whether officers should sit together at the same time and make that decision rather than making separate decisions. That may be something that would come out of a review. I have not discussed that with anybody previously but it is just something that has occurred to me this morning as a possible way to achieve this. So I am concerned with the main proposition about there being an automatic acceptor: if there is an acceptance on a Highlands course that there would be an automatic expectation that income support would follow. I do worry about that. I think that is something we should be very concerned about. The Minister has brought forward an amendment which does highlight the issue with trying to get this review carried out immediately. Practically, I understand that the educationalists will be taking their break and all the rest of it and the Minister has come forward with a proposition which will carry out the review in a timely manner. I think it will ensure that that process is carried out appropriately. I do think that we just need to be very careful about having this automatic acceptance on to a course means that income support will follow, just as a word of caution. I will be supporting the amendment and if the amendment is not accepted, I am not sure what I will do about the main proposition.

1.2.11 Deputy F.J. Hill of St. Martin:

I really think we are making heavy weather of this. When I looked at this this morning, I thought: "Well we should not be very long with it." I have a lot of time for the Minister for Social Security but I just could not understand why the amendment was there because, really, what I thought what Deputy Southern has is quite clear and I have underlined it in the second line. It is to review. It is not tablets of stone; it is purely to review. What we have really now is an amendment to review something but it is almost as if it is because it is Deputy Southern, it cannot be reviewing what Deputy Southern has to do; it has to review what the Minister wants us to do. If the Minister wanted to review it, why did he not bring it earlier? The only issue I have really is probably about the date of September. I have heard other Members say they have been dealing with constituents who have problems, and I have got one, and we have created an anomaly now. The parishioner I have is quite an honest lad, and he has been honest, and because he is honest he is not getting the £92. If he was saying: "I am a job seeker" he would have got it. He is in the situation now and he has said: "Well what can I do to get out of it?" I have to commend the people at Social Security; they have been very helpful, as they always are, but we have got nowhere fast with him. I very much welcome this, and the sooner we can get this together ... and what I would ask people is not to spend too long. I think what Deputy Southern is asking is quite clear: it is reviewing, we have to get a definitive list there and the sooner we can do it the better.

[10:45]

The only issue I would ask, and maybe Deputy Southern can cover this when he sums-up eventually, is about the September. I can understand where he came from. This was lodged on 27th May, possibly had we had it debated early June we would have given ourselves another month, but no doubt, if indeed there could be some consideration given, if indeed this does come backdated ... when it does eventually come through (because I cannot see it being done by September), the possibility that there could be some consideration given that if there is any monies due to someone, it could be backdated to the start of the term. That is the only consideration, but I ask Members not to spend too much time. I think what Deputy Southern has got is perfectly okay. It is to review and review as he wants and not as the Minister wants.

Deputy J.A. Martin:

Could I just ask, because there seems to be still some very, very ... especially from the speech of the ex-Minister for Social Security ... at this point, just to see whether it could curtail the debate, could I ask the Minister for Social Security to clarify who can claim the £92.30-something now, and then maybe we can see where we are going from.

The Deputy Bailiff:

Deputy, if the Minister clarifies that, he would be asked to clarify other things as well, and my own view is that he should sum up at the end of the debate. I call on the Chairman of the Health, Social Security and Housing Scrutiny Panel.

1.2.12 Deputy G.P. Southern:

I point out that this comes with the backing of the old panel as well as backing of the new panel for Health, Social Services and Housing. Many people today, including Deputy Gorst, have said what I was trying to do was bring clarity, and that clarity, I think, was already there, as has been mentioned. Just to remind Members what we are talking about, my proposition says: "To request the Minister for Social Security, in consultation with the Ministers for Education, Sport and Culture and Economic Development, to review his policy on the eligibility of income support. Eligibility for income support at the moment says you have to be an active jobseeker, and the fallback position is exceptionally, if you are going for a training course, we may make an exception, but you have got to come along and make your case not once but twice. You have got to do it from a careers point of view, given advice from educationalists, from people saying: "This is a good opportunity for you. This will improve your prospects." Then you have got to go along and try and persuade

Income Support that it is worth them supporting you. It is a 2-fold process, as several people have pointed out, for those who wish to pursue an educational or training course, in order to produce a definitive and clear list of acceptable courses. What we have got at the moment, as we have heard, is decisions made at a very low level; you go in one day and you say: "I am applying for this course up at Highlands. Will that be acceptable?" and the officer says: "Yes, probably" or "Yes, definitely." You go in 2 weeks later and you see another officer and you are told: "I am not sure about that. I will have to send it upstairs." You have got this confusion, this delay, this lack of clarity in what is happening down at Social Security. That is the reality. Worst case that we heard of from there, a person presented with a bill: "You have not been job-seeking for the last 3 months. You owe us £1,400." Now, whether it was resolved or not, that person left the course, was stressed, had to sort it out. That is taking up officer time. Let us get some clarity in the system. "Produce a definitive and clear list of acceptable courses." Now, the Minister is saying: "But that is being rigid. At the moment, we have got total flexibility. You may or may not get income support." A definitive list says: "You will definitely get it for these courses and obviously we may consider you for some other courses in special circumstances." It does not say: "Completely rigid versus completely flexible." It says: "Let us have some clear guidelines. Amend Income Support guidelines for Social Security staff appropriately so everybody knows [because they do not all know] and ensure this list is widely communicated to all stakeholders in ample time for the September 2010 intake of students." Now, at the time of lodging, I believe that was perfectly feasible, but communicating a list should not be hard. Reviewing a policy that says: "Our fallback position is wrong for these people" should not take long." So I think the timescale still is effective. Had I lodged this as a Back-Bencher, I could have got away with a fortnight; we could have done this in June. I lodged it as the panel to give it more weight and, I hope, more authority, because we had received their evidence as a panel and that takes longer; that is a 6-week lodging. So that is why it appears to be a bit on the late side. It seems to me that the Minister has just kept banging on about his - and I think the word is correct - control of the process and this double-vetting system that we have got which does not produce clarity and does produce some anomalous mistakes. We have got widespread support for this. I will just remind people, the Minister himself: "The department, as part of the Skills Executive, is working to provide a wider range of training opportunities to support young people in the current economic situation." The Minister for Education, Sport and Culture: "As a result of reduced employment opportunities, due to the economic downturn, the demand on places for full-time courses at Highlands has increased significantly." The Minister for Treasury and Resources himself, if anybody is worrying about the money: "... reinforce the long-term aims in the following terms: providing additional opportunities for full-time study leading to qualifications during an economic downturn should deliver long-term economic benefits through a more highly educated and skilled workforce as well as the stimulus benefits in the short term." What a ringing endorsement of what we should be doing. In terms of numbers, the head of Highlands says: "The recession and the increase in unemployment meant there has been an increase in applications for Highlands Return to Study and access to higher education programmes. In September 2009, 31 students enrolled on Return to Study, 50 on the access course. This was effectively a doubling of the numbers." The doubling of the numbers is already there. It was there in 2009. It is not likely to go through the ceiling in 2010. In terms of the cost ... and again, I think the Minister keeps coming back to this: "This could cost us £500,000." He just throws that figure in. Let us look. If it is a mature student who is unemployed, they are eligible for income support at whatever rate their family unit, their income support unit exists on. They can sit there, job seek and get income support. These young people, relatively young people, can, on their own, soon as they are aged 16, actively seeking work or on a course - should be or on a course - can get their £92 personal component of income support. Anybody can do that. If you are a family, then obviously income support bill goes up, but surely it is far better to be out training yourself rather than sitting, making pointless and soul-destroying job application after job application when you know there are no jobs out there and your skills base is not getting you through the door. We are talking there ... let us have a look. In particular for single parents, which

is one of the issues, the cost of childcare could be up to £7,700 a year; an additional 10 people going and training rather than sitting at home watching the telly or whatever, would cost £77,000 maximum. That sounds to me like a good investment in the future of those particular single parents. The guidelines currently, and I will quote the answer to question 5299, page 8 of my document: "Parents with children under the age of 5 who are able to make childcare arrangements without the need for additional financial assistance are supported through I.S. (Income Support) and may choose to study and continue to receive income support benefits." There you go then. If your mum can look after your children or your child, if you have got a partner who can look after them, you are all right; you do not cost a penny. But if you cannot, then you cannot take advantage of that opportunity, train yourself up and make sure that you and your family have a better future in the future. The only alternative there would be a distance learning opportunity, which is again an isolating process and not necessarily one in which you are improving your social as well as your academic skills. I think many people have said: "We are rather making heavy weather of this." I hope we can put this to bed shortly and I maintain my proposition.

The Deputy Bailiff:

We are on the amendment. Does any other Member wish to speak? No other Member wishes to speak. I call on the Minister to reply.

1.2.13 Deputy I.J. Gorst:

I recognise that the Deputy and I, in the turn of phrase, are not a million miles apart. Training is important. I do not think that there is any Member in this Assembly that will prefer to see someone sitting at home on benefit with no hope, with no vision and with seemingly a bleak future. If the reason they are struggling to find work is for one of training, then I suspect that each Member here would think and promote appropriate training for those individuals. The question, in its simplest form, today facing us is do we decide exactly what course that individual should go on in advance or do we carry out an appropriate review which, as I have said in my comments and in my opening comments, could lead to a definitive list. But I do not believe at this stage that either I, the Minister for Education, Sport and Culture, the Minister for Economic Development or the Assembly has the appropriate facts in front of them to be able to decide that: "Yes, that is exactly what we should do today. We should create a definitive list." Let us remember that we are not just saying: "Yes, there will be a definitive list." What we are doing by saying: "Yes, there will be a definitive list" is: "Yes, there will be a definitive list which automatically entitles a person, having been approved by Education, the money from Income Support will follow them." That might be what ultimately comes out of review, but I believe that it is far more appropriate for Members today to allow the 3 Ministers together ... I have already committed to hopefully having this section of the Income Support Review finished this year so that we know exactly where we are going ... to do it in an appropriate fashion. One or 2 Members have talked about money, and the biggest area that we cannot be certain of - the Deputy continues to insist that it is only going to be an extra 10 people - are those lone parents who have care of children who currently are exempted from job-seeking while the children are under 5. What we would be saying is they will automatically be entitled to not only income support but also childcare, if they need it, to enable them to go on the course. That is where the big cost is. Deputy Martin has talked about 16s being entitled to income support. That is not going to be the big cost. The big cost is those lone parents who have children who would need us - that is, the department - to cover the cost of childcare as well as them as a family receiving income support. So we have got to remember that we cannot just take one particular element on its own. It has a knock-on effect to other areas as well. I could go through everyone's comments but I think we have broad agreement that training is a good thing and it is an appropriate thing and perhaps in the past ... I keep saying this and Members seem to keep forgetting it, but income support and its introduction was indeed a big challenge to the department. It was a big challenge to this Assembly approving it and wondering if we had made the right decisions. We always knew, I believe, as an Assembly - and certainly as a department - that changes would need

to be made. I have got a proposition later in this sitting which will help to change some of the way that income support works and apply money in what I hope Members will think is an appropriate fashion. These are issues which must be addressed appropriately and due consideration must be given. The Deputy of St. Martin said why have I not got on and reviewed it already, why I am not reviewing it, is it just that I do not want to accept Deputy Southern's review?

[11:00]

Well, Members should be aware from reading the comments in both reports that I have been reviewing it. There is a new process in place for 2010 that was not in place previously. It makes it quite clear to all individuals going to Highlands, looking to go on one of these courses, that if they currently receive income support or they will need to receive income support, they need to speak to the department as well. So there is already an enhanced procedure in place, but we are not resting on our laurels and saying: "Okay." We are still driving forward. "Are there further improvements that we need to make? Is it going to be appropriate to have a definitive list or is it better to be slightly broader in approach?" It is interesting that one or 2 Members have said what they would like to see is a definitive list but of course we would still like discretion on the side as well so we will have a definitive list, but should anybody else come along and want to do another course, then yes, we will let them do that as well and we will provide the funding for that as well. It seems that sometimes we are not quite sure what it is we want, and what I am offering to Members today is let us do the review; then we can be certain exactly what it is that we want, what is the best way to deal with these issues, which I recognise are contentious and I recognise we need to get right, particularly in these difficult economic climates. Deputy Martin talked about the Advance to Work scheme. It is an excellent scheme. It is helping those individuals who are on income support to train at the same time. We have made a positive decision as an Assembly, as a Council of Ministers - perhaps it was off the back of a suggestion of the Deputy of St. Martin - it does not matter whose suggestion it was, it was the right thing to do and we have done it and it is working. So if, after review, we decide that this is the right thing to do, then we will get on and do it, but I do not believe that at this moment in time we have considered all the full implications. Perhaps the biggest thing that we have not considered is that we made a positive decision about lone parents on income support to exempt them from looking for work while the child was under 5. I supported that decision. I think it is appropriate that we support family life in every which way that we can. If we make this decision today without the appropriate review, what we will be doing is saying: "Okay, that is fine, but also we are going to let lone parents go and study and we are going to pay for childcare at the same time." It might be where we decide we want to tweak income support and that is the way we want to go, but let us do it in an appropriate fashion and in good order. Deputy Martin also talked about actively seeking work, and those individuals who are on income support who we and the department asked to prove that they are looking for work. I have got to say I think that is an appropriate way to go. I do not want to see people sitting on benefit. I do want to see people looking for work, and perhaps there again are amendments that we could do to that process. We could be, I am the first to admit, slightly more interactive in helping people and in job matching, and that is something that we are starting to do and that is appropriate. We are always going to need to review income support because it is our primary benefit system and it is appropriate that Scrutiny review it. It is appropriate that decisions are made in this Assembly to how we provide funding to the vulnerable, but we must do it in an appropriate fashion with the appropriate facts and research behind us, and that is what I am asking Members to do: to give the 3 Ministers that bit of time to come forward with an appropriate proposal. Senator Ferguson asked about Social Security contributions, and I am coming to the end, Sir. There are credits available to one's Social Security record if one is a full-time student, up to 3 years' worth, once one has hit 18. So that is not just for what you might call younger students, i.e. going to university at 18, but it could be available and is available for mature students as well. So, in a way, that does not have anything to do with this particular argument. The Deputy of St. Mary asked about income support off-Island. It is not available off-Island. If one was going away to study for a course, then that

would fall under Education. One or 2 Members talked about ... not necessarily saying there should not be a 2-stage process, although of course we know the Deputy does not think there is, but having a more joined-up process. I think that that is possibly an appropriate way forward and that is what the review will be looking at. I would like to see, again in an ideal world, perhaps a point where careers officers, although they fall under Education, were able to help and understand the benefit decision which needs to be made alongside the education and training decisions. Perhaps that is a way forward that those officers sit together, they understand each other's roles and responsibilities and are able to make that joined-up decision. I do hope that Members will be able to support my amendment. I do believe that it gives clarity, it gives time for that appropriate review. We all agree that training is important, particularly at this time of economic difficulty, and I and the 2 other Ministers and the Skills Board are all committed to ensuring that there is appropriate training, and I believe that our record on the Skills Board shows that and therefore I ask Members for their support. Thank you.

Deputy J.A. Martin:

Could I just ask the Minister a point of clarification because it certainly was not clear. Actively seeking work: could he confirm or clarify that anybody over the age of 16, due to any other family circumstances, can claim £92-X amount a week and, if they then go into education, that money can be taken away. Obviously that does not affect a child of a rich family but it does affect the child of a low income support family. Could he clarify that once and for all?

Deputy I.J. Gorst:

The Deputy well knows what the Income Support law says about eligibility to over-16s. Yes, they are eligible to receive that, and that is why we, as a Skills Board and as a Council of Ministers, have brought forward extra places at Highlands, the Advance to Work Scheme and, of course, children can go into sixth form to ensure that these individuals are given all the help and support that they require and we will continue to do that. My big review for income support, the first thing it is starting to look at is work. Within "work", this covers training and ensuring that there are appropriate pathways for people on income support to get back into work. These things we know we have got to look at, we are looking at and I ask that Members give us the appropriate time to come forward with appropriate measures moving forward. Thank you, Sir.

The Deputy Bailiff:

The appel is called for. I ask Members to return to their seats. The vote is on the amendment of the Minister for Social Security to the income support eligibility for educational training courses. I ask the Greffier to open the voting.

POUR: 33		CONTRE: 14		ABSTAIN: 0
Senator T.A. Le Sueur		Senator A. Breckon		
Senator P.F. Routier		Senator F.du H. Le Gresley		
Senator P.F.C. Ozouf		Connétable of St. Helier		
Senator T.J. Le Main		Connétable of St. Lawrence		
Senator F.E. Cohen		Deputy of St. Martin		
Senator J.L. Perchard		Deputy J.A. Martin (H)		
Senator S.C. Ferguson		Deputy G.P. Southern (H)		
Senator A.J.H. Maclean		Deputy of Grouville		
Senator B.I. Le Marquand		Deputy P.V.F. Le Claire (H)		
Connétable of St. Ouen		Deputy M. Tadier (B)		
Connétable of Trinity		Deputy T.M. Pitman (H)		
Connétable of Grouville		Deputy M.R. Higgins (H)		
Connétable of St. Brelade		Deputy D.J. De Sousa (H)		
Connétable of St. Saviour		Deputy J.M. Maçon (S)		
Connétable of St. Peter				
Connétable of St. Mary				

Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				

1.3 Income Support: eligibility for educational or training courses (P.66/2010) - as amended

The Deputy Bailiff:

We now return to P.66 as amended. Does any other Member wish to speak? Deputy Le Claire.

1.3.1 Deputy P.V.F. Le Claire:

When you directed me, quite rightly, back to the substance of the amendment, I forgot a couple of points I would like to make which are relevant to the debate generically about courses, and those were, apart from the 2 online courses that I mentioned which were the V.C.L. (Virtual Learning Community) and the lynda.com ones where people can learn and certify at home, I wanted to also raise the issue about the European Computer Driving Licence certification (E.C.D.L.) which is often offered, and I lost my train of thought about the Polish man who was in a position. He did not qualify for low income support because he had not been here for 5 years, but he was in a position where he could not work because an operation that he had taken on privately had gone wrong from the hospital, so he had to stay in order to continue to pursue his claim through the courts and he could not take his E.C.D.L. on low income support because he was not able to achieve low income support. So I just think those sorts of anomalies, where the Minister has the ability to ask the staff, to give the staff flexibility, but also, more importantly, and the Minister did not really cover this, was to get the guidelines and the policies upfront and available and clearly understood for people that come into the department, and politicians have tried to represent them because we ask for the policies and the guidelines and it is very, very difficult to understand where we stand. I would also like to finally say Highlands, Highlands, Highlands. Yes, there are some excellent courses at Highlands. We know that. Predominantly, it seems aimed at people who are going to come out of work to go there or do classes at night, which may not be convenient, or for younger people. I recently was doing the E.C.D.L. course through Highlands and month after month after month I was unable to book a training course on Wednesday because I would find myself in the States but yet that was the only day they would do the test was on a Wednesday afternoon. I was running out of time and I got quite anxious about it and phoned them up last month and said: "Look, I am running out of time for these modules and I do not seem to be able to find a Wednesday free" and was only told last month that because I had bought into the straighter package of learning through the V.C.L. course, I could take the test at another private facility in town and they would probably have different days where you would be able to go and test. I think we need to look at those private facilities in this review. So now that we are speaking about the

amended proposition, I urge the Ministers to look at ... okay, we are going to take money we have got on low income support and make sure that our money in Highlands is being used wisely by putting students on courses there, but if students are prohibited to go on those courses because of numbers or because of ages, let us look at the private sector and what they offer because it may be that we pay, in the short term, more money for a private-sector course but get that individual certification in a shorter period of time than we would if they had to sit around for 2 or 3 years, 5 days a week, at Highlands. So I am quite willing to come back to the Minister for Social Security, if he would have me, to go over again these ideas, but I certainly do think there is a whole raft of issues including the private sector who offer extremely good business courses that we should be looking at to use as well: not just Highlands, and I once again urge them to take on board what I am saying. The skills club, the electrical courses, the bricklaying courses, the mechanical courses, the plumbing courses, the painting courses for adults who may want to go and work during the week but on a weekend may want to skill themselves up in these areas so when they do realise that their jobs have come to an end, as some are going to learn in Jersey Post and some have learnt recently in Telecoms, that they can go out into the community and take employment in those areas, where at the moment we are relying upon migrant labour. Migrant labour, as great as that is, does not have to pay the mortgages of the Jersey household. They pay the mortgages in the migrant workers' countries. The mortgages there, in most respects, are significantly lower than the residents of Jersey who have high mortgages to meet, if they are fortunate enough to have a mortgage. We need to protect the residents of all nationalities in Jersey to make sure that they can afford their living standards, and we need to make sure that the training we give them and the access to courses and re-employment opportunities are going to benefit them so that when they go out into the workplace, they are not suddenly faced with somebody who has arrived from somewhere else the day before who has taken that opportunity from them. I am hoping the Ministers would take that on board and I will be more than willing to come back and talk to them again if they would have me.

1.3.2 Deputy R.G. Le Hérissier of St. Saviour:

I just wanted to make a couple of points. Oddly enough, the thing that really prevented me from wholly supporting the totally worthy objectives that underlay the Scrutiny Panel's amendment was the definitive and clear list of courses. I think, as Deputy Le Claire has said, there has to be flexibility, and there are a lot of anomalies and he is quite right. Having spent a lot of time as a part-timer on the degree programmes at Highlands, there needs to be more flexibility. There is this immense anomaly, for example, between the fees that are charged by a genuine part-time provider, the Open University, which are phenomenal now because they are totally overseas-fee-based in what they charge the Island, and the courses at Highlands which are much, much more generous in the support they offer people, but the problem is, because of the way they are structured, they are only offered technically as full-time courses.

[11:15]

This, as Deputy Le Claire says, opens up all sorts of problems for people. So I would like to see much, much more flexibility. I do think, and of course does this not sound like tremendous self-interest, I do think Highlands offers tremendous opportunities to people, but nevertheless, the days when a further education college can operate on a Monday to Friday routine, on the old term structure which is based on medieval harvesting schedules, as we all know, the days when they can do that are passed and we somehow have to move to another model, and that is despite the enormously wonderful, good and broad work that they do. Also, the other reason I was bit leery of definitive and clear lists is, there are a lot of people on degree programmes who - and of course this is in a sense, at a macro level, reflected in Britain - enter these programmes, not because they have a specific vocation that they wish to follow, but because they wish to engage in a general education of themselves and prepare themselves better for the broader sort of experience of living. I do not think, even though these days so much is oriented towards vocation, vocation, vocation and I can

see why, I do not think these people should be dropped off the list. They should be given a chance, so I was very leery of the prescriptiveness of just a list of acceptable courses. I think the real nub of the issue is the kind of career advice people get and the kind of background that informs the decision they make when they make the course decision. It should not be just a ticky-box kind of decision. It should be well-informed by proper careers advice. That is where I did agree it should be informed, I will support the proposition.

1.3.3 The Deputy of Grouville:

What worries me now that we have agreed to go along with the review is the timescale. I cannot help but feel ... and this is what I find most frustrating being in politics, is how long everything seems to take. We have got the Minister for Education, a Minister for Social Security, a Chairman of the Scrutiny Panel. We all know what the issues are. If you lock the 3 of them in a room for a couple of hours, I am sure they would be able to come up with unambiguous guidelines for their staff, because at the moment, having had a member of the Skills Executive before my Scrutiny Panel last week, I am certainly not assured with what is going on there. I have less confidence in the role that they play now than before he came and gave evidence to the panel. So, I feel there is a huge job of work to do here and it is now we need the guidelines, we need everything in place now. It is now that we are going through the hard economic times and I would just like something that could take a couple of weeks to resolve. I would just ask the Ministers, implore with them, that it should not take the rest of the year because the people that are looking for work or want to re-skill themselves need this help and support now. Thank you.

The Deputy Bailiff:

Deputy Maçon. No, Deputy Hill, Deputy of St. Martin, I have called on Deputy Maçon. I have got you down later.

The Deputy of St. Martin:

I am sorry. I thought you said Deputy St. Martin.

1.3.4 Deputy J.M. Maçon of St. Saviour:

It is a very small point but it is a point that applies to both, but now we have got the amended version. It is on part (a). I am not quite sure how the Minister will draft this, but the point I want to raise is a renew mechanism, because courses come in and out. They start and stop and I think it is all good and well to have a review now but if there is no mechanism whereby a new one can come on and an old one can go off ... I would just like an acknowledgement from the Minister that that mechanism is an implicit one which, of course, his department acknowledges is necessary. I am just seeking that assurance. Thank you.

1.3.5 Deputy M. Tadier of St. Brelade:

Where to start with this one? I have had some contact in recent months from people who have been in the exact situation of wanting to better their position and they have come up against a brick wall. I will read from an email, it is a very short quote from one constituent of mine who wanted to re-train. He was doing, let us say, manual work; he was not particularly well paid. An intelligent character but did not have a particularly good education for whatever reason, I would say, and he concluded in his email by saying: "I do not understand what is happening with Jersey at the moment. I am a Jersey resident trying his best to make a go of it and I cannot get help with anything. Just get let down and made to be in a more difficult position every time." If this proposition, as amended, helps then I will certainly be supporting it. Although of course, I did support the amended version and that is the one I would have preferred to have seen. I think it would have been clearer, sharper and we would have all known where we are. But if we can help even one person like this, I think we will be doing the right thing. Deputy Martin raised some very interesting points and I was pleased to hear her speak. This whole idea of actively seeking work is a bit of a conundrum because where do we set the bar? We could say that we are going to set it so

high that only people who have proved to have been actively seeking work, and been successful, are the ones who qualify for income support, but of course by that stage they will not be in need of it, so it would be a complete nonsense. Of course, there is an element of bureaucracy which we know people can come in and say: "Okay, I have spent 5 hours this week looking in the *J.E.P. (Jersey Evening Post)*" and they tick all the right boxes, and as long as that is done then you get your income support allocation. The bottom line is, of course, if there is no work out there, even if you are actively seeking work, then you are not going to get any. I hope we are not quite in that situation at the moment but that is potentially where some people do and will find themselves. I suggest that what we need in Jersey is something that is ultimately fairer. I think we need a statutory unemployment benefit and I will explain what I mean by that. One which is fairer and is given to everybody and I can see the Minister scribbling some notes but I will explain what I mean. Again, the Deputy of ...

The Deputy Bailiff:

Deputy, I am sorry to interrupt you but the statutory unemployment benefit does not, on the face of it, relate to this proposition which is about income support in relation to education.

Deputy M. Tadier:

I will try and keep it relevant but there is a review to be carried out and I think it is something which could be looked at. Deputy Martin did say earlier, for example, we pay young people to sit at home who have never ever paid into Social Security. They are entitled to £92 a week. Other people in society may want to re-train. They may not necessarily be Jersey residents that you could have people who have come in as immigrants who have paid in for up to 4 years, who may then want to re-train and they are not allowed to do that. Or they may be made unemployed and they get nothing, even though they have been paying in time and time again. We need to look at it more and make sure it is a more equitable system irrespective of where the individual comes from. Anybody who has shown a commitment to Jersey, who has paid into Social Security, should be entitled to a certain entitlement whether that is to do with re-training or whether that be due to their circumstances having changed and needing a social net for a certain amount of time. This is a system which happens in France already. I would say if I am to support this proposition that we need to give serious consideration to what courses are deemed to be acceptable. This goes hand-in-hand with whether we see education as a good in itself, as an ends in itself or simply as a means to an end. Ultimately, do we support education for education's sake or do we support education for the marketplace? Thankfully the 2 are not mutually exclusive, but it all comes back to the point which I think has been made already, that it is better to pay people to do something constructive with their time rather than to do nothing with their time and still get an allocation of benefit, so I ask the Minister to make the list as broad as possible, within reason. Of course, we have heard before that it may not be necessarily economically sensible to pay people to do a Tai Chi course. That is not to say that Tai Chi in itself is not a worthwhile pursuit, but it is not necessarily an academic pursuit, but that notwithstanding I would ask the Minister not to limit courses to something which are necessarily going to be of immediate benefit simply in terms of employment, but which will benefit the individual in the round. I think that is where the Ministers for Education, Sport and Culture and Social Security do need to be working together.

1.3.6 The Deputy of St. Martin:

I have not got much to say. I just want to clarify something and in fact we have now got a situation where we are no longer talking to Deputy Southern, because this is no longer his proposition. It now belongs to the Minister, so I could ask the Minister maybe, if he will be speaking on the matter, just to clarify the timetable. The Deputy of Grouville got very close to asking the question I was going to ask, but did not ask it and that is why I need to ask it. On page 4 we have the timetable and the one thing I did like about Deputy Southern's was we did have date and I am a believer in working to a date and trying to keep it. But now we have no date. All we have is a

suggested timescale. It does say the intention is that this review will be completed by December 2010, but I would have thought - hoped - it would be completed sooner than that so the commencement can be incorporated into the application process for 2011. Does that mean that people making application in 2011, 1st January, or have they got to wait until it comes around again in September? I think there is an urgency; I think it is totally unfair that people have to sit on maybe 8 or 9 months again before they start coming into play. So maybe we could see some clarity from the Minister when he does speak as to when in fact people can start making their claim, 1st January or at the start of the new term in September?

1.3.7 Connétable D.W. Mezbourian of St. Lawrence:

I remind Members that I am a Member of the Health, Social Security and Housing Scrutiny Panel and although I did not speak to the propositional amendment originally, the proposition of course had my support and, as Deputy Southern said, it had the support of Senator Breckon, Deputy De Sousa and the Constable of St. Martin who were members of the previous panel. Although I voted against the amendment, I am minded now to support the proposition as amended because there will be benefits to all job seekers and to all who intend to undertake training and the improvement of their skills. The one question that I would like to put to the Minister for Social Security, and I hope he is listening, is with regard to his amendment part (c). We know that the proposition now reads: "with the view to include consideration of" and the part (c): "the communication of any new policies to stakeholders." The main proposition asks that the definitive list be widely communicated to all stakeholders and I ask now that the Minister advises us how he intends to notify the range of courses that are available to all stakeholders? I hope I have made myself clear on that one. Notwithstanding that answer, I am minded to support the amended proposition albeit saddened that the amendment was adopted, because I do not think it is as clear or as good as the proposition stood originally. Thank you.

The Deputy Bailiff:

Does any other Member wish to speak? Minister?

1.3.8 Deputy I.J. Gorst:

Yes, I was not going to, but I think I probably ought to bearing in mind a number of questions that have been raised. Could I just, while thanking Deputy Le Claire for his comments again, say that the guidelines are available on the website so all Members of the Assembly can access them? If he would like a hard copy then of course I can ensure that one is provided to him. I was interested to hear Deputy Le Hérissier's point of view with regard to a definitive list and with regard to the cost of the Open University access. I think probably that is something that we need to consider alongside the Education Department to see if there are ways of making that more accessible for people, because then they can undertake training in their own time and at their own pace, which I think is appropriate.

[11:30]

With regard to the timescale, I thought I had given a commitment - and the Deputy of St. Martin has just confirmed that - that the review will be completed by the end of this year. If it is possible to do it earlier then we will. I know that some Ministers have long overdue and necessary holidays so that is why I have said by the end of the year. Once the review is complete and the policy has been amended to take account of that, then I would hope that people wanting to access Highlands ... although the majority do it in September, that is why I said the September 2011 uptake, if people are able to take courses, albeit short term, earlier than that, then of course I would want to make that available to them as well in that timescale. Deputy Tadier talked about statutory unemployment benefit. You are quite right. If we were to introduce such a thing it would not come via Income Support. It would come, more than likely, through a Social Security Fund contribution but that of course would again be an increase. Somebody would have to pay for ultimately and

therefore it is not within the scope of this debate. Finally, the Connétable of St. Lawrence asked me about stakeholders. Unless she can think of any others, I believe that the main stakeholders are obviously existing recipients of income support; Highlands College, when people are applying to them ... as I say, we have already communicated the new process for 2010; Careers Jersey and the Skills Executive and Board; Work Zone and Workwise within my department as well. They, I believe, are the main stakeholders. If there are others that she would like us to contact then we would be more than willing to do that. I do now support the amended proposition and I ask that Members do support it and hopefully we will get on with the review. Sorry, I see you, Deputy Maçon sitting there. Yes, he raised a good point. If we went with a definitive list, there would need to be, of course, some mechanism to get new courses on, and ones that were stopped off. Exactly how that would work, I am not certain at this time, but it would be something that would need to be considered and incorporated if we were to go down that route. Thank you.

Deputy P.V.F. Le Claire:

Could I seek clarification from the Minister, please, before we progress? In my recent case, which the Minister is aware of, of attending upon Social Security, I was indeed availed of the guidelines. It is great to know that they are on the website, but the guidelines are guidelines. Surely it should be possible for people within his department, and I have asked that, to be able to access the laws that the guidelines apply to and the policies of the Minister which apply where the law is silent, so that one can determine whether or not the applicant or the constituent is able to access these things. Because 9 times out of 10 the officers are not prepared to tell us what the policies are. They simply refer us to the Minister and we end up walking out of the building, shaking our heads, scratching our heads and I really urge the Minister to make the policies and guidelines and law readily available for the States Members and members of the public as they walk through the doors.

Deputy I.J. Gorst:

I do not know if you wish me to get into a ... Sorry, Sir, I did not hear you.

The Deputy Bailiff:

I am not sure that was a question of clarification unless you able to interpret it the other way.

Deputy I.J. Gorst:

Well, obviously all laws are available on the Jersey legal information board for all Members to look at. Perhaps we should consider having hard copies in the Department, I am not certain. The guidelines are policy guidelines and they fall underneath the law, and they are the guidelines that the determining officers make their decisions within.

The Deputy Bailiff:

I think the question was whether or not you will publish the guidelines, or whether you do publish the guidelines, Minister.

Deputy I.J. Gorst:

The guidelines are already published on the website.

The Deputy Bailiff:

I call on Deputy Martin.

1.3.9 Deputy J.A. Martin:

I will be brief because a lot of what I wanted to say has been said. I am very disappointed, and I know it was a tongue-in-cheek remark with Ministers needing a long term holiday and so we have got people out there who will lose the £92 benefit this September. I am sorry. This is exactly what will happen because there is not a definitive guideline and nobody is prepared to have one for these courses starting in September. It will not affect the rich. It will affect the people living in the

houses where there is some income support claimed and that individual has now reached the age that they are assessed in their own right. They are actively seeking work and to talk about statutory unemployment benefit, it really is a very similar thing. You are entitled to it, you sign on for it every week. You have to prove that you are actively seeking work. It is, in any other name, an unemployment benefit. The review, the Minister made a lot of play on, well, we do not know, if we pass this today and we brought it in this September ... it is not the people I am talking about who want to take a course. It is the young mums who are preparing to do work. When we brought in the Income Support Law, which is another contention, under-5s were not made to actively seek work. We tried to bring in that between 5 and 11, possibly it would be 25 hours. I now have constituents whose children have reached 5 and they are receiving letters, and I can produce them for the Minister if you want: "You are now classed as unemployed. You are doing 14 hours a week and you should be working 35 hours. Please attend Work Zone weekly and prove that you are trying to find the extra amount of hours." Then they want to go on a course and they will lose other money and they cannot get childcare. So, I really think that it is, as the Deputy of Grouville has said, it really is quite simple. It is what would you rather pay your money for ... and I think today ... and again I will reiterate what somebody said earlier. This was Deputy Southern's sensible, clarified amendment. Because it was Deputy Southern nobody listened to any of the arguments, they voted for the amendment and the Minister has made it protracted, unfair and there will be people suffering this September who cannot, because Mum wants a bit of that £92 a week and they will lose it, cannot go to college. That is what we have done today. Very clearly understand what you have done. Thank you.

The Deputy Bailiff:

Does any other Member wish to speak? I call upon the Chairman, Deputy Southern to reply.

1.3.10 Deputy G.P. Southern:

An unusual position, I do not think this proposition belongs to me anymore but nonetheless I will sum up to the best of my ability and thank everyone who contributed to the debate. I think we made did make heavy weather of it. Nonetheless, win some, lose some, so it goes. In the list of stakeholders the Minister mentioned earlier, yes, I think he mentioned 3 groups of people, he forgot to mention one vital group of people and that is his own Income Support officers who are at the core of this proposition, because it is often following advice from them that potential students get confused. They are told "yes" one day by one officer and they are told "no" the next day by another officer. That is the reality. The training programme is not functioning as effectively as it should. I do not know if that is due to higher turnover. Certainly, I have seen some very new faces in the department recently, but the guidelines need to be clearly communicated at the first level to the correct officers who are dealing with people face to face on the desk, day in and day out. That is where we need to start. I am very disappointed that we have not got something additional in place for this September. We have got a system which the Minister says he has tweaked, and he hopes it will work far better this time round, than last time round. However, having said that, I have 2 cases exactly like this, people applying for training courses from September who are currently being told they will not get income support for one reason or another. I will have to deal with that. I just sincerely hope that come September and October my phone is not ringing 15 to the dozen with people being told: "But hang on, I have been on this course for a month and all of a sudden my income support has been cut, or it has been reduced" because that is what will happen to these people if we have not got it right. The inefficiency attached to that is that that can often take up hours of officer time trying to sort out what the position is and trying to get the guideline clarified and the position straightened so that people can continue to study. I think Deputy Martin made a highly relevant point when she said what we are likely to be doing, the fallback position will be any single parent, or any parent without the support in place, is not going to be able to train while their children are under 5s, because income support will not be made available to them for the childcare component to enable them to get back to study and to learn. That, despite all the good

wishes of this House and various Ministers saying: “We must train our people up,” that is the long term future. We are paying lip service to it once again. I am disappointed that we will not see anything until December. I hope against hope that that will not produce another crop of disappointed students and disappointed income support recipients come September/October as people find out that nothing has changed yet.

The Deputy Bailiff:

Very well, will all Members in favour of P.66, Income Support: eligibility for educational or training courses, as amended kindly show? The appel is called for. I ask Members to return to their seats and I ask the Greffier to open the voting.

POUR: 45	CONTRE: 1	ABSTAIN: 0
Senator T.A. Le Sueur	Deputy M. Tadier (B)	
Senator P.F. Routier		
Senator P.F.C. Ozouf		
Senator T.J. Le Main		
Senator F.E. Cohen		
Senator J.L. Perchard		
Senator A. Breckon		
Senator S.C. Ferguson		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Connétable of St. Ouen		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of Grouville		
Connétable of St. Brelade		
Connétable of St. Saviour		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Deputy R.C. Duhamel (S)		
Deputy of St. Martin		
Deputy J.B. Fox (H)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy P.V.F. Le Claire (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy S. Pitman (H)		
Deputy I.J. Gorst (C)		
Deputy of St. John		
Deputy A.E. Jeune (B)		
Deputy of St. Mary		
Deputy T.M. Pitman (H)		
Deputy A.T. Dupré (C)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy A.K.F. Green (H)		

Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

2. Draft Howard Davis Farm (Abrogation of Covenant) (Amendment of Law) (Jersey) Regulations 201- (P.67/2010)

The Deputy Bailiff:

We now come to the Draft Howard Davis Farm (Abrogation of Covenant) (Amendment of Law) (Jersey) Regulations (P.67/2010) lodged by the Minister for Treasury and Resources and I ask the Greffier to read the citation of the draft.

The Deputy Greffier of the States:

Draft Howard Davis Farm (Abrogation of Covenant) (Amendment of Law) (Jersey) Regulations. The States, in pursuance of Article 2(3) and (4) of the Howard Davis Farm (Abrogation of Covenant) (Jersey) Law 2008, have made the following Regulations.

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

Might I ask Assistant Minister Le Fondré to be rapporteur for this item?

The Deputy Bailiff:

Assistant Minister, do you wish to propose the principles?

2.1 Deputy J.A.N. Le Fondré of St. Lawrence (Assistant Minister for Treasury and Resources - rapporteur):

Given the reasonably long Order Paper we have in front of us I am going to keep this as short as possible but obviously, if issues get raised, I will address them at the appropriate point. Hopefully the report itself is fairly clear as to the background and the purpose of this amendment. This piece of legislation represents a further phase concerning the Covenant at Howard Davis Farm. There has been quite a long period of negotiation with various parties, culminating in this amendment which will be of great benefit to the various parties identified in the report. There have been fairly extensive discussions with the representatives of the T.B. Davis family and they have confirmed that they are happy with the proposals. This is evidenced by 4 letters that have been included in an addendum to the proposition, which was circulated to Members more recently. I said I am going to keep this very short. I trust this is acceptable, given the workload of this week, and I look forward to the comments of Members and hopefully their support. I move the proposition.

The Deputy Bailiff:

The proposition is proposed. Is it seconded? **[Seconded]** Does any Member wish to speak? Senator Routier?

2.1.1 Senator P.F. Routier:

Very briefly, may I just add my support to this proposition? It will enable people with learning disabilities to have an up-to-date, modern place to be working. Acorn Enterprises has been based at the farm for a number of years now and is in need of an update. I am very grateful to the support of the Howard Davis family as well, who have been very supportive of the work of Mencap and Jersey Employment Trust. I fully support this proposition.

The Deputy Bailiff:

Does any other Member wish to speak? The Deputy of St. John.

2.1.2 Deputy P.J. Rondel of St. John:

Can I firstly criticise the States in having been in and out of this covenant in various ways in recent times, instead of being on top of the covenant continually. I sincerely hope that Property Services in the future, if any amendments are done they are done promptly. But also, could we be told who the trustees are of this, please? Given that it mentions 3 of them are members of the family but we do not know who the trustees are. Could we be given that information? Further than that, I am supportive but I think it is of concern that we allow States-funded property like Five Oaks, the old dairy, to be sold off and then put it on to a property which we have a covenant on the use of the property.

[11:45]

I think that should never have gone on that site, but we are where we are, as they say, but I am critical of one or 2 of the things that the States have done in recent times with that land.

2.1.3 Deputy D.J. De Sousa:

I want to follow along on the same lines as the Deputy of St. John. The Island is very lucky to be bequeathed several properties, pieces of land, from Islanders when they pass on and their families and they have covenants. We are in danger when we meddle with these covenants. They are giving for specific reasons to the Island for specific uses. It is very important to note in the letter from the trustees that what they say is: "As you know, we have been very concerned at the change from the original commitment to remove the animal incinerator within the period of 2 years. But have now discussed the subject with the family and the trustees of the Jersey Trust and am pleased to let you know that the family is willing to support the change on 3 conditions." It is important that we are assured these 3 conditions will be upheld if this goes through today.

2.1.4 Connétable M.K. Jackson of St. Brelade:

I would just like briefly to allude to the retention of the animal incinerator and the potential incorporation of the pet crematorium at Howard Davis Farm, which would certainly be an attribute and a well needed facility within the Island. I think I might just take this opportunity - there is a connection - in advising Members of the imminent arrival of the Westward replica tomorrow evening at 5.00 p.m. which will be quite a joy to behold; Westward being the yacht of the late T.B. Davis.

2.1.5 Senator F. du H. Le Gresley:

I just have 2 questions for the Assistant Minister by way of clarification. There is an indication that J.E.T. (Jersey Employment Trust) will be granted a 25-year lease and I would like to know on what terms that lease will be granted. Is it the peppercorn rent? I hope it will be. My second question is regarding the funding. I have established that of the £1,147,000 quoted that £970,000 is to come from T.T.S. (Transport and Technical Services), being an allocated budget for the movement of the incinerator. That leaves the sum of £177,000, by my calculation, which is to come from Social Security. I would be interested to know how Social Security are going to provide that money and whether it means money will be taken away from other more necessary projects. Thank you.

2.1.6 Deputy M. Tadier:

Just a very quick question. Could the Assistant Minister explain what is the point in having covenants if they can abrogated so easily and why it is justified in this case, if it is?

2.1.7 Deputy I.J. Gorst:

Perhaps if I could just pick up that final comment there? So easily, it might seem so easily just looking at a proposition before the States today, but I know that Property Holdings, Jersey Employment Trust and other connected parties have been working on this for months, if not years, to get it into play, into position, an action that everyone can agree with and can believe and recognise that there will be benefit for each interested party. If I could just pick up the point that Senator Le Gresley raised about the excess money coming from Social Security? As Members will

know from the addendum supportive of this proposition, it has taken, as I have just said, a long time to get to this place. It, in effect, uses the money that should have been used to move the incinerator, which I was firmly in favour of moving, to create a new building and enhanced facilities for Jersey Employment Trust up at the Acorn site. That money available was not quite necessary to build the quality of building that we at J.E.T. wanted. I should say, Sir, by nature of being the Minister for Social Security I am trustee of J.E.T. as well. So that Members are aware of that conflict. It was not quite enough money to produce the enhanced facilities. Members will also remember, as a Back-Bencher - I cannot remember exactly when it was - I brought forward a strategy to the Assembly and I brought forward an amendment to the Business Plan for around £800,000 to improve the facilities and courses available for those with learning difficulties and on the autistic spectrum. That proposition required the Minister for Social Security, as then was, and the Minister for Education, Sport and Culture, as then was, to work together to put forward proposals to use that money in a constructive and in an enhancing way. Those proposals have not quite come into fruition in the timely fashion that I would have hoped when I lodged the proposition. But I was aware that it needed to be a joined-up approach. They are now being brought forward and Jersey Employment Trust have a great role to play in that. What that means is that part of that budget was not used and has enabled me to use that budget to provide the enhanced facilities, which although was not the actual strategy, was very much at the core of what the strategy was aiming to achieve and that was to provide meaningful day services, sheltered employment and routes into work for those with learning difficulties and on the autistic spectrum. Therefore I am very supportive and believe that by allocating this money to create these facilities we have fulfilled the core of what that strategy's purpose was. Going forward, of course, that money will be used for the strategy. So, I support the work that Property Holdings have done. I thank them for bringing it forward and I ask that Members also today will be able to support this amendment to the Deed. Thank you.

2.1.8 Senator S.C. Ferguson:

Those Members who are worried about the covenant, they will not be aware that in 2005 the Deputy of St. Ouen on behalf of the then P.A.C. (Public Accounts Committee) prevented a large swathe of that site being sold off at under-price. This was under the aegis of the previous Property Services Director and definitely not the current incumbent. I must add that and emphasise it. I do have an interest in this. Not a vested interest, but an interest, because I am in fact the Honorary Treasurer of the J.S.P.C.A. (Jersey Society for the Prevention of Cruelty to Animals), which is engaged in negotiations with Property Holdings which will be completed if this proposition is passed. The pet crematorium is a well patronised and a long established service. It runs only at night and does have a significant good neighbour policy. It has been located in the area on a neighbouring site, not Howard Davis Farm, for many years. It would make a great deal of sense to locate it next door to the main animal incinerator. Again, as I say, it operates very much on a good neighbour policy. I support this imaginative rearrangement of services at Howard Davis Farm, particularly the refurbishment and improvement of the Acorn facilities. I ask Members to support this proposition.

The Deputy Bailiff:

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

2.1.9 Deputy J.A.N. Le Fondré:

I will try and go through the points as quickly as I can, not necessarily in order, Sir. In relation to Deputy De Sousa, I will refer her to the last line in the addendum, which is that Jersey Property Holdings has confirmed to the family and the Howard Davis Farm Trust that the conditions are acceptable. I think, Senator Le Gresley, Deputy Gorst has confirmed half of the question and the other half is in relation to peppercorn rent. Yes, I can confirm that. I would like to combine the comments in relation to Deputy Tadier and Deputy Rondel. Deputy Rondel, in terms of the trustees

of the Howard Davis Farm Trust, this ties back to the original covenant. As noted in the report, the original covenant - when the very generous bequest was made by T.B. Davis - had the condition of an experimental farm for developing the study of agriculture and for instructing in that science young people and other interested parties. As people became very aware in the last Assembly when this was originally raised, times have obviously moved on and the uses that were taking place at Howard Davis Farm had evolved quite significantly away from the original very generous gift. Basically there were a number of breaches in the covenant. The trouble with the interpretation of the covenant is that things like horticulture are different to agriculture and therefore was in breach of the original. Although to us as laymen it is growing things and planting things, it is not the same. So at that time the advice that was given was that we could establish a trust which would have 2 purposes. One is environmental purpose and the other one is the very clear purpose of the original covenant. Rents are then paid into that trust from any new activities, particularly the dairy, up at Howard Davis Farm. So it is a very living trust and it is very respectful of the original intentions of the gift. That was where we put a lot of effort into bringing everybody back into recognising that gift and giving it proper recognition. What then happened is that there was a 2-phase approach and the second phase was to regularise a number of the other activities that were happening up at Howard Davis Farm at that point. At that point the trust was established. The principle of establishing the trust was approved by this Assembly. Sir, I am not too sure of how to go in terms of identifying the individuals. I can give the names. I have them. But normally we do not tend to name individuals in this Assembly. I am very happy to pass those names on to the Deputy in confidence. Is it appropriate for me to name them in this Assembly?

The Deputy Bailiff:

In my view this is a matter where it is possible to name the trustees in the Assembly.

Deputy J.A.N. Le Fondré:

Basically, there are 3 members of the T.B. Davis family. The great-granddaughter of the T.B. Davis family is the lady who has written in the addendum, Mrs. Aylwen Lyddell. There are 2 cousins, which are a gentleman called Roderick Stevens and a gentleman called Atholl Swainston-Harrison. There are 3 directly connected individuals to Jersey, Mr. Richard Pirouet, who is the vice-chairman, who will be known to a number of Members here. Mr. Paul Tucker and Mr. Mike Stentiford. There is a further appointment who is also obviously locally based, who is an appointment made by the Minister, which is the former Senator, Pierre Horsfall. The trust is relatively new in operation, but there are safeguards in place. Indeed I seem to recall that accounts are certainly required to be provided to the Minister and I believe to this Assembly, but I will have to check that. So we have tried to put the relevant safeguards in place to ensure that firstly the covenant is brought into this century so that the use of Howard Davis Farm and recognition of that gift can be recognised and significantly continue to be enhanced. What we have also done is to ensure that this Assembly retained a degree of control in that the uses are covered by area of land. So if one goes back to P.95/2008, which was the proposition approved by the previous Assembly, you will find there are a number of uses identified and they are identified in square footage terms.

[12:00]

That means that if there is any significant variation in use is envisaged for that area it would have to come back to this Assembly. So we have tried to make sure there are significant safeguards in place. I think or I hope that answers everybody's questions. I suppose to round up with Deputy Tadier, it has not been easy to get the covenant sorted out. It took a lot of time. We put a lot of effort into meeting with the direct descendants of T.B. Davis, and in fact at the time in the Assembly recognition was made of the effort that had been put into doing it. We were not just ignoring a very generous bequest of a very great Islander and part of our heritage. I will conclude by thanking Senator Ferguson for her comments. It has been an imaginative solution to a very

difficult jigsaw. I would say this is a virtuous solution and it resolves a number of issues and I think it is a reasonable solution. I hope Members will support it. Thank you.

The Deputy Bailiff:

The principles are proposed. All Members in favour of the principles ... the appel is called for. I ask Members to return to their seats. I will ask the Greffier to open the voting.

POUR: 44		CONTRE: 0		ABSTAIN: 0
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Deputy Bailiff:

Before we come to the Regulations, in the light of the conflict you have announced Senator Ferguson, I probably ought to ask your vice-chairman if your panel wishes to scrutinise the matter. You do not. Very well, Assistant Minister, are you going to propose the Regulations *en bloc*?

Deputy J.A.N. Le Fondré:

Yes, please, Sir.

The Deputy Bailiff:

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

2.2 The Deputy of St. John:

I presume that the permissions, controls, *et cetera*, are in place within the incinerator, *et cetera*, and they have all been passed obviously through the planning process and they all have current licences. Further to this ... I do not know if this is the right time to ask it, but it was not answered by the proposer of the report and proposition, but are the trustees remunerated? Thank you.

The Deputy Bailiff:

That is not a matter that arises out of the Regulations, Deputy. Does any other Member wish to speak?

2.2.1 Deputy J.A.N. Le Fondré:

My understanding in terms of permission, controls and all that side of things is that everything is acceptable and according to regulations. Obviously the incinerator is operated by the Minister for Transport and Technical Services. My understanding is it runs to a very high standard. I maintain the Regulations.

The Deputy Bailiff:

Very well. Regulations 1, 2 and 3 are proposed. All Members in favour, kindly show? The Regulations are adopted. You may move the Regulations in the Third Reading.

2.3 Deputy J.A.N. Le Fondré:

Just before I do, I would like to make a couple of comments. One is to obviously thank Members for their support, which I hope is seen to be an eminently sensible way of making best use of funds to achieve a variety of purposes. Secondly just to say that the length of the amendment was quite simple in format but is in no way indicative of the amount of time it has taken to resolve. The department has spent weeks of time in bringing all parties into roughly the same area for agreement in order to achieve this result. This is a classic example of some of the things we do. Generally very quietly, very firm when we need to be and trying to achieve a compromise between a number of different parties or issues. It is about a process which involves land, law and people and with any negotiations can sometimes be adversarial in nature. Therefore, what I just really want to do, I would like to recognise the significant work that has taken place, thank all parties for their agreement that has been reached and for their willingness ultimately to compromise. Very specifically to thank the team at Property Holdings, which is the director, for his work on this, and in conjunction with other members of the team, which includes the Principal Property Manager and the Principal Valuer and Estate Manager. They are horrific titles, but they are real persons behind them. I propose the amendment in the Third Reading.

The Deputy Bailiff:

The Regulations proposed in the Third Reading. **[Seconded]** All Members in favour, kindly show? The Regulations are adopted. I can announce that the North of Town Masterplan revised amendment has been lodged by Deputy Green. Now I come to the income tax (Amendment No. 35) (Jersey) Law 201- by the Minister for Treasury and Resources. I will ask the Greffier to read the citation.

3. Draft Income Tax (Amendment No. 35) (Jersey) Law 201- (P.68/2010)

The Deputy Greffier of the States:

Draft Income Tax (Amendment No. 35) (Jersey) Law 201-. A Law to amend further the Income Tax (Jersey) Law 1961. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

May I ask Deputy Noel be rapporteur for this item, please?

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

Like my fellow Assistant Minister for Treasury and Resources, I would like to keep this as short as possible. Tax is sometimes quite a dry subject. As Members will recall at our sitting on the 25th May this year we passed 2 new pieces of legislation concerning new forms of limited partnerships. One was the Incorporated Limited Partnership and the other was the Separated Limited Partnership. These 2 laws, which are now awaiting approval from Her Majesty in Council, will establish Incorporated Limited Partnerships and Separated Limited Partnerships respectively. For the sake of brevity and for the sake of my voice I shall use the abbreviations I.L.P. (Incorporated Limited Partnership) and S.L.P. (Separated Limited Partnership). This amendment to the Income Tax (Jersey) Law provides for taxation of both I.L.P.s and S.L.P.s by inserting 2 new articles. Article 76(b), dealing with I.L.P.s and Article 76(c), dealing with S.L.P.s. The reason that these changes are not included in the I.L.P and S.L.P. Laws themselves is because of the requirements under Article 17(7) of the Public Finance Law. The amendments to the Income Tax (Jersey) Law can only be lodged by the Minister for Treasury and Resources. So these amendments could not be included in the main Laws that were lodged by the Minister for Economic Development back in May. It is our intention to bring this law into force through an Acte Operatoire, so that the tax provisions will come into force at the same times as the main laws. Coming to the substance of the Law, both new Articles 76(b) and 76(c), closely followed those of the existing Article 76(a), which deals with the taxation of existing limited partnerships. The effects will be therefore that both I.L.P.s and S.L.P.s will be taxed in the same way as existing limited partnerships, which is to say that the income will be taxed as income of the partners and no separate levy will be made on the I.L.P or the S.L.P. itself. Sir, I propose the principles of the Law.

The Greffier of the States (in the Chair):

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

3.1.1 The Deputy of St. Martin:

We all know about I.L.P.s and S.L.P.s, but I wonder if the Minister ... I know he will be prepared for this question, because on page 3 it says that this is compatible with convention rights. Also it says on page 4 that this Law is compatible with convention rights. Of course he knows only a month ago I asked him why the last law he was bringing forward was a convention right. So, maybe the Minister could tell us why this particular law is compatible with the Human Rights and also what Articles are affected?

The Greffier of the States (in the Chair):

Does any Member wish to speak?

3.1.2 Senator P.F.C. Ozouf:

I have to say that I am fully prepared to answer that question. I have made the statement on it. I am fully prepared to confirm to the Deputy that when I am given a statement of compatibility, that I

consider it and that I ask question about it and it is my signature. So, if the Deputy would like to have a conversation on the detailed implication of it... If he is trying to catch the Assistant Minister out then that is not exactly fair. I do not think that is what he is doing. But effectively it is the Minister that signs, not the Assistant Minister. The Assistant Minister was rapporteuring for this item.

The Deputy of St. Martin:

Maybe the rapporteur then would inform Members what he has been told by the Minister.

The Greffier of the States (in the Chair):

I call the Assistant Minister to reply.

3.1.3 Deputy E.J. Noel

Sometimes one feels a bit like a shuttlecock. I will make that information available to the Deputy of St. Martin. I maintain the proposition, Sir.

The Greffier of the States (in the Chair):

I put the principles. Those Members in favour of adopting, kindly show? The appel is called for. When Members are in their designated seats, the Greffier will open the voting.

POUR: 30		CONTRE: 2		ABSTAIN: 0
Senator P.F. Routier		Deputy of St. Martin		
Senator P.F.C. Ozouf		Deputy S. Pitman (H)		
Senator T.J. Le Main				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Greffier of the States (in the Chair):

This matter falls within the remit of the Corporate Services Scrutiny Panel. Do you propose the 4 Articles together, Assistant Minister?

3.2 Deputy E.J. Noel

Yes, I do. Article 1 is the interpretation clause and Article 4 is the citation and comment. The meat to this amendment is Article 2 and Article 3. Article 2 provides that a business or vocation carried out for profit or gain by an Incorporated Limited Partnership and I.L.P. is to be treated for income tax purposes as being carried on in the partnership by the partners and not by the I.L.P. itself. Article 3 contained similar provisions in respect of Separate Limited Partnerships and their partners.

The Greffier of the States (in the Chair):

The Articles are proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Articles? If not, I put the Articles. Those Members in favour of adopting, kindly show? Those against? The Articles are adopted. Do you propose the draft go in Third Reading?

Deputy E.J. Noel

I do, Sir.

The Greffier of the States (in the Chair):

Is that seconded? **[Seconded]** Does any Member wish to speak in the Third Reading? I put the Article in Third Reading. Those Members in favour of adopting it, kindly show? Those against? It is adopted in Third Reading. We come next to the Draft Unlawful Public Entertainments (Jersey) Regulations 201- by the Minister for Home Affairs. I will ask the Greffier to read the citation.

4. Draft Unlawful Public Entertainments (Jersey) Regulations 201- (P.72/2010)

The Deputy Greffier of the States:

The Draft Unlawful Public Entertainments (Jersey) Regulations 201-. The States, in pursuance of the Order in Council dated 14th April 1884, have made the following Regulations.

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

I will not pretend to Members that these Regulations are a perfect solution. However, they are the best that I am able to offer. The background is the customary power of the Bailiff to control public entertainment. This existed for many years, but in 1992 the States decided that this was insufficient in itself and there should be a clearer statutory basis, so similar triennial regulations to these were passed in order to improve the situation and to provide a clear statutory basis. I would explain to Members of this Assembly that triennial regulations are authorised by an Order in Council dated 14th April 1884 and under them the States can pass what is effectively law for a limited period, for a maximum period of 3 years without the need for Privy Council approval. They are normally used for temporary measures, although some of the temporary measures, such as this one, keep on coming back every 3 years. The current Regulations will end tomorrow and if new Regulations are not passed then what will in fact happen is we will fall back on to the pre-1992 common law situation, which is obviously very unsatisfactory. The report explains that these Regulations are imperfect. There has never been a precise definition of public entertainment, although this has not created a practical problem. When the matter was last debated 3 years ago concerns were raised, firstly as to whether the Bailiff should exercise this power and, secondly, whether the Regulations were human rights compliant. I have recorded in the report the opinion of the then Solicitor General, who of course was a lady, that she saw nothing in the Regulations that was not human rights compliant. I have not taken any further advice on that point. There is no requirement for me to produce a statement, but if Members would like to check with the current Attorney General whether that is also his view, I am sure he will be willing to give us an opinion.

[12:15]

I would refer Members of this Assembly, if I may, to page 4 of the report and to a particular paragraph there which deals in some detail with what happened thereafter. On the question of the role of the Bailiff, in relation to the control of entertainment, because there was an issue raised as to whether that is still appropriate, a review was initiated by the Legislation Committee working party chaired by Deputy Le Hérissier of St. Saviour, who unfortunately is not present at this moment. The first conclusion of the working party was it is no longer appropriate for the Bailiff to exercise the executive function of controlling public entertainment. However, it subsequently emerged that an alternative means of licensing entertainment would be relatively costly and entail substantial law drafting. Therefore the conclusion was not taken forward. During the July 2007 debate, Deputy Le Hérissier stated: "It is just not seen as possible to set up this vast bureaucracy with this vast law, which was trying to define what public entertainment was and was trying to define the grounds upon which discretion could be exercised in that field." The position remains as such. This was not part of my work programme as such and I am simply, therefore, bringing forward very similar Regulations to the previous ones, with the one addition, which is Article 5, which extends offences so if they are committed by a Limited Liability Partnership or a body corporate then the directors or other similar officers may also be guilty of an offence. I move the principles.

The Greffier of the States (in the Chair):

Are these principles seconded? **[Seconded]** Does any Member wish to speak on the principles to the regulations?

4.1.1 Deputy A.E. Jeune of St. Brelade:

It may be a question that the Minister may prefer the Attorney General answers. When it says that it has to be done by the Bailiff and that to change the law would be quite a costly exercise, could the word "Bailiff" just not be replaced with "Connétable of the Parish in which the entertainment is to take place"? Thank you.

4.1.2 Senator B.E. Shenton:

I was wondering if the Minister could just outline what the appeals process is in place, if the Bailiff's Panel turns down entertainment on grounds that perhaps that they feel that an Island of this nature would not justify that type of entertainment. Whether there is a proper appeals body. I do not include the Royal Court in the appeals process, because the Royal Court is out the pocket of the man on the omnibus. So there has to be a proper appeals process that is affordable to the man in the street. If the Minister could outline what affordable appeals process is in place, I would be grateful.

4.1.3 Deputy J.M. Maçon:

The Minister may not have this information, but I would like to know how many events are turned down by the Bailiff, because it seems to be a system that is working quite well. Thank you.

4.1.4 The Connétable of St. Brelade:

I think the comment regarding definition is quite pertinent, from the point of view of - certainly my position - we get regular advice on things like barbecues on the beaches with entertainment, which could be construed as public entertainment. I think it would start to become a bureaucratic nightmare if we had to pass all these things through a panel. So I think the present definition arrangements are perfectly adequate and as far as I am concerned the system at present works very well.

4.1.5 Deputy K.C. Lewis of St. Saviour:

In a previous life, as we say, I have been operating with Bailiff's permits for at least 32 years and it works perfectly well. As they say: "If it ain't broke, don't fix it."

4.1.6 The Deputy of St. Mary:

I did enter into some emails about this with the Minister and I do have some queries about it. The first is this question of definition and I quite agree it was a bit like the list of courses that you either fall within or without. There are real problems with determining what a public entertainment is. I have problems myself with saying that the Bailiff must agree any public entertainment before it happens and that if that does not happen then the organisers are liable to imprisonment. There is a real problem there, because in our modern days some people organise ... well, they do not organise artistic events. They have flash events. They happen. The idea of going to get permission for something that just happens is quite a problem. So that is the first issue, the definition of event and the idea that the Bailiff must agree every event in advance. There are problems with that as a concept already. However, I do take the point Deputy Maçon said. How many times has the Bailiff refused permission? So, that would good if the Minister could clarify exactly how it works at the moment. We have heard: "If it ain't broke, don't fix it," and the Minister has indeed left fixing it to the very last minute, the day before. A bit like yours truly often, leaving it to the day before. If the Minister could clarify how it works now, because this explanation here is less than clear. I am not clear, for instance, where the Public Entertainment Panel, with its emphasis on safety and making sure that the event is properly organised, that the cables are covered with something that people do not trip over and so on, that is a separate issue from artistic matters and nudity and all the rest, the possible controversial issues which the Bailiff once upon a time used to rule on. So if the Minister could really clarify how the system works at the moment, then we can make the judgment as to whether it is broke or whether it is not broke. Because apparently it is not broke, but as I have said there is an issue with the Bailiff deciding. Or does he have a panel that helps him to decide on the artistic questions? If so, again, that is not clearly stated here. Another question would be how is this done elsewhere? Deputy Le Hérissier chaired this working party and concluded that it was not possible to set up this vast bureaucracy defining what public entertainment was and the grounds on which discretion could be exercised and so on. So we end up with the *pis-aller* of leave it to the Bailiff; another job for the Bailiff. I just want to ask him how it is done elsewhere. The same issues must exist elsewhere, so how are these matters sorted elsewhere. Thank you.

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

I would agree with speakers who have said that in their opinion this current system works. There is certainly a great deal of consultation that goes on between the Parishes and the Bailiff's Office before events are permitted. I would, however, query whether the problem is with events being refused so much as with the reverse, events being approved. There was one particular event that took place at Elizabeth Castle very late one night, which gave a lot of Constables grief. No matter how much I told the constituents who rang me that it was not my fault that the rave was going on at 2.00 a.m. in the morning, they still obviously blamed me for allowing it to happen. That of course can be covered and I am sure will be covered if future raves happen. That is one way to make the castle more commercial. **[Laughter]** If future raves happen, clearly one can try and control the volume so there is not there that level of disturbance. But I think it does raise a legitimate question about whether one should have an unelected person making these kinds of decisions. It does seem to me that at least if the parishioners in a given Parish have the satisfaction of removing the person who had given permission to a particular event at the end of his or her term of office they would at least feel that they had some say in the matter. So I think it is something that needs to be considered in the review of the role of the Bailiff. I think that is where this belongs. Indeed, I would make a similar comment about licensing. It strikes me as very strange that the Jurats and the Bailiff have to spend so much time on licensing matters when one could argue, I think quite reasonably, that that is the role of an elected Member. Those are my only comments at the moment.

4.1.8 Deputy M. Tadier:

Just very quickly, something that may be has not been considered at this point is what the licenses cover, because it is not simply entertainment. Having staged a couple of demonstrations and I know other Members in the Assembly, looking at Senator Breckon, had a G.S.T. (Goods and Services Tax) demonstration, one has to apply for an entertainments licence. Rather I should say one has to apply for permission, first of all from the Bailiff and then from the Constable of that Parish, normally the Constable of St. Helier if it is the Royal Square which is being used. I think there are a couple of issues surrounding this. First of all, if it is a demonstration it seems a nonsense that an entertainments licence be given to that, because it is not strictly entertainment, although some people might find it slightly amusing **[Laughter]** and it does necessitate microphones, *et cetera*. So I think that certainly needs to be looked at; the definitions. The second problem is that the whole permission thing is something of a nonsense anyway, because people have the right to congregation in a democracy. They have the right to congregate, to demonstrate peacefully and that is something which should be secured and fought for at all costs, even if we do not always agree with the particular issue in question. Similarly, I have found that I have never had any problem with the Bailiff in that regard, because it is pretty much a formality, a rubber stamping, and similarly with the Constable. So this begs the question then why in this day and age should a President of an Assembly and somebody who is also a judge be put in a position where he has to make these decisions, which he cannot rightly refuse anyway. It seems to be anachronistic and an archaic tradition which needs to be repealed. I would suggest that it would be more sensible for the Constable of the Parish or for a panel or for some other mechanism to be introduced to decide these issues. I think it was not so long ago that the Bailiff had to give permission as to what films could be watched or not in Jersey. I am not sure if this is still the case. I believe it is decided by a panel. The Bailiff may or may not be on that panel. I am not fully up to speed on that, but I think this does need modernising and I would just ask the Minister to comment on those aspects in summing up.

4.1.9 The Deputy of St. John:

I wonder if we all forget our youth. We have all been to parties, they were not called raves in those days. **[Laughter]** They were in bunkers, they were in tunnels, they were on the beach, you would come out of the Pav or wherever you were and you would decide to go skinny dipping or whatever it was **[Members: Oh!]** and there would be 50 or 60 of you on the beach and then have a party. **[Laughter]** Nowadays everything has to be controlled. Honestly, you need a bit of paper to do everything. The Centenier would come along and he would just ask you to move along. Today I see our Centeniers in St. John, if there is a group of youngsters they just ask them to move along. Do we really need to have bits of paper for everything? Because that is the way we have been going in recent years. It is time we took the brakes off some of these things, Minister, we do not really need regulations to control everything. I can just imagine my grandson coming out of a party from wherever they go these days, to one of these nightclubs, Liquid or wherever it is, and 20 or 30 of them deciding they want to have a party. Then all of a sudden the Centenier comes along, because they are making too much noise, so they just quieten down. That is the way it was dealt with when I was a Centenier in 1970s and 1980s. These youngsters they used to go to the Fort down at Bouley Bay. In fact I have been down there myself in my early days. You know, you would go down the cliff. You did not have a permit to go down there and there would be 300 or 400 people down there. We did not have to worry about safety this and safety the other. We seem to have gone down a road where you need this bit of paper to say the area is safe. There was a beach carnival at Bonne Nuit a couple of weeks ago and the organisers had to jump through all these hoops. Get this done for health and safety, get that done from the Connétable, get that done from the Bailiff, *et cetera*. We go too far. It is time we started doing away with some of these petty regulations and let people live and enjoy life as we did in our younger days and I still do today. As far as I am concerned there is black, white and there are shades of grey. Long let shades of grey continue, because we all cross that line from time to time.

[12:30]

I am sure even the Minister may have been to some church outing [Laughter] and come back and been invited somewhere to have coffee and wherever and when a number of them all leave at 2.00 a.m. or 3.00 a.m. in the morning somebody might blow their horn or whatever and disturb their neighbours. There is far too much pettiness. I think it is time that we drew back from a lot of this. That is all I have to say on the issue.

4.1.10 Senator S.C. Ferguson:

Yes, I totally agree with the Deputy of St. John. I do not know about the skinny dipping. [Laughter] The mind boggles. [Laughter] Have we finished with the ribald comments? I think we are also failing to distinguish between *ad hoc* beach parties and large events. When I was a Centenier there was a regular beach party down at St. Ouen and all that required was the permission of the Connétable. They cleared up afterwards. Any broken glass, they raked through the glass and took it away. Has that particular aspect changed? I do wonder. As I say, I understand that the Bailiff's Panel is for large events. I have not ever known them to turn an event down. I am obviously wrong and no doubt I shall be corrected. Having been in front of a Bailiff's Panel, it is an informed panel. It is chaired by the Chief Officer of the Bailiff's Department and with a large event you will have representatives of the police, fire, ambulance and health and safety, which I think is probably where some of the problems arise. I think quite honestly if we are talking about big events which need a lot of planning and provision for proper risk assessments, then I think it is a very good forum in which to discuss those sorts of provisos. I would be glad if one of the Connétales could confirm to me that in actual fact the *ad hoc* beach parties only require permission of the Connétable; I would like them to confirm that this has not changed. I see no problem with the proposition as it stands or the operation of the system as it stands. I will support this proposition.

The Deputy of St. Mary:

Could I ask for a point of clarification to the previous speaker? When the Senator spoke of major events clearly needing risk assessment and so on and that this exists and therefore this is all okay, was she only talking about the public or the public safety and so on side of it or was she also referring to the artistic side and matters of obscenity and decency and so on like that, which are judgments? Was she referring to both or just the one?

Senator S.C. Ferguson:

I was referring to the times I had to go to the Bailiff's Panel on behalf of the Air Display, where we had to have proper risk assessments. I mean, what do you do if a plane comes down in the sea? What do you do if a plane comes down in the middle of People's Park? You need to have risk assessments as to how likely that might be and what steps you would take to deal with it. In fact we had very comprehensive risk assessments which were always discussed with the police, the emergency services and obviously health and safety. I was not considering matters of judgment, because one person's judgment is very different to another's. I think there are basic matters of commonsense to be applied to any event or something like that. I do not see that you can start getting very judgmental about these things. I was not aware that the Bailiff's Panel had been in that position.

4.1.11 Connétable J.L.S. Gallichan of Trinity:

I am pleased to follow the last speaker. The Bailiff's Panel, as far as I am concerned is an asset for the Connétable of the Parish. As you know Jersey Live is held in the Parish of Trinity. We start meeting really around 9 months before. Anything happens at the Jersey Live, just to know what the organisation is going to be, the safety aspects, lighting and health. There is a massive risk assessment on an event like Jersey Live. Over the years you sit around a table with all the emergency groups and it is a helpful contact. The Bailiff never sits at these things as the Chief Executive sits at chair. All the views are taken on what is needed to be done. You can imagine that

is a major policing affair, with honorary police help and all Parishes coming to help the Parish police this. Without having some organisation or someone in charge of all these things it would be very ... it is one thing to say: "Let us put an ordinary individual in there." At the end of the day you do need someone with a bit of authority at the final call on some of these big occasions. You know, let us be fair, I fully support what the Deputy of St. John has said. We are not out to try and stop things. In general it is the major events that have to be organised properly for policing and all the events-led things. Every year it is a moving target. I have always not been a supporter of camping at Jersey Live. Now we have an ongoing system where it brings into many other things like the policing all night of camping and other things like that, which is all brought out at the Bailiff's Panel. It is determined and a decision is made. I think it is helpful for everyone that there is somewhere like this we go to. I am fully supportive of the Bailiff's Panel. I think it works well. Both sides come to this, not just the Constable. The people who run Jersey Live will have their view as well and they put it to the whole panel and it is discussed in a sensible manner. At the end of the day we come to an agreement which is the best way forward for, in my case, just Jersey Live, but this happens I am sure, for the Air Display and many other functions that are run throughout the Island. It is essential we have somewhere where people can sit around together and come to an informed decision on the way forward. I fully support this proposition and I hope it continues for years to come.

4.1.12 Senator T.J. Le Main:

I would like now to just remind Senator Ferguson that some years ago when I was the President at Fort Regent Leisure Centre, the Bailiff did turn down the Chippendales. There was a hue and cry by the women of Jersey at that time. **[Laughter]** In fact, I remember going to see them in the U.K. (United Kingdom), because I was rather keen **[Members: Oh!]** ... I was slimmer in those days and I was rather keen to make sure that the ladies of Jersey were well satisfied **[Laughter]** and I happened to be the only man in the audience of about 2,000 people. Eventually I managed to convince the Bailiff that we had to please the ladies of Jersey and he finally agreed on appeal.

4.1.13 Deputy M. Tadier:

Sorry, I have a question for the Attorney General. It is regarding what I mentioned before. In particular Article 11 of the E.C.H.R. (European Court of Human Rights) that everyone has the right to freedom of peaceful assembly and to freedom of association with others. I am sure the Attorney General will be familiar with that. My concern is that if this regulation is passed today and, as I have explained before, because one needs permission from the Bailiff and from the Constable in order to hold a demonstration, which should not in my opinion come under entertainment, what is the legal implication for that?

The Greffier of the States (in the Chair):

Are you able to assist?

4.1.14 Mr. Timothy John Le Cocq Q.C., H.M. Attorney General:

I am I think slightly confused by the question, Sir, on the basis that whereas I think the Bailiff and the Connétable are consulted about demonstrations that involve the Royal Square, that is not a matter of public entertainment that is a matter of the usage of the Royal Square, which is I believe under the control of both the Bailiff and the Connétable of St. Helier. I do not think public demonstrations fall within the definition of public entertainment, but I do stand to be corrected about that. I am not aware that that is how it works in practice, however.

Deputy M. Tadier:

In the past when we have had demonstrations we get a certificate and at the bottom it says it is an entertainment licence and we have to have it with us, whether that be in the Royal Square or elsewhere. That is the reason why I am ... I would be minded to ask for a reference back. I do not know if I am allowed at this point. Because I am very uncomfortable about how this would impact

on Article 11 of people's right to congregate. One should not be criminalised for something of a matter of congregation. I suspect it is simply because that should not be under the entertainments licence, but it is I believe in my experience at the moment.

The Greffier of the States (in the Chair):

Are you formally seeking a reference back, Deputy, or do you simply wish you to take this matter up with the Attorney perhaps after the ...?

Deputy M. Tadier:

Either way. I would like to hear from the Attorney General. I appreciate I have sprung this on him somewhat.

The Attorney General:

Perhaps I can give some assistance. Article 11 of the Human Rights (Jersey) Law 2000 does indeed, of course, guarantee the right to freedom of peaceful assembly. It is a qualified right, however, which says that restrictions in effect - and I paraphrase - can be placed in interests as prescribed by law necessary in a democratic society for various interests including those of public safety. It seems to me that as it is possible to qualify a right to peaceful assembly by reference to public safety, an application for permission, whether it is characterised as an entertainment licence or anything else, is perfectly constant with the Human Rights Law.

Deputy M. Tadier:

In that case, Sir, I would ask for a reference back, because I would like specific information about how if somebody did organise an *ad hoc* demonstration, it does not need to be a political one, if they did not have a licence I would not want to see those individuals or the leader of that particular demonstration or gathering to be criminalised and face 6 months in prison simply because they were exercising what is their human rights. That is the information I seek. So I do propose a reference back.

The Greffier of the States (in the Chair):

Sorry, Deputy, I think I caught the information, if you can just clarify again the precise information you are seeking in the reference back?

Deputy M. Tadier:

Yes, I would like to seek the information as to how somebody or a group of people who were exercising their rights under Article 11, who had not asked for permission, either because they were ignorant of that fact or just because it was a spontaneous *ad hoc* gathering, how it would effect them and whether they would be criminalised as a result?

The Greffier of the States (in the Chair):

This is information you would need to seek from the Minister himself. Is the reference back seconded? **[Seconded]** The Deputy of St. Mary has seconded the reference back. Does any Member wish to speak on the reference back?

4.2 Draft Unlawful Public Entertainments (Jersey) Regulations 201- (P.72/2010) - Reference back.

4.2.1 Senator B.I. Le Marquand:

Only to point out that the effect of a reference back will mean that these Regulations will cease tomorrow and that will be direct effect of it.

4.2.2 Senator A. Breckon:

Again I do not know who, perhaps the Attorney General, but if we have a reference back, then from 21st July nothing applies. What would happen, say, to the Battle of Flowers? I wonder if the

Attorney could say that if we do not approve this today, bearing in mind that it starts tomorrow, what would happen.

4.2.3 The Attorney General:

I am sure the Assembly will understand that I have not come along today armed with the full detail of how things might work if this triennial regulation was not passed today. It would clearly fall back, as the Minister has said, into the pre-1992 position, which is a position governed by customary law, which means the public entertainments require the permission of the Bailiff and absent that permission the criminal offence is committed. There would still need to be an application and the Bailiff would still need to consent. What would be absent would be the proper statutory basis which identifies the nature of the application that needs to be made, which is the background that has the Bailiff's Consultative Panel and all of those sorts of those things apart from it. I am afraid I cannot provide any more detail than that. I apologise.

4.2.4 Deputy K.C. Lewis:

Pipped to the post slightly by Senator Breckon. We have the Battle of Flowers coming up, we have the Jersey Film Festival, the Havre de Pas Festival coming up and many other sorts of seaside festivals, *et cetera*. This would cause a lot of problems. I would recommend to Deputy Tadier to withdraw his reference back and maybe bring an amendment in the future.

4.2.5 Deputy D.J. De Sousa:

I just want to speak very briefly and say that really the Minister is at fault here. This legislation is triennial. He should have brought it forward much quicker and then we would not be in this situation now.

4.2.6 The Deputy of St. Mary:

Just briefly, the reason I seconded this reference back was simply to point out that this report is so deficient. It is just not clear about the 2 roles of the Bailiff. I am sure that the Minister will explain, there has been quite a bit of disagreement about permits and things. We have heard a lot from Members about the risk role of the Bailiff's Public Entertainment Panel, but nothing about the other panel, the Consultative Panel on the matters of judgment and so on. So it is for that reason we just ... it is another reason of these reports where we have not got the information, so that is why I seconded it. But I think Deputy Tadier has something to say.

The Greffier of the States (in the Chair):

But just to clarify, Deputy, that is not the purpose of the reference back. Deputy Tadier was very specific about public demonstrations. It is not a get hold of a whole lot more information.

4.2.7 Deputy M. Tadier:

I can probably assist here. I can sense the mood of the Assembly. I know this is a ... I would point out this is all done in good faith and I do not think it is necessarily right to say that the Minister is at fault. I think there are holes in the document. If the Minister could give an undertaking to perhaps liaise with myself and with the Scrutiny Panel to discuss the implications of this Regulation and perhaps to enhance it from now on. I am mindful of the comments of Deputy Lewis; there are events which are being planned, I am not sure how they would be affected, I do not know that they would necessarily but of course we need something, we cannot have a vacuum here, so I am willing to pull the proposition for reference back subject to confirmation from the Minister that he will engage with myself and perhaps with the Scrutiny Panel so that we can have a refined Law which does make more sense and which does not contravene anyone's rights to freedom of peaceful assembly.

The Greffier of the States (in the Chair):

Are you happy to give that undertaking, Minister, to have that engagement?

4.2.8 Senator B.I. Le Marquand:

Yes, I am very happy to do that. My own personal view is I would be very surprised indeed if matters of demonstrations were being treated as being a public entertainment. It does not seem to me to be that that is a public entertainment at all. Indeed, I thought that normally for something to be a public entertainment there was a financial element involved, and people do not normally pay to demonstrate. I am very happy to check further into that issue and to liaise with my Scrutiny Panel on that matter.

The Greffier of the States (in the Chair):

So you seek leave to withdraw, Deputy?

4.2.9 Deputy M. Tadier:

I do and I will just add that I think it is only in these circumstances when certain idiosyncrasies come out and it could well be that it is only in relation to the Royal Square that an entertainment licence has to be given. I can look into that and I can certainly produce information for Members and I thank the Minister for his co-operation and I hope we can work together going forward, so I do withdraw.

The Greffier of the States (in the Chair):

Are Members willing to grant leave to the Deputy to withdraw the reference back? Very well, that is withdrawn. Does any other Member wish to speak on the principles of the Regulations? If not, I will call on the Minister to reply.

4.3 Draft Unlawful Public Entertainments (Jersey) Regulations 201- (P.72/2010)

4.3.1 Senator B.I. Le Marquand:

The first point that was raised by Deputy Jeune was in relation to the issue as to whether in fact this could be done by the Connétable rather than by the Bailiff but in fact, as we have learnt this morning in some detail, the actual methodology by which decisions are made is a far more constructive and consultative type of approach. The trouble with leaving it in the hands of the Connétable of course, was the Connétable then could not be involved in the same way in the discussions because the Connétable is an interested party and also the second problem was you would still need to have gathered together these groups of experts and would you do that on 12 different occasions for different groups? I think that the Bailiff's Chambers still remains a useful collecting point, as it were, for the whole process. In relation to the question of appeals, Senator Shenton has quite rightly pointed out that there is not an appeals procedure other than that which exists in relation to any administrative matter. I am perhaps going to be giving myself legal advice on this point, but it would be my view and I am looking at the learned Attorney to see if he agrees, but of course judicial review would always apply and he is nodding his head - for which I am grateful - to confirm that and I accept that that is a process before the Royal Court. I do not accept the fact that the Bailiff may in an administrative function-made decision, is going to in any way prevent other people, the Jurats in particular or the Deputy Bailiff sitting, from overruling and indeed we have a situation sometimes in the Royal Court where appeals lie on criminal matters from the Inferior Number, that is the Bailiff and 2 Jurats to the Superior Number which is the Bailiff and I think from memory, 5 Jurats. Again the learned Attorney is prompting me there. There has never been a difficulty on that, the idea that somehow judges are going to go: "I cannot overturn another judge." Far from it, is my experience. But I accept there is a cost implication in relation to that. There would then of course be a further appeal from the judicial review to the Court of Appeal in relation to such matters. So there would be a further line that would have to take matters away. In relation to Deputy Maçon's questions, I am afraid I am hopelessly lacking information in relation to numbers involved. That is probably my fault for not having checked that, but as I say, this is something which has been in existence since 1992, it has merely been brought back again and that is why perhaps I have not checked as carefully. In relation to the definition

issue, I think the point made, I believe by the Deputy of St. Mary, is well made, that a person should not be subject to a criminal penalty unless they know what it is they are not doing correctly. But of course if I can turn that on its head for a moment, a court is not going to convict somebody, in my view, of an offence unless it is very clear that they have committed that offence and therefore the lack of definition could in fact work the other way and for the benefit of someone who was being prosecuted. Certainly if I had ever been sitting on such a matter, I would have wanted to be absolutely certain that it was clearly and undoubtedly a public entertainment. In relation to the methodology of the Panel and matters like that, the number of Connétables have very helpfully explained the way in which that works. I do not know precisely what is the relationship between the Panel's deliberations and the decision of the Bailiff. The Bailiff will obviously retain the final decision because the law so says. But I would strongly suspect, and I am afraid I do not know for certain, by the way these things can operate that he would normally go with that view unless there was strong reasons not so to do. In relation to the moral element, I am afraid I just do not know the answer to that. It seems that there is and has to be - and Deputy Lewis was giving some information on this - a means of judging films and things of that nature, a separate body. Whether the Bailiff would then, in such a case, want to consult with a separate group, I suspect he probably would in a difficult case, but at the end of the day the issue remains, at the moment, with him. As I say, if we do not pass these it still remains with him, only under the pre-1992 rules. The issue of demonstration I have already dealt with, it is a well made point, I cannot see that a public demonstration would be an entertainment. The point was very well made by a number of speakers including the Deputy of St. John in relation to petty regulations and I totally endorse that, I am not a lover of petty regulations, I think we have far too much regulation, far too many laws, bits of law which frankly are not enforced or cannot be enforced because we do not have the people to do that. But I would point out that this is not a modern thing, this goes back to a decision of the States in the 1700s and so this is fairly well established. In relation to the issue of skinny dipping, I am certainly not going to express a view as to whether or not skinny dipping by Members or certain individual Members would be entertaining or not. In relation to the issue of the Minister being at fault, I think that I have to accept some fault in a corporate sort of way because I was indeed caught by surprise by this and this almost slipped through under the wire and I suddenly found myself in the situation of having to lodge something in great haste in order to prevent it lapsing and that is the truth and I freely admit it. I hope I have dealt with all the problems and maintain the proposition.

The Greffier of the States (in the Chair):

I put the principles, those Members in favour of adopting them? The appel is called for. If Members are in their designated seats I will ask the Greffier to open the voting.

POUR: 33		CONTRE: 4		ABSTAIN: 0
Senator P.F. Routier		Deputy S. Pitman (H)		
Senator B.E. Shenton		Deputy of St. John		
Senator F.E. Cohen		Deputy M. Tadier (B)		
Senator A. Breckon		Deputy T.M. Pitman (H)		
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				

Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Greffier of the States (in the Chair):

Now this matter falls in the remit of the Education and Home Affairs Scrutiny Panel. Vice-Chairman, Deputy Pitman, you do not wish this matter referred to the Panels?

Connétable K.P. Vibert of St. Ouen:

Can I propose the adjournment?

LUNCHEON ADJOURNMENT PROPOSED

The Greffier of the States (in the Chair):

Yes, we do have to deal with the regulations and I do not know if many Members will wish to speak on the individual Regulations but ...

The Deputy of St. Mary:

Yes, I feel that particularly the first will be contentious so I think there will be debate.

The Greffier of the States (in the Chair):

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

LUNCHEON ADJOURNMENT

[12:55]

[14:15]

The Greffier of the States (in the Chair):

Very well, Minister, we come now to the individual Regulations. Do you wish to propose all 7 together?

4.4 Draft Unlawful Public Entertainments (Jersey) Regulations 201-Regulations 1 to 7 (P.72/2010)

4.4.1 Senator B.I. Le Marquand:

I do, yes, unless there are individual members who would like votes taken on a particular one. I shall move them fairly rapidly starting with Regulation 1. Regulation 1 deals with the issue of the Bailiff granting permission, that is at subsection (3) for the provision of public entertainment, subject to such conditions as he thinks fit, and Regulation 1(1) of course then creates the offence of

a person who organises or is otherwise concerned in providing an unlawful public entertainment with penalties of imprisonment for 6 months and a fine. Regulation 2 deals with the issue of breaches of condition, the Bailiff having the power to impose conditions. It provides for penalties if a person is in breach of those conditions but there is a safeguard contained in subparagraph (b) provided that the person involved can prove that the entertainment ... the organiser or the person otherwise concerned in providing entertainment did not take all reasonable precautions. So if they took all reasonable precautions that then is a defence. Regulation 3 deals with the issue of forfeiture, this is so as to give the criminal court sentencing the power to forfeit items which have been used in a course of committing an offence or indeed the profits or the proceeds and there again safeguards in Regulation 3(2) in case the property belongs to a third party, they can intervene and must be heard. Regulation 3(3) deals with how forfeiture of objects are dealt with. Regulation 4 gives the power to police officers to seize items which may be subject to forfeiture and there is an offence contained in Article 4(3) of intentionally obstructing or resisting a police officer in the exercise of that power with a maximum fine of level 2 which is £500. Regulation 5 is the extra case which has now been put in and this is a standard piece which deals with the issue where an offence is committed by a corporate body, limited liability, partnership or a body corporate and provides for the situation in which the offence has been committed with the consent or connivance of an individual person or is typical to any neglect on the part of individual people who are named in section A or B. Now that creates an offence which has similar penalties to the underlying offence. Similarly with 5(2), that deals with the situation of a body corporate whose affairs are managed by members and can give rise to liability on those members. Regulation 6 is simply making it clear that other provisions are not abolished and of course this is where the common law position still remains because it is not abolished by this. Finally, Regulation 7 deals with the name of these Regulations and indicates that they will come into force tomorrow and remain in force for 3 years. I move these Regulations.

The Greffier of the States (in the Chair):

Regulations 1 to 7 are proposed, are they seconded? Does anyone wish to speak on any of the Regulations? The Deputy of St. Mary?

4.4.2 The Deputy of St. Mary:

I am going to mostly speak about Regulation 1 as a proxy really but it does seem to have the meat of it. A person who organises or is otherwise concerned in providing an unlawful public entertainment - there are at least 2 problems with this - shall be guilty of an offence: I am sorry. At least 2 problems with this, one is unlawful public entertainment. There is not a definition of what an unlawful public entertainment is. I assume it means ...

Senator B.I. Le Marquand:

Can I intervene to clarify? If the Deputy would look at Regulation 1(2) he will see that it states there what is unlawful.

The Deputy of St. Mary:

I assume it means that and there it is in black and white. Fair enough. I apologise for that. Not one of my better moments. [Laughter] But I do not usually make little errors like that. Public entertainment, well I have mentioned that before and in the report entertainment and events - and of course Deputy Tadier has referred to this - seem to be conflated, event/entertainment, Jersey Live is obviously both, but some events would not count as entertainment but yet they appear to require the Bailiff's permission and there has been some debate about that. The Minister has said he will liaise with people who are concerned on this matter, so we will just have to take that. But I am just emphasising the point that right away in the first paragraph of the first Regulation we have this coming down on public entertainment with some really worrying consequences of the fact that it is not defined and it is quite widely drawn admittedly in the report and so there is that confusion at the

heart of this Regulation. A further point: “Are guilty of an offence and liable to imprisonment for a term of 6 months and to a fine.” Now I know that liable is always taken to mean up to, that the penalty would be up to 6 months and a fine, but the fact is most people do not read it like that, but that is a minor point. It is quite a big penalty for organising something that the Bailiff has not allowed even though you have not asked permission perhaps. Like we have heard some wonderful examples this morning, cases where people did not ask permission for things that might or might not be entertaining. So, you know that there is a problem here, there are problems of definition, there is a problem with the severity of the penalty because we are talking about public entertainment. Then we have in subsection (3) of this Regulation: “The Bailiff may grant permission for the provision of a public entertainment subject to such conditions as the Bailiff thinks fit.” Well, I am sure this has been debated before in this Chamber about whether the Bailiff should have that kind of right, whether it is the right person and what exactly this is all about. We have heard moving pleas for a bit less regulation and I just find that very, very hard to take given that we are looking at a penalty of up to 6 months on an undefined definition of public entertainment. We do however, have a definition of what is unlawful. Then one final minor point which is just really for a matter of clarification from the Minister, on Regulation 6 about customary law: “Nothing in these Regulations shall be taken as abolishing, modifying or prejudicing any offence against the customary law.” I wonder what the position is if someone uses a defence under the customary law. That is not mentioned, perhaps the Minister would clarify.

The Greffier of the States (in the Chair):

Does any other member wish to speak? Senator Le Gresley?

4.4.3 Senator F. du H. Le Gresley:

I, like the Deputy of St. Mary, am concerned about the penalties and it strikes me that these have not been changed since 1884 in respect of 1 and 2 of the Regulations. If anything, I would have expected them to read liable to imprisonment for a term of 6 months or to a fine and to say: “And to a fine” it seems to me we are going to have a double penalty. What appears to have happened, and the Minister will probably clarify when he responds, is that these Regulations have been changed over many years, hundreds of years I would suggest, and we are ending up with, I think what they call it, a camel, in other words we have not really got a document here that is very satisfactory. The Minister has said he has added 5 very recently and I notice in 4 we go back to the standard scale which would seem to me more appropriate to be featuring in 1 and 2. So what I would ask the Minister to consider is in 3 years’ time, if he is still the Minister or whoever is the Minister, that we look seriously at whether we think we should be imprisoning people or have a penalty of such seriousness for what is a relative minor offence. I think this is something that has probably, as I said before, developed over all these years that these Regulations have been in force.

The Greffier of the States (in the Chair):

Does any other Member wish to speak? Deputy Tadier?

4.4.4 Deputy M. Tadier:

I had quite an interesting chat with my colleague Senator Ferguson about a week ago or so. We were at one of these functions with the Dutch Ambassador and we happened to get talking. It is nice to see colleagues in a different context outside of work and we had a very brief talk about libertarianism and I said it is quite possible ... I said I am a libertarian as well and I believe you are, and we had a little discussion as to whether it was possible to have somebody on the left, so to speak, who was a libertarian. I think that is true but the reason I bring this up is because I think here, and we have heard comments from the Deputy of St. John as well, this strikes very much at the heart of libertarianism and a liberal society and of course while we need regulations and we need laws, they need to be in moderation. To very much follow on from what Senator Le Gresley has been saying, I think that there is an issue here with proportionality. For example, many

Members will know that I am a musician, I like to play the accordion. I remember in the past when I had to apply for a busking licence it was very simple, you simply applied and then you were given permission subject to whether you could play or not, and luckily the person that I went to play for was probably slightly deaf and I did not need to play for too long and I managed to get my permit. Then it became slightly more complicated and you had to pay to do that which I guess is fair enough if you are getting some kind of remuneration from it. What I would not like to see as a result of passing these Regulations is that a Jersey person or anyone, let us take it, a French person comes off the boat carrying an accordion or an Irish person with a fiddle, and decides I quite fancy just getting my fiddle out in the middle of the square, playing a few tunes or my accordion in King Street and then finding himself or herself in jail as a result. Now hopefully that would never happen because we have a certain amount of commonsense in our policing, but this has not been taken into consideration in the law. As we have been told, it is a Law which has not been reviewed or updated for quite a long time. It seems that this is one of those areas that could be quite easily looked at by the body which reviews laws, indeed there was an article not so long ago in the J.E.P. on that exact subject. So I think there is an element of proportionality which has not been taken into consideration. I certainly cannot support on that basis Regulations 1 and 2 and as I think the rest of them are consequential, 3, 4, 5, 6 and 7, I am simply going to have to vote against these Regulations. But I hope that this will be looked at in greater detail and that some of the elements that should not be covered by this Law will be taken out.

4.4.5 Deputy K.C. Lewis:

I will be brief. As I mentioned earlier, I have been working with Bailiff's permits now for well over 30 years and the system works very, very well. I do not think Jersey is any different to the U.K. in this respect. If one wants an entertainment licence one approaches the licensing authority. In this case the Bailiff is the licensing authority. I have the film festival coming up next month and I will be applying for yet again another Bailiff's permit. I do have to explain to visitors that our Bailiff is not the same as the U.K. Bailiff and that our Bailiff oversees administration of the Island and wears a red hat and in the U.K. they wear a black hat and take away your hi-fi. But as I say, the system works very well and there is no real difference between Jersey and the U.K. in that respect and so I will be supporting.

4.4.6 The Deputy of St. John:

Yes, if the Minister is minded to bring some of these laws in 3 years' time if he is still in office for ratification, in the interim would he have that time to look at them in a lot more detail?

[14:30]

Because I was listening to the Connétable of Trinity expounding the virtues of the Bailiff's Panel earlier and I remember my days in the Young Farmers' Club and the Connétable was also there, and the antics we all used to get up to. We did not generally need permits from the Bailiff's Panel, whether we were putting on a show or whatever it may have been and really if you could look at this over the next 3 years before they come up again for ratification and bring them into 2013-14 it would be appreciated. Thank you.

4.4.7 Deputy R.G. Le Hérissier:

It is one of the great paradoxes of legislation that a bunch of progressives, so called, did look at this and came to the conclusion they did not wish to change, and the reason was ultimately a pragmatic reason. It appeared that the Bailiff's Panel, rather than being proactive, had moved to a more benign approach where if complaints were made it would then act but in the absence of complaints it would leave well alone. So, we then looked at the second issue, the one that Deputy Tadier remarked upon; is it right that someone like the Bailiff should continue to exercise this role. Obviously, rationally speaking, it probably is not. But we then looked at the alternative, which was to set up a whole bureaucracy based on, it had to be said, statute law, which we had studied in the

U.K. context. Quite frankly the whole issue of setting up this body, the whole issue of defining, which may sound paradoxical, apropos what the Deputy of St. Mary said, the whole issue of defining what public entertainment meant. I have just been informed in this row, for example, is a political demonstration public entertainment but if clowns are taking part does it then become public entertainment? **[Laughter]** That is one of the great existential questions that is being considered here.

The Deputy of St. Mary:

Would the Deputy give way? Clowns can and do take part in demonstrations. There is a well-known clown collective that performs regularly at Faslane.

Deputy R.G. Le Hérisier:

Indeed we have all got to take our cocoa. **[Laughter]** So, we looked at that and we could see the opening up of this issue in a legislature which did believe once in light touch regulation - but I think that went by the by years and years ago - would have led to such horrendous cost and semantic and legal implications that we went around in a complete circle and believed, unless there were all sorts of people knocking on the Bailiff's door and saying: "Look, you are censoring this." As with the famous Coriolanus case when Bailiff Crill says he woke up during one performance: "and found a man starkers", to use his words "in front of him." But unless there were to be several cases of that ilk, the idea is that the Bailiff's Advisory Panel, which is not mentioned here, would look at the issue. It has, I understand, hardly been convened at all in recent years, for the very reasons I used earlier on in my contribution. So, ironically, it is the pragmatic solution we have at the moment. If you want another solution you will be into never-ending debates. Thank you.

The Greffier of the States (in the Chair):

I call on the Minister to reply.

4.4.8 Senator B.I. Le Marquand:

The issue in relation to public entertainment we looked at in some detail before, and Deputy Le Hérisier was not here but will be pleased to know that I quoted from him before, as part of the report. It is a problem but, as I say, it is the best we have. The issue in relation to maximum penalties, I suspect, I do not know, but I suspect that these may be exactly the same as from 1992 onwards, but prior to that if this was viewed as a criminal offence, as I think it was, then it would have had unlimited penalties. It may shock or surprise Members of this Assembly to know that all common law offences, including the most minor you could possibly conceive, carry indefinite penalties of both imprisonment and also fines, which is a peculiarity. I personally do not think that 6 months imprisonment is too much for the worst conceivable offence or for multiple offences. I think it is a very reasonable penalty. The issue as to the way this seems to be looked at; I am always willing to look at things. It can go somewhere towards the bottom of my voluminous list of things to look at but I suspect that I will come, eventually, to the same conclusions as those already shared by Deputy Le Hérisier. So, there it is. I maintain the proposition.

The Deputy of St. Mary:

The Minister has talked about multiple offences. It quite clearly says in the first subsection: "An unlawful public entertainment", so that is surely a red herring, or just deciding on whether 6 months is appropriate for one infraction?

Senator B.I. Le Marquand:

That is right. What I meant then was somebody who had committed a number of previous infractions and was carrying on committing them. I forgot to answer one particular question for Deputy of St. Mary, if I may do that. That was the point he raised on the customary law. Any defences that might exist to the customary law offence would not exist here. They would simply

exist to that offence. It would not be carried over. But it seems to me that there are a number of quite well thought out provisos and safeguards in these particular Regulations.

The Greffier of the States (in the Chair):

Very well. Yes, the appel is called for.

Deputy M. Tadier:

Could I ask for the Regulations to be taken separately or at least 1 and 2 together?

Senator B.I. Le Marquand:

I am happy to do that, if Members so wish.

The Greffier of the States (in the Chair):

Even if you are not Minister, I am afraid Standing Orders allow the Deputy to make that decision in relation to Regulations; to require separate votes.

Senator B.I. Le Marquand:

I hope you are suggesting 1 and 2 together and then the rest?

Deputy M. Tadier:

Yes, I think what I propose is to take 1 and 2 together, then 3, 4, 5, and then 6 and 7 together; if Members are happy with that.

The Greffier of the States (in the Chair):

Yes, very well, you are entitled, under Standing Orders with Regulations, to ask for separate votes and therefore the first vote will be on Regulations 1 and 2 together. If Members are in their seats the Greffier will open the voting.

POUR: 37		CONTRE: 6		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy R.G. Le Hérisier (S)		
Senator P.F.C. Ozouf		Deputy J.A. Martin (H)		
Senator T.J. Le Main		Deputy of St. John		
Senator F.E. Cohen		Deputy M. Tadier (B)		
Senator J.L. Perchard		Deputy of St. Mary		
Senator A. Breckon		Deputy T.M. Pitman (H)		
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				

Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Greffier of the States (in the Chair):

You suggested, Deputy, 3, 4 and 5 together. I will ask the Greffier to reset the system and the next vote will be on Regulations 3, 4 and 5 and the Greffier will open the voting.

POUR: 42		CONTRE: 2		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy M. Tadier (B)		
Senator P.F.C. Ozouf		Deputy T.M. Pitman (H)		
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				

Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Greffier of the States (in the Chair):

We come finally to Regulations 6 and 7. I will ask the Greffier to open the voting.

POUR: 43		CONTRE: 1		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy T.M. Pitman (H)		
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

The Greffier of the States (in the Chair):

So, the Regulations are adopted in Second Reading. Do you propose them in Third Reading. Is that seconded? Not there yet. Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading? Very well, the appel is called for in Third Reading. I will ask the Greffier to open the voting.

POUR: 41		CONTRE: 3		ABSTAIN: 0
Senator T.A. Le Sueur		Deputy of St. John		
Senator P.F.C. Ozouf		Deputy M. Tadier (B)		
Senator T.J. Le Main		Deputy T.M. Pitman (H)		
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérissier (S)				
Deputy J.B. Fox (H)				

Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

5. Jersey Heritage Trust: service level agreement and funding requirements (P.75/2010) - as amended

The Greffier of the States (in the Chair):

Very well. The next item of business is the proposition relating to the Jersey Heritage Trusts' Service Level Agreement and Funding requirements. Now, this matter is in the name of The Minister for Education, Sport and Culture, who has also lodged an amendment to his own proposition. I assume, Minister, if Members are content, you would like to propose it as amended but it is ultimately a matter for the Assembly.

The Deputy of St. Ouen:

Yes, Sir.

Senator T.J. Le Main:

Could I declare an interest? It is not financial but you have advised me that I can remain in the Chamber and I thought that I ought to declare that interest.

The Greffier of the States (in the Chair):

Do you wish to give a brief indication of the interest?

Senator T.J. Le Main:

Yes, it is because my brother-in-law is a trustee and I have a nephew and his wife who work for Heritage Trust.

Senator F.E. Cohen:

Can I also declare an interest? I am a former Vice-Chairman of Jersey Heritage Trust, but that was some time ago. Thank you.

Deputy R.G. Le Hérissier:

I would like to declare an interest. I am on the council of the National Trust and also a Société Jersiaise working party.

The Connétable of St. Helier:

As a trustee of the Jersey Heritage Trust, I assume that I am still entitled to speak and to vote on the proposition?

The Greffier of the States (in the Chair):

I do not imagine they give you much money for it?

The Connétable of St. Helier:

Not a penny, Sir.

The Greffier of the States (in the Chair):

Very well. Now, are there any Members who would object if the Minister were to propose the proposition as amended? If not, I will ask the Greffier to read the proposition, as amended.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion, (a) to agree that subject to the necessary funding being agreed by the States in the Annual Business Plan, the Minister for Education, Sport and Culture enter into an agreement with the Jersey Heritage Trust, as outlined in Appendix A on page 14, specifying the minimum level of service to be provided in return for total annual funding from the States of Jersey for revenue/expenditure purposes of £2.3 million and to request the Chief Minister to include the additional financial provision for the Trust of £200,000 per annum in the Draft Annual Business Plan for 2011 and beyond; (b) to request the Chief Minister to make additional provision in the Draft Annual Business Plan for 2011 and beyond, to meet the Trust's expenditure requirements for an additional £465,000, as recommended in the Locum report, to enable the maintenance and renewal of heritage sites under its control.

5.1 The Deputy of St. Ouen (Minister for Education, Sport and Culture):

Over the last 18 months much has been written and said about the financial position of the Jersey Heritage Trust and I am grateful for the work undertaken by the Comptroller and Auditor General, BDO Alto, Locum Consulting and most recently by the Public Accounts Committee. Their independent and impartial advice has proved to be most valuable. Although it has taken longer than I would have liked, I believe that an acceptable way forward has been found which allows our Island heritage sites to be placed on a secure and sustainable footing. It is important to learn from the past. However, more importantly, I believe it is essential that we use that experience to shape the future while avoiding the same mistakes. The proposition as amended allows the States the opportunity to support a revised level of activity from efforts made by the Trust to reduce their overall costs while at the same time avoiding permanent site closure. It also identifies the funding necessary for the trustees of the Jersey Heritage Trust to safeguard and promote the Island's heritage assets in order to preserve the Island's identity and maintain Jersey's position as a highly-regarded tourist destination. Since becoming Minister for the Education, Sport and Culture Department, I made a commitment to both the States and the public to address the issues faced by the Trust and secure a long-term future for our heritage sites. I am now confident that I can deliver

on the commitment I made. I am grateful for the support of the Minister for Treasury and Resources, the Council of Ministers and all other partners in helping me to address this important matter. It is much appreciated. I accept that in a time of economic uncertainty a balance needs to be struck between providing services in an efficient and cost-effective manner with the need to ensure that services are adequately funded. I believe that this proposition, as amended, allows this aim to be achieved. I have been extremely impressed by the commitment demonstrated by all our heritage organisations and the many, many individuals who give their time and energy to promoting the Island's heritage.

[14:45]

Their work has not gone unnoticed. Following the lodging of P.75 and after holding further discussions with all interested parties, including the Council of Ministers, and taking note of the comments made by the P.A.C., it became clear that the service level agreement as set out in draft in Annex A needed strengthening. It was also apparent that the basis of any agreement hinged on the minimum level of opening for the Island's heritage sites under the control of the Trust, as set out in Appendix A of the main proposition. Past experience has shown that without the States providing this level of clarity, uncertainty over the future of our Island's sites will continue to prevail. Until a decision is made on this matter it is also impossible to determine the appropriate level of funding required and the exact form the service level agreement should take. The primary aim of both the proposition and the amendment is to allow this Assembly to determine the level of activity alongside a rational assessment of the costs necessary to deliver those services, as recommended by the Comptroller and Auditor General in his report published in October 2009. This is of the utmost importance as without a clear agreement on the minimum level of public access to our heritage sites it is impossible for the Trust or indeed my department to move forward with any confidence. Regarding the proposed amendment to part (b) of the proposition, I recognise that if a provision is to be made to enable the maintenance and renewal of heritage sites under the Trust's control, a figure should be identified, which Members can rely upon and are able to comment. I fully accept that funding matters should be addressed as part of the debate on the 2011 Business Plan. However - and it is a big however - the appropriate level of funding can only be decided when the wishes of this Assembly are known. Once a decision is made and the level and method of funding is secured, a robust service level agreement will be entered into with the Trust, reflecting the outcome of this debate. The question of how this funding will be provided is a subject that I am sure will be discussed later, however I fully acknowledge that general funding matters are better dealt with during the Business Plan debate. The Chairman of the Public Accounts Committee states in the forward of the report entitled "Financial Review of the Jersey Heritage Trust" that the key issue here is that everyone should accept the deal to a service level agreement that comprehensively covers all requirements. I would like to echo those words and it is my view that the proposition, as amended, does set out the deal which will allow my department, together with the Jersey Heritage Trust, to move forward in the knowledge that a service level agreement can be developed which will comprehensively cover all the requirements of both parties. Although the savings made to date by the Trust of approximately £350,000 are significant, there is still a shortfall amounting to £200,000, if the Trust is to provide the public access to the sites identified in Appendix A. Funding has been allocated to the Trust in the draft Annual Business Plan to meet the revenue shortfall on the understanding that all possible steps are taken to raise funds in order to minimise the effect on the limited resources available to the States and this will be reflected in the new service level agreement. Over and above the annual revenue requirement there is a need for additional funds to provide for the refreshment of sites. Locum Consulting have estimated that sum to be in the order of £465,000 per annum, based on their experience of capital requirements for other heritage or leisure assets. This investment is essential if the Trust is to maximise the visitor revenue potential of all sites under its control. A sum of £150,000 has presently been allocated for this purpose and it will be for the Trust to take all reasonable steps, as I said before, to make up that shortfall. The intention is that the annual capital funding would not be paid to the Trust with a

revenue grant but held on account for the Trust by the Treasury and Resources Department and the Trust would be required to apply for funds for specific projects based on defined criteria. To provide some comfort to the Trust an assurance has been given by the Council of Ministers that they will seek to make good any shortfall in 2011, if other fundraising sources prove insufficient. It is my hope that as indicated by the Council of Ministers, so long as the Trust meets its obligations as those that will be defined in the service level agreement, that this assurance would be honoured by the next States Assembly. I am also pleased to announce that the Economic Development Department has offered assistance to Jersey Heritage Trust and come up with ideas on ways in which the Trust could make up the shortfall in the current funding. For my part I will encourage the Trust to work closely with the Economic Development Department as these ideas are developed further. There are 2 other issues which I need to make Members aware of. The capital provision of £465,000, identified by Locum Consulting, is for the general refreshment of sites and not for larger capital projects, such as any major refurbishment of Elizabeth Castle or the construction of an additional repository at the archive. This would, by necessity, be required to be considered separately and dealt with in the normal States capital programme. The other matter, which needs to be addressed, is the future of the Archive Service and how it will meet statutory obligations contained in the Public Records (Jersey) Law and the Freedom of Information (Jersey) Law when it is introduced. Due to the importance of the archive, I plan to work with Jersey Heritage Trust, the Council of Ministers and other parties to make sure that it meets the Island's requirements both now and in the future. Although this proposition identifies and secures minimum access to the archive, it was not possible or appropriate to address the complex issues facing the archive within this proposition. The P.A.C., in their recent report, loosely identified the issues facing the Archive, which need to be comprehensively addressed. These include all manpower implications, to ensure that the Service is adequately staffed in order to fulfil the obligations placed upon it. Access also needs to be reviewed, in light of the comments made in the audit inspection report. Furthermore, overall funding requirements needs to be determined and decisions made on how those funds will be provided. This must, in my view, include proper consideration of the introduction of charges to other States entities and users who are likely to benefit from depositing their archive material at the centre. Finally, although the Trust are more than able to manage the facility, I believe a decision needs to be made on whether responsibility for the archive should remain as it is or become the specific responsibility of a department. Simply providing additional funds for the Jersey Heritage Trust grant will not deal with these important matters and as such I aim to deal with this matter separately. Sir, I do not want to be dramatic but the future of the Island's heritage sites rests in our hands. If Members support the proposition, a clear message will be given to the public that we value our heritage and recognise the important role heritage plays in defining our identity as an Island community. It will also ensure that future generations will be able to continue to enjoy access to some of the Island's most well known sites on the Island. Once the decision of the States is known a robust service level agreement will be drawn-up, scrutinised by the Council of Ministers and, in light of the views expressed by the P.A.C., I am also prepared to consult with the committee before signing the agreement. The agreement will ensure a far greater level of transparency and accountability going forward than ever before and provide the opportunity to rebuild the trust that needs to exist between the States, my department and Jersey Heritage Trust. I have been extremely impressed by the commitment demonstrated by all heritage organisations and I hope that this Assembly will demonstrate their support for them. For all of the reasons mentioned, I would ask Members to show their support for our Island's heritage sites and the many individuals who manage them on our behalf. Thank you.

The Bailiff:

Proposition seconded? **[Seconded]** Any Member wish to speak? Yes, Senator Ozouf.

5.1.1 Senator P.F.C. Ozouf:

The Council of Ministers is not a party at government; it is a coalition, a coalition of strongly minded independents. We do not have a coalition agreement. I certainly contribute to vigorous debates at the Council of Ministers. I do think that as a Council of Ministers we should show a united front. What I can say is that J.H.T. has been the subject of one of those vigorous Council of Ministers discussions. I have made no secret of the fact that I believe that there have been problems in relation to J.H.T. and I, while accepting the fact that there is a discussion to be had about the level of funding for organisations including the J.H.T., I would not wish to send out a signal that poor financial management should be rewarded by underwritings or bail-outs. This proposition does not underwrite money for the J.H.T., in terms of funding that is going to be subject to discussions in the Business Plan and I am going to support all of the measures and the amounts that are in the Business Plan. This proposition does not provide an underwriting, a gold-plated underwriting to the J.H.T. I am clear what the proposition is about and the Minister has explained it and I support the words that he has said; I support the comments that the Council of Ministers has made, that they should not be misinterpreted. I am also supportive of the fact that the agreement itself will be subject to some further discussions between the Treasury and E.S.C. (Education, Sport and Culture) and on that basis I see no reason and have heard nothing from the Minister, in all of the discussions that we have had and in his remarks, not to support the proposition as is put forwarded and as amended.

5.1.2 Senator F.E. Cohen:

As I have already declared, I am a former vice-chairman of Jersey Heritage Trust and I worked very closely with Jersey Heritage Trust as a trustee and then as vice-chairman over very many years and worked on numerous projects with Jersey Heritage Trust and I am grateful for all their support in those projects. Jersey Heritage Trust is a first-class heritage organisation and it is one of which we should all be immensely proud. It is staffed by experienced and highly committed individuals, many of whom have worked there for the whole of their working lives. Their work in preserving our heritage is exemplary and it has been rewarded with a number of major international awards. Life, however, at Jersey Heritage Trust has from my memory always been very difficult. It has a small income and it is charged with preserving some very cash-hungry buildings. It has furthermore been over many years a victim of falling tourist numbers against ever-increasing costs. Jersey Heritage Trust has also always struggled to commercialise their business operations, for this is not an easy task, but I have no doubt with the efforts of Jersey Heritage Trust and those of the departments supporting them a sustainable future can be achieved. Jersey Heritage Trust needs our support and it needs our gratitude. Thank you.

[15:00]

5.1.3 Deputy P.V.F. Le Claire:

We can be accused of rewarding failure at times in the States and that certainly has been levelled. In relation to the proposal that is before us today I will be, from the outset, supporting the Minister for Education, Sport and Culture but I am not going to stand up here and praise what has been going on. The States, a long time ago, vested their responsibility in relation to a number of historical sites in Jersey upon an under-funded and under-supported body and as Senator Cohen has pointed out, it has been struggling ever since then. Quite clearly what is needed, not only for the Jersey Heritage Trust, but for Jersey Plc, is a comprehensive tourism strategy and not a continuing, ongoing situation where we see important historical monuments, public services and local businesses supported by throwing lumps of money at it, because in my view the clear message will be sent out this afternoon - but not the clear message that the Minister speaks of - the clear message will be sent out that we are going to throw money at this until we can figure out how to sort it out. I think it is absolutely deplorable that at this level of government, and I am one of the least educated in here, we are looking to have a service level agreement as part of the outcome for this. This service level agreement should have been in place a long time ago. £465,000 will do nothing to address the restructuring and the refurbishments of these facilities and the reality is that the Council

of Ministers, and especially the Minister for Economic Development and no doubt his predecessor, the Minister for Treasury and Resources, will know that Jersey is suffering in the down-turn of the economic climate with an overabundance of visitor attractions with an increasingly diminishing number of tourists, with decreasing numbers of days in their visits. Gone are the days when the families would come for a week or 10 days and more now is the marketing of a 3-day break. Just how much of the Island can you see in 3 days when you are staying in a spa hotel and it is raining? You certainly cannot get around all of the heritage sites, even if you do buy a pass. There certainly are issues about pensions, remuneration and staffing at Jersey Heritage Trust and I certainly do not see anything in this this afternoon that is going to straighten those things out. I was quite impressed with the Public Accounts Committee's comments which talked about withdrawing the proposition, asking how can a government support this type of approach? It seems to have fallen on deaf ears. Understandably, because I am going to do it as well, the Council of Ministers and many of the States Members this afternoon are going to vote in favour of this money because we do not want to see these globally historical important sites fall into such a state of disrepair that they are not recoverable, as some have. We also want to make sure that the access to those, while there may be decreasing numbers, is available to the tourists. Our tourism strategy needs to look differently, in different directions. It needs to look to Europe. In fact, we need a tourism strategy. I do not know why I am saying: "Our tourism strategy"; we have not got one. The Jersey Heritage Trust, with most of the work it has to do, has to rely to a great deal upon the tourist market. So, it is certainly something that the Minister for Education, Sport and Culture needs to talk to the Minister for Economic Development about, because I am sure I was not the only Member recently in the Royal Yacht Hotel that felt like they were a fly-on-the-wall in a marriage guidance counsel meeting with the Jersey tourism industry and the Minister for Economic Development. Most of the hoteliers that I speak to do not want to rock the boat but they certainly are concerned about the water level inside the boat. Hotels are going, numbers are falling, and the visitor attractions of such a number is difficult to maintain. I question now whether really continuing in the way we are doing with the Jersey Heritage Trust is viable in the long term. I did not think it was the right thing to do when we did it the first time, when we introduced the Jersey Heritage Trust; I did not think it was the right answer. I do not believe it is the right answer for the future either. As with so many quangos and non-government body organisations, we do not see a reduction in spending, we normally see a reduction in service and I am afraid we are seeing that today. The Minister has my vote. He has my confidence but the Jersey Heritage Trust, I am afraid, certainly does not.

5.1.4 Senator B.E. Shenton:

I am always conscious when I speak as P.A.C. Chairman that I am speaking as a chairman of a committee, so perhaps I am little bit more restrained on my comments than I would be otherwise. I had not realised that Senator Cohen was formerly a vice-chairman of Jersey Heritage Trust, so I hope he will not take my comments personally. The P.A.C. had a good look at the Jersey Heritage Trust and our findings are there for everyone to see and read and I do not think it does a great deal of ... is a good use of time just to go over the report and go over our findings. Everyone is quite capable of reading them. But we did have some major concerns about how major refurbishments would be funded, how the funding for the Archive would be found and we have statutory duties with the Archive and if the Freedom of Information Law comes in the onus on the Archive to achieve those duties will be even higher. We did recommend ring fencing of the budget for the Archive so that the Jersey Heritage Trust could not use it for other purposes. We have seen the records backlog increase in the number of years. The thing that brought all this to light in many ways was the purchase of the DUKWs to access Elizabeth Castle, something that they were not bound to do. They were under duty to make reasonable endeavours to provide access, but they said they were not bound to purchase the DUKWs, and of course the service level agreement is very, very important to decide what sort of service we want from Heritage, and I think the Comptroller and Auditor General in his report said it is very much up to the States to decide how much we want

to spend on Heritage. What slightly puzzles the P.A.C. is the fact that this proposition has come to the States at all. We are debating the Business Plan in the next session of Parliament, in the next sitting, and I know that there may well be amendments to the level of funding that we are putting in place today. So, it does not provide any certainty of funding because that is subject to the Annual Business Plan and whether we agree it in the Annual Business Plan. So, if we look at the actual proposition we are asking to provide additional funding which may or may not be subject to amendment in the Business Plan, so why not wait for the Business Plan and see what level of funding we give them, but also that we adhere to the Annex A in terms of the minimum level of service that we want. Basically all Annex A is, which is on page 14, I think, is the opening and closing times to the various entities that are under the control of Jersey Heritage Trust. I did have a word with the Greffier of the States because the way the proposition is worded, and because Annex A is part of the proposition, if going forward Jersey Heritage Trust wanted to close Elizabeth Castle at 5.30 p.m. instead of 6.00 p.m., they would have to come back to the States to get agreement that that may take place. Certainly I and the other Members of P.A.C. did not feel that this is perhaps the best use of the States resources, because apart from opening times it gives you little else. It does not answer the core questions about the archive funding. Indeed, if you read on page 3, it states that the Education Department may come back for additional funding for the Archive; so do not think that this is the final amount that you may have to give to Jersey Heritage Trust. It does not give any solution with the long-term future of the DUKWs. The Jersey Heritage Trust chairman stated in the review that the last thing they wanted to be was a transport company. It does not give you much idea of what the service level agreement is and we expect from the Jersey Heritage Trust, and also it does not tell you how we are going to fund major refurbishments. So, there is an enormous amount of the jigsaw that is missing. The Council of Ministers' comments ... and again it is surprising that they supported this because we could end up with funding propositions coming from every Minister of every department going forward and no co-ordination under the Annual Business Plan which is what we were after. The Council of Ministers' comments are quite breathtaking. The Council of Ministers has also agreed that if the Trust is able to demonstrate it has taken all reasonable steps to raise external funding and still has a shortfall the Council of Ministers will seek to make good this shortfall. So, if they fail again: "Do not worry, we will give you a cheque book and we will sort it out," not only in 2011 but also in future years; in 2011 and in future years. That is a promise they cannot make because it is not a promise that they can keep. We will have a new Council of Ministers in 2012 and it will be up to that Council of Ministers to decide how they treat the funding of Jersey Heritage Trust. I am not going to go into any great detail. There is a lot of work to do with Jersey Heritage Trust. It is very important we get the service level agreement right. It is very important that they finally find a solution to the Elizabeth Castle access, the Archive, the refurbishment problems, and the management as well because there have been deficiencies in management. Heritage Trust themselves are working hard to put this right and they are trying to make sure that going forward they do not repeat the mistakes of the past. Personally, it does not really matter which way you vote on this. As I said, there will be amendments to the funding at the Business Plan level. So, if you vote for this today you achieve nothing on funding, and the appendix just sets the opening times. What was asked here today is to set the opening times for the Museum and Elizabeth Castle and various other entities and nothing more than that.

5.1.5 Deputy S. Power of St. Brelade:

I think it is fair to say that when Senator Ozouf referred to or alluded to there being a series of animated discussions at the Council of Ministers he was not exaggerating. This is a proposition and if Members read the Council of Ministers' comments it says that: "This would have been better dealt with at the Business Plan" just as Senator Shenton has alluded to, and it may very well be that it will be the subject of much attention again on the September Business Plan. The problem with this whole situation is that the basis on which the Jersey Heritage Trust was set up in the first place, all the ground rules have changed. So, the statistics for tourism in the 1990s have gone out the

window. The condition of the sites that were loaded on to Jersey Heritage Trust, Mont Orgueil, Elizabeth Castle, Hampton, La Hougue Bie, the Museum, Pier Road, the Archive Centre, have all aged in the almost 20 years since and this proposition of the Minister for Education, Sport and Culture today is simply a Band-Aid.

[15:15]

It simply deals with an interim funding problem but it does not deal with the big problem as Senator Shenton said and some of the massive issues that have to be dealt with in capital expenditure. Senator Cohen referred to some of the good points the Heritage Trust have scored and Senator Shenton has referred to some of the bad points, and I think both speeches are fairly accurate. What worries me more than anything else and I do not want to repeat what has already been said, is the fabric and condition of some of the older facilities, particularly Elizabeth Castle. It has not had major remedial work done since 1985 and it is going to have to be faced sooner rather than later. We are dealing with diminishing tourism statistics. In 1983 156,000 people visited Elizabeth Castle and I think last year it was less than 40,000. So, we are dealing with some big issues out there. I think the P.A.C. report was excellent. It raised some very good points and I have to say that in my own opinion some of the rationalisation that has been considered at Jersey Heritage Trust is acceptable, but I must say also that I believe the jury is out on the track record and management of Heritage Trust over the last period of time and I think it is something that has got to be addressed sooner rather than later. I know there are new trustees. I know there is a new chairman. It looks to me ... but I get very, very nervous when I see front line jobs, particularly jobs on services that the public readily identify with are cut and we do not seem to be seeing any cuts in the operation or the management side of the Trust. So, that is something that deeply concerns me. As I said, I think last year in the debate, I am a bit of a reluctant warrior when it comes to propositions like this, but I really feel that at the moment we have to support this Band-Aid. There are some essential capital expenditure refreshment programmes that have to be carried out next year and there is the immediate funding shortfall. I am very unhappy that this has to be brought to the Assembly in this delivery. I think Senator Shenton has again been very accurate in saying that this may come to the attention of the Assembly again in September with the Business Plan.

5.1.6 Deputy J.A. Martin:

Well, if I was not confused by the beginning of this debate I am certainly confused now after listening to the speech of the Minister for Treasury and Resources and of Senator Shenton. Exactly what are we being asked? When I was reading the report ... and then I note it says the Jersey Heritage Trust has had reports undertaken on them over the past 6 months, and it seems to me and until one of the reports came up with a figure they were never going to be satisfied. Apart from the £465,000 that Locum do put a number on, above that box they say a target of between £50,000 and £100,000 additional income should be reasonably set, but I cannot see much of that in here, and it goes back to what ... I just underline the same comments that Senator Shenton, what are we doing with this trust? It has been going for years. We do not make the best of it and we keep, I am told ... I know I am a total philistine when it comes to culture and heritage, but I am also told I am letting all the people down who work there and I have no respect and this is a message. Send them another £500,000 and that is a good old message. Get on with it boys and lose another £1 million next year. Well, I am sorry. I do not get it. I do not get the proposition. I am obviously not the only one. I will comment and I have great concerns and the only way, and they do do a fantastic job with one and a half hands tied behind their back. They have got to take out the Jersey Archive Centre out of the Heritage Trust. It has got to come under somebody else, because we are 24 years behind in a record. They work hard, they are cataloguing, the way they deal with everything down there is fantastic and we know that through working with them on P.P.C. (Privileges and Procedures Committee) on the freedom of information, and they are very frustrated that their main body of work, and it is law, and it was on the Education Committee when I was on it in 2000 and 2003, they were shutting down hours and they could not do what is under the Public Records

(Jersey) Law 2002. They cannot do it. So, I want to hear the Minister for Education, Sport and Culture tell me that this part of the Heritage Trust is not going to be run by them any more because it should be fulfilling law. Unless I hear some sort of convincing argument instead of it says ... because it really tells me all of them are saying the States must decide whatever we want from the Heritage Trust. The States must decide and until we get down to ... one pinpoints nearly £500,000 and we are going with it. I may be reading something wrong but that is what I get from this, more and more reports, and until we get a figure on it, and that is the figure we decide upon. The Minister for Treasury and Resources basically said it for me because he said every comment between closed teeth like this, it was like: "Yes, I have had debates and debates and I have probably come to the conclusion that I am going to have to go with this because the majority of the Council have gone with it, but do I believe in it, no, is this the right debate for it, no." I read between what he was saying and basically Senator Shenton has said it as well: "What are we doing here today, are we just sending a nice little tap on the heads of all the Heritage Trust?" and that is what we are doing, but we are underwriting a lot more money and lots of it had already not been accounted for, in my eyes, sufficiently but not just my eyes, the C.A.G. (Comptroller and Auditor General), P.A.C. and other people.

Deputy J.A. Martin:

[Interruption] [Laughter] It is all right. I am otherwise engaged, Deputy, at the moment. Stop ringing me. But, anyway, I think I have said it all. To me I really wish the Minister for Education, Sport and Culture would withdraw this. I really cannot support it. I do not understand where we are and he may have been stamping his feet at the Council of Ministers but it is going to take a lot more than stamping of his feet in this house for me to vote for him.

5.1.7 Deputy R.G. Le Hérisier:

Deputy Martin will be pleased to hear that she has taken the words - the firm, clear, unfence-sitting words - out of my mouth, but I was going to start by paraphrasing that John Cleese famous phrase: "Do not mention the war" and say: "Do not mention the DUKWs" **[Laughter]** but unfortunately Senator Shenton has beaten me to it. I am afraid this is the definitive solution which is not the definitive solution and sadly, much as we all respect the Minister and his tremendous drive and enthusiasm, this is totally misplaced. It is an amazingly vague proposition and it is most remarkable for what it lacks as opposed to what it contains. What does it lack? One would have thought with all the comments on management there would have been a proper management improvement plan put forward, but all we have heard through the press our marketing assistants are going and people such as that as I think Deputy Power mentioned: "Hit the little people first." Where is the management improvement plan? There is unbelievable optimism, particularly in the dire circumstances we face about fundraising and then there is this remarkable suggestion which presumably every Jersey Government department will be doing of: "Hold a lottery if you are sure." So, we are going to have a public health lottery, we are going to have an E.S.C. lottery. Everybody is going to have their lottery day allocated which is unbelievable. This incredible out of control optimism that £350,000 is quite likely to be raised by the lottery; vagueness which is not becoming of the excellence which usually underpins the Minister's policy proposals. There is no word- and here as I said, I have obviously a strong interest, possibly even a conflict - of the relationship to partners in heritage. Because of the way the Jersey Heritage Trust arose, as we all know, a lot of the physical assets of the Société were spun-off as were their collections to be managed by the Heritage Trust, but to this day of course the Société still maintains facilities like the Dolmens which should be the subject of joint publicity. We have the Société scraping around trying to get gardening and maintenance done at the Dolmens for example and we have the Jersey Heritage Trust with its own teams of gardeners. It is all a bit of a mish-mash, and I wish to raise the issue of Hamptonne because if we see the appendix as Senator Shenton has said, Hamptonne is due to be closed, but Members may not know that there has been put forward a proposal to keep Hamptonne open on the basis of volunteer staffing, yes, on a minimal basis. Now, why is this not publicised

here and why is it not seen even though under a different ... because it is operated through a *ménage à trois*, and as Princess Diana will tell you *ménage à trois* can sometimes be quite difficult to manage. Why has this not been put forward as part of the portfolio which people want to visit, because they would visit all the range, or they would want to choose to visit parts of the range but yet it is not mentioned. The more worrying thing and it was evident through the Minister's first emergency grant was when the Trust embarked on a very aggressive membership campaign. Now, as he knows it cost an awful lot to recruit the members because there is also ongoing recruitment and ongoing retention of a large membership base by the other heritage organisations. So, if the Trust is forced to go out there, maybe on matching funding, although it is not mentioned here and probably should have been mentioned, or to run its own lottery, if the Trust is forced to do that it would inevitably in the straightened financial circumstances in which we find ourselves, it will undoubtedly compete for heritage funding from the general public which will undoubtedly have an impact on other bodies.

The Deputy of St. Ouen:

As a point of information, and just to correct the Deputy, he did mention that Hamptonne is not included but if he looks at Appendix A it is included and it is not closed.

Deputy R.G. Le Hérisier:

Page 14: "Hamptonne Country Life Museum closed. Open for private and corporate hire." That is the exception, which is hardly the tourism kind of offering it should be providing.

The Deputy of St. Ouen:

It also says: "And other public events per annum." It has been the case this year.

Deputy R.G. Le Hérisier:

Yes, but my point is of course it has got to be part of the proper portfolio which a tourist sees and from which they make a choice, and that means a tourist who wishes to wander up there during the week, not to take part in a folk festival or whatever, but to see and enjoy the environment of the place should perhaps have that option and that is not being offered under the proposed service level agreement. The future of archives, Deputy Martin mentioned a lot of people are rushing to the conclusion that it is now wrongly placed. It should perhaps be with the Library Service and again the Minister has to ask, given the pressure it appears to be under, why is the Archive spending so much time on family history when there are other agencies in the Island offering that kind of support and could perhaps better offer that support if they are under this immense pressure, both now and possibly for the future with the Freedom of Information Law, why are they spending such a considerable amount of time on family history? That is another question I would ask. I would also ask and I have mentioned the membership campaign which I do not think produced the results. I think the Minister will in a moment of quiet reflection admit that. It cost an awful lot of money to recruit every member, but I would ask him why is there again in his paper no review of past emergency funding, where that funding went? I would also ask why is there is not in his paper, although there are references in the P.A.C. paper to the role of politicians on the board, why is there is no discussion of whether the board as structured should go forward with that structure. Surely that is a key point because we were told that the board while it had people whose first love was heritage, it was also meant to contain a variety of people, like people with business acumen, who could lead it and of course it had an accountant, it had our much beloved Minister for Planning and Environment as its vice-chairman; where was all this business acumen applied? Again, there is no analysis of that. I would like to finish by saying there are some tremendous people associated with the Trust, there is tremendous work in areas as we all know like the Maritime Museum, but I think this is in its formulation, its vagueness, the kind of thing that Deputy Martin, this is premature, it should have been fleshed-out, all those key issues I have raised should have been addressed and I would ask the Minister to withdraw it.

[15:30]

5.1.8 Senator J.L. Perchard:

I think Members are hitting this nail right on the head here and have accurately spotted an anomaly in the way we conduct our financial businesses of the States, and it is not that we must learn from the Jersey Heritage Trust about how they conduct their financial affairs, we must set an example. As Senator Shenton said, at the next sitting of the States we will be discussing the Business Plan spending proposals for 2011. The Minister's proposition is for some funds for 2011. We are having a mini Business Plan debate here. This is nonsensical. I can imagine ... I think it was Deputy Martin who said that the Minister probably stamped his feet under the table and insisted that he was going to proceed with this and in an effort to be united the Council of Ministers, when they were unable to dissuade him, accepted ... you could tell by the Minister for Treasury and Resources' contribution earlier on in the debate, it was through gritted teeth. **[Laughter]** We have a process of financial management and we are not always good at it but we have as I said a debate coming up for the Business Plan, the 2011 spending at the next sitting and we must accept that the Jersey Heritage Trust will need some extra funding and the Minister will include that surely in the Business Plan proposals for his department's Business Plan and we will do it as normally we would. To bring a proposition now to me is quite extraordinary and I am surprised that the Council of Ministers decided to support their colleague. I think the debate here is not about the closure of Hamptonne. It is not about the mismanagement of the Jersey Heritage Trust. It is not about the Archives Service. It is about our financial procedures and discipline, and let us have some discipline and ensure that when the Minister comes in 2 months' time with his proposals for 2011 spending that we are sympathetic to the plight of the Jersey Heritage Trust, but we have to manage our affairs properly and not learn from the bad example of the Jersey Heritage Trust. I think the Minister has probably got the message loud and clear that he needs to withdraw this and continue to set an example about financial discipline.

5.1.9 Deputy A.T. Dupré of St. Clement:

Well, I am obviously of the other opinion. I am quite obviously voting for this proposition. It is time for Jersey Heritage to have some certainty of their future finances. This situation has been going on for many years. In fact, it was first mooted that the Trust had financial problems 5 years ago, but unfortunately at that time the issue was swept under the carpet. Now, as a housewife I know that this is not a good idea. The time will come as it now has and the carpet cannot hide anything more. Our heritage is held in the highest regard by the people of Jersey. As shown in the recent heritage survey, with the national environment and historical buildings being the most important aspects. We all know that we are just custodians of our wonderful sites and museums in order to pass them on to our children and our children's children. This too was rated as very important in the survey. This same survey found that most people strongly agreed that heritage attractions should be subsidised by the States of Jersey and that new exhibitions and displays would encourage more visitors. While the Locum report states that the potential to generate additional revenue is limited we must acknowledge the success that Jersey Heritage Trust has had in the past, providing care, maintenance and availability of all our heritage sites despite falling visitor numbers and increasing costs. It is important to note the BDO report which states: "In the absence of a commitment by the States to fund specific sites or activities it appears to us that the Trust will need to effect site or activity closure in the short and medium term in order to balance its books through the reduction of its cost base." This would mean permanent closure of the Maritime Museum which I know gives so much pleasure to the young and young at heart and the Tapestry Gallery which is very important to a large number of Jersey folk who have given so much of their time to create this wonderful tapestry and where there could also be further reductions to access to Elizabeth Castle. We cannot allow this to happen. We are also working very closely with Jersey Heritage Trust, the Société and the National Trust with regard to the future of Hamptonne, another heritage site which is well loved by locals and visitors alike. When the Strategic Plan was debated

last year it was overwhelmingly agreed that our heritage and culture were extremely important. Therefore, we as a team at E.S.C. are totally committed to find a solution to this ongoing dilemma, and I would urge all Members to agree to this very important proposition.

5.1.10 The Deputy of Grouville:

I should also declare that I was a trustee of the Jersey Heritage Trust, and I did notice that in the P.A.C. reports, Constable Crowcroft and I came under some criticism, yet we were probably the only 2 States Members here that were not called for evidence. **[Interruption]** Senator Le Main, we attended all the meetings we possibly could but our States business comes first. I think even you might appreciate that.

The Deputy Bailiff:

Through, the chair, please.

The Deputy of Grouville:

Sorry, Sir. I would just like to say that the Jersey Heritage Trust has undergone some problems in recent times, or not so recent actually. It has had tough times of falling visitor numbers as have already been alluded to, the reduction of footfall and all the rest of it. The Archives Service, people are calling for that to be separated from the Jersey Heritage Trust itself, but much of the archive is our heritage. It should be under the Heritage Trust. They have the expertise. The problem with what has happened with the Archive Service is we passed a law here, the Public Records Law, and as Senator Shenton correctly pointed out, we now have a statutory duty to keep all records and the Jersey Archive have worked tirelessly. They have the expertise but huge amounts of work to archive all departments' records, records from Parish Halls, and all the rest of it, and at the time - I take issue with Deputy Dupré - we did not sweep the issue under the carpet. In fact, Education asked the Chief Minister's Department of the day for the exact same sum as is being asked for there, £200,000 for this additional work, but we were denied it. The Chief Executive of the States denied us the money. Now, the Archive was doing the role for the States for laws that we have passed, we were given additional duties but no additional cash. Likewise, with the cultural strategy which I brought forward to the States at the time, the strategy is a vision for the future. We set out the vision but no extra funding at the time, and to say that issues were not going from Heritage Trust to Education, Sport and Culture is untrue. The Minister at the time was fully aware of the funding issues, but it would have made an impact on other areas of the department in education or sport or whatever, and just as the Minister is doing now, he is probably finding the budget extremely tight to grapple with and so he is coming to the States to ask for additional funding. Now, some Members have criticised the Minister for coming forward now and not in the Business Plan, but I might remind Members that last session the Minister for Treasury and Resources himself came forward asking for £8 million out of the Business Plan, or £15 million, whatever it was - millions. There have also been other issues. The DUKWs are one; it is a favourite bandwagon for everyone to jump on, if you will pardon the pun. Heritage has a monument in the middle of the sea. What were they meant to do other than provide access to it? I do remember at the time Deputy Power came to Education, Sport and Culture, because he was one of the main critics for the DUKWs and the type of DUKWs that were being bought and all the rest of it, and we asked Deputy Power, what would he do, and he suggested a DUKW, one DUKW, Heritage have 2, but the cost of that would have been over £1 million. Heritage got 2 for £650,000.

Deputy S. Power:

Sir, that is not true.

The Deputy of Grouville:

Well, it is true. I sat through that meeting. There have been several issues that have led to the shortfall in cash plus the fact that there has been more and more taken on by Heritage Trust and the monies just have not been in keeping with what it costs. Heritage Trust, the management, are a

very, very tightly run organisation. I do not think you will find much fat on the bone there and I think they need to be supported. Heritage have over 200 volunteers which I think speaks volumes for how the people of this Island view our heritage and I think it is a sad day indeed when we have got to sit back and watch monuments and our heritage looking especially tired and dilapidated and I think we ought to be proud of it and support it. **[Approbation]**

5.1.11 The Connétable of St. Helier:

I thought the list was longer. The Minister must be thinking to himself with friends like these who needs enemies, particularly given that some of those who have supported his proposition appear to be doing so with crossed fingers, crossed toes, probably crossed legs and everything else. Without wishing to join that group, I need to tell the Minister and the House that when we were asked as trustees whether we supported the Minister's desire to bring this proposition, there was a vote and I am afraid I voted against it for some of the reasons that have been given by Members today. I think principally the somewhat nebulous status that any decision today will have because whichever way it goes ... if it is successful, there may well be critics who want to try and reduce the funding, if it is unsuccessful there will certainly be champions of Heritage, and I would include myself on that list, who will seek to increase the funding of Heritage in the Business Plan. Having said that, the Trust voted to support the Minister's desire to bring this to the Assembly this side of the summer recess without all of the other argument that will be taking place in the Business Plan and one can see the logic of that because the Business Plan, although I do not think any amendments have been lodged yet, is going to be an extremely hard fought debate. Maybe some Members will reflect today that at least if we could deal with Heritage today, then there will be less of a desire. Some Members may still try and come back but I think that, on balance, if the Minister wins today, which I hope he does, because I am one of his "with friends like these" if he wins today, I would hope that Members will respect the decision that we make today and not want to go over the old ground because, as I have said already, there will be plenty of other ground to go over in the Business Plan debate. There have been some extremely patronising ... I hesitate to say ignorant, I will say uninformed. There have been some very patronising uninformed remarks made about the Heritage Trust today. We have heard that it is poorly managed. We have heard that we will be rewarding failure. We have even heard extraordinarily that while the States is a wonderful shining example of good financial management, the Heritage Trust is not. But there we go. We have to have broad shoulders in politics and I think mercifully the volunteers who give their time up and the professional people who give their time up as trustees have also got broad shoulders and they have got thick skins. They certainly have to and I think certainly the new trustees who have joined us recently realised when they came in that they would have to have thick skins because whenever you talk to anybody about the Heritage Trust, they immediately say: "What about the DUKWs?" but I will come back to those in a minute. Having said those as introductory remarks, yes, I am a trustee of the Jersey Heritage Trust. I have been one for longer than I can remember and it is perhaps worth saying to start with we have had some offers today. Senator Shenton, I believe it was, said that there was a lot of work to do with Heritage. I immediately thought to myself: "Well, why is the Senator not offering to be the States-appointed trustee for the Heritage Trust?" because I must say, having done it for I do not know how many years, I think I am due for a change. In fact, it is probably not very healthy to have the same States Member on the Trust for as long as this. I offered to go some time ago and it was before the current spate of criticism and attack started.

[15:45]

It was not simply because life had got hot but I wondered whether we would like somebody else with a fresh approach. Perhaps, because they fear that they might get some expert on amphibious vehicles as a trustee, they said: "No, Constable, we are quite happy to have you on the Trust." That is a minor point but certainly in terms of governance it is important that States Members are better informed than they are about the work of the Trust. Maybe that would be best served by having more than one States Member on it because, as the Deputy of Grouville has already referred to, a

States Member on the Trust or, indeed, on any other body will find that they simply cannot go to every meeting because they are in here. Some of the Trust meetings have been fixed on non-States days and the States have then moved their States days and so there has been a clash and I am sure Members would not want to see States-appointed trustees somewhere else when the States are meeting. So we had attacks on the Trust from Deputy Power, Deputy Martin, Deputy Le Hérissier and Deputy Le Claire. I do not know how much time any of those Members has spent trying to inform themselves about how tight the management of this organisation has got. Certainly, in terms of redundancies, the Trust has gone through a very difficult period recently of removing staff. We are not just talking front line staff; we are talking all the way up the organisation. They have recruited new trustees, particularly from commerce, in an effort to deal with the need to make more of their funds from sponsorship and other commercial opportunities. Again, I hope the trustees, if they are listening, will not be rueing the day they joined because of some of the disparaging remarks that have been made. We heard, for example, from Deputy Martin that we should take the Archive out of Jersey Heritage even though it appears from other speakers that that is the best part of the organisation. Does the Heritage Trust not deserve some credit for the family history days which are engaging the public with genealogy? Certainly the staff who work for the Archive also work for the Heritage Trust. The meetings always involve the senior archivist and I know they are very happy being part of this organisation. It is a natural fit and we have been saying for years that the Archive is under-funded. It is only open now 3 days a week but despite that it is managing to really tie-in with the new popular interest in genealogy and really that part of the organisation is doing well. Do not knock Jersey Heritage because it is doing well in one part of its work please. Other Members have spoken about the failure to maintain the estates, the failure to maintain the buildings for which the Trust is responsible, and again that is extraordinary. The Trust has been telling the States for years that it simply cannot maintain the buildings because there is not enough money. We have, I do not know, half as many tourists visiting them. How are we supposed to find the money for that maintenance when the tourists are no longer coming through the doors? So, again, I would just urge Members before they condemn that they do a little bit more homework. I do not believe I have been asked by a single Member of the States to explain any of these issues and I thought I was the States-appointed trustee but we will let that pass. The cultural strategy in 2005 recognised the funding problem. It concluded that support for the realisation of the cultural strategy will be dependent on additional funding from the States. “The Education, Sport and Culture Committee will be making the case for additional funding in 2006.” I am sorry. The message has been coming out for 5 years that if the Island wants a cultural strategy, if it is proud of its maritime heritage, if it wants tourists and we know that most tourists now come to Jersey because of the heritage, and if we want to develop our tourism industry, we have got to develop our heritage. It is as simple as that and yet that has not happened. Successive critics have lined-up behind this problem about the DUKWs as if to justify that they do not need to put any more money in. Numerous reports have been done. There was a shadow P.A.C. report commissioned under the then Deputy Sarah Ferguson, which concluded no significant control weaknesses or errors have been found and it went on: “Taking into account the size of the organisation, J.H.T. has implemented acceptable mechanisms of control and corporate governance in most areas.” Deloitte looked at it for Treasury and Resources in 2007 and failed to indicate any problematic issues as far as the Trust were made aware and the same processes have gone on. The Comptroller and Auditor General has looked at it. The Comptroller and Auditor General looked at the DUKWs. Senator Mike Vibert, then Minister for Education, Sport and Culture, brought a detailed report to the States about the whole DUKWs issue. As someone has already said, if the Heritage Trust had simply sat on their hands and said: “Well, you cannot get to the castle this year,” there would have been an outrage in this House and the Trust would have been accused of failing in its responsibility to get people to the castle and it would have been accused of scuppering one of tourism’s main assets. So we go on. There have been other studies and I think the key point is that the recent studies by BDO in particular, but also by Locum, have really served only to endorse the position we are currently in that with such a downturn in tourists, unless the Island wants people to visit it because it is a

finance centre, we are going to have to invest in our culture. We are going to have to make sure that Elizabeth Castle is the next big project to be funded. If I had fiscal stimulus money coming out of my ears, I would not have repaved Victoria Avenue. I would have put the money in the castle [Approbation] because Victoria Avenue seemed to me to work perfectly well before. I am pleased it is open again but I do not know how many ... was it £40 million? It was a lot of money. If the money had been spent on the castle, how much better use of fiscal stimulus money that would have been. We need to invest in our major sites. Hamptonne, it is true, has had to be closed as someone was complaining and I think Deputy Le Hérisier said: "We should keep it open for the casual tourists who visit during the week." Well, that is marvellous but who is going to pay the wages? Great idea but the Trust reluctantly decided they had to do something about Hamptonne because they were not getting any strong message from the States in terms of how to keep it open so they came up with a way of only opening it for occasional days during the year. The Trust is understaffed. If you were to benchmark the Trust against comparative heritage organisations, it has certainly been benchmarked against the Isle of Man in terms of the funding levels, it receives far less public subsidy than heritage does in the Isle of Man. An interesting comparison because the Isle of Man is also an offshore finance centre and it receives an enormous number of visitors because of its heritage. It is proud of its heritage. It invests in its heritage. It even has a roving ambassador that came to Jersey recently to talk to us and he is paid quite a lot of money just to go round talking about Manx heritage. They really have a different set of priorities and, of course, they are not neglecting the finance industry either. The President of the National Trust was speaking on the radio the other morning; it may have been yesterday morning. He spoke extremely well about the need to support the Minister's proposition, the need to support heritage in the Island. Anyone who seeks to drive a wedge between the other organisations perhaps should have listened to that spokesman of the National Trust. We are all in this together. If our tourism industry is to recover, it depends on the heritage of this Island being developed and maintained. So having said that, yes, it would have been good to have done this in the Business Plan, we are doing it now and I urge Members to support the Minister so that we can put some meaningful funding back into our heritage.

5.1.12 Senator S.C. Ferguson:

Yes, basically the first thing is I will congratulate the Minister on bringing in the Comptroller and Auditor General at an early stage. We must remember that if he had not done that, we would not have known anything about what was going on at J.H.T. or what needed to be done. There have been comments about tourism and the fact that our main tourism is the scenery, the heritage. As an aside, I would wonder, then, why we have got an advert on the basis of "Come shopping in Jersey," which is after the 11.00 p.m. news at night but that is another story and something I will take up with the Minister for E.D.D. (Economic Development Department) when he comes back into the House. I would tell Members that the tourism of some Caribbean islands is down 60 per cent so we must be thankful for small mercies. I agree with the proposition reviewing the position of the Archive. It is not entirely a cultural activity, as other Members have said. I do not know whether Members know that every States department and the Jersey Financial Services Commission and, no doubt, the Law Officers and the Bailiff's Office just dump all their old records in the Archive and get free storage. This is absolutely rubbish. If you know the cost of storage, if you are a business and know how much it costs to store and we are just dumping it down there and saying: "Thank you very much," and I do not suppose a lot of the stuff that gets down there is that important. Some of it will be but not all of it. With regard to Senator Shenton and Senator Perchard who were really rather dismissive of the whole thing, I think our cultural heritage or my adopted cultural heritage is incredibly important. If we left this debate until the Business Plan, it would just get submerged under other debates like hydrotherapy pools and physiotherapists. Deputy Power talked about the past. Well, many of today's problems arose even before the shadow P.A.C.'s report. It was very much the prior management because, to some degree, it started with the fact that there were no proper estimates for the work that was done at Mont Orgueil and the Ancient Monuments Fund was

raided for funds to finish the project. I am very glad to see that the Minister has learned from that and is going to ring-fence the Ancient Monuments Fund, which is the ongoing maintenance of sites. This proposition gives certainty to the new council when they need it. I think the lottery concept which E.D.D. have come up with is disassociated from reality. It has taken its lead from the U.K., I think, but lottery funding in the U.K. is from the national lottery and I think it would also be very divisive if it is only the Jersey Heritage Trust and not the 3 - Jersey Heritage Trust, National Trust and Société Jersiaise - looked at together because I think we need more amalgamation between the 3. There is a lot of talk about getting rid of staff and marketing assistants and this and that. Well, the best marketing for the J.H.T. will be through the on-line ticketing which the Minister has already started with, which will get to the market where the market lives. It is no use leaving it until people arrive. You have got to get them before they come. Marketing should be aimed overseas and not within the Island. This proposition is the culmination of several reports, all of which were started almost as soon as the Minister was in post. They would have started sooner but it was Christmas. It is too simple for Members to denigrate the work being done at E.S.C. I happen to think that it is refreshing to see a Minister for Education, Sport and Culture getting to grips with the problems and, what is more and what is very much more important, understanding the problems. I urge Members to support our heritage and this proposition.

The Bailiff:

Does any other Member wish to speak?

[16:00]

5.1.13 Deputy K.C. Lewis:

I will be brief and I will try not to dwell on the DUKWs too much even though Deputy Power and myself did have several meetings with Heritage regarding this. I do not blame the Minister. It was well before his time that the decisions were taken but even up until last year, I was quite literally begging the Minister to find money to buy the old DUKWs and store them out at the castle and to say they were obsolete was nonsense as the large one has gone to Torquay and one of the smaller ones has gone to Poland and the other one has gone to Germany and still providing sterling service, but that is something we have to learn from and make sure it is not repeated. It is not Heritage's fault that tourism has declined and, as has been said, the footfall has reduced considerably but we must cut our cloth according to our means. Hiving off the Archive would serve no purpose whatsoever as to hiding any sort of problems we have in another department. The Archive is a wonderful asset and must be preserved. The good old days are sadly gone of tourism which provided the bulk of the money. Hopefully it will return one day. I will reluctantly be supporting the Minister in his funds proposition.

5.1.14 The Deputy of St. Mary:

A little while back in this debate, I was getting quite depressed with the various speeches that were quite extraordinarily miserable and I just had to remember the cycle tour I led on Sunday where we went to La Hougue Bie and we saw Gorey Castle from the top looking down on the harbour and the castle in the sunshine and then we tried to get the entire group standing on top of Faldouet Dolmen which we just about managed. But the richness of what I could offer in just a couple of hours was pretty astonishing and it is worthwhile reminding ourselves of just the astonishing value of what we have in this Island and I think that is worth saying because we can get lost in the doom and gloom. I think the Minister is to be congratulated for bringing this proposition. I think with people there has been some discussion on that but clearly in the Business Plan, this would all get lost. It is just another big issue, a service level agreement that needs to be sorted and historic issues going back years of under-funding and I think the Minister is justified. But, whatever, we are where we are so we are debating it now. I am quite amused, however, that a lot of people here seem to want to run the Jersey Heritage Trust but I think the people doing it are well competent and I am surprised that no one has quoted from this report although, of course, it is part of the underlying work that was

done really to bring about this proposition. It is worth reminding Members of a few things that Locum Consulting said about the running of the Trust because we have heard, as other speakers have said, some extraordinary comments about how the Trust is run. Of course, they cannot really defend themselves. So on page 11 of Locum: "It is important that we state clearly that almost every single heritage organisation or museum service in the U.K. that Locum Consultants have worked with over the past 30 years does not generate enough income from its core visitor operations to cover its operating costs." No museum or heritage organisation covers its operating costs from the people who come in the door or buy souvenirs. On page 7: "J.H.T. attractions do actually perform very well in terms of its penetration of available markets" and these people are not amateurs when they make comments like that. They are based on analysis. Then on page 17, they do a table of the income per visitor per site. They point out that the income is higher than the U.K. average per visitor. Then they summarise: "Given the size and nature of J.H.T.'s attractions, this is a very good performance." So on an objective assessment of how J.H.T. runs from the outside, from a pretty solid organisation that is used by E.D. (Economic Development) a fair bit to do major reviews of tourism, those are their comments. This is the interesting one because we have heard: "Oh, well, they can make some more money somehow" and I will come to that in a minute but what Locum say about that is: "This level of penetration of the resident and U.K. leisure market is very high in our experience and it therefore leads us to conclude that there should not be an expectation that the Trust could attract significantly more visits to its key attraction sites." So the idea that they can be leaned-on somehow and "magic up" some more visitors is not really on the money, as one might say. I think that we do have to accept - which leads me on to my next point and perhaps my main point - the fact that the issue that the Minister is trying to address here, and it has been neglected and ignored for years, is the chronic under-funding of the Jersey Heritage Trust. That is why we are talking about this today. It is not a matter of last year or the DUKWs. These issues have been going on for a long time and the Archive from 2004 has been short of funding. The cultural strategy 2005 pointed out that the funding for all arts and heritage organisations in this Island is set at not much above the basic minimum level for survival. It has been a knife-edge that they have been working on and it is a miracle, in fact, that the sort of visitor comments, which I am going to read out to you later, those sort of comments could be gathered from an organisation that has been living on a knife-edge. It is blindingly obvious that they have been under-funded for years and the P.A.C. report lists, for instance, the problems that the Heritage Trust has and they quote the Comptroller and Auditor General's report: "States that the Trust's poor financial condition could be attributed to a number of causes." They then list the causes on page 4, including various matters. I am going to read them because it is interesting how they leave out something: "These causes included the increasing costs and declining visitor numbers [which people have referred to], a lack of corrective action, a lack of successful commercial management [which has been denied by what I have just quoted from Locum], governance arrangements which have not corrected these financial weaknesses [and we have heard from the Constable of St. Helier how that, in fact, has been okayed by various people who reviewed J.H.T. officially] and a lack of action by E.S.C." Well, there is one notable omission from that list of problems of causes of why the J.H.T. has a poor financial condition and that is they simply do not get enough support from the States and that has been going on for years. So chronic is it that when some Members, particularly Deputy Le Claire, mentions that we have not got audited accounts, well, the reason is that the auditors refuse to sign-off because Jersey Heritage Trust might not survive as a going concern. That is the words they use: "It may not be a going concern." I refer Members to what other people have said about our pride and our identity and really that the idea that our primary heritage organisation is in the position that it may not survive in the eyes of the auditor is something that Members should perhaps reflect on. In the response of the Jersey Heritage Trust to the Comptroller and Auditor General's report, the Chairman of their Board of Governors points out the achievements just in the last year of the Jersey Heritage Trust of increasing their membership. Although I know they had to go out and get those members, the fact is that they did. They increased their retail sales by 100 per cent, okay possibly from a low base but the fact is those were the figures from the year and in the previous 3 years,

further successes. So it is not from want of trying. It is simply a structural deficit due to under-funding. A quick word on the DUKWs, as some people have referred to that. I think it is important though because it is this image of incompetence that dogs the Heritage Trust and it is always pinned on to the DUKWs. We have heard from 2 people that it was an absolute impossibility not to have some sort of access to Elizabeth Castle and, of course, the old contract fell into problems because of the decline in visitors. The fact is that on the board there is the contract lawyer for Crill Canavan. He was involved and reckoned that the contract negotiations were sound. The Senior Internal Auditor of the States looked at the issue and passed it on to KPMG and they said it was a valid decision. I really have to take the views of those experts and really not try and second-guess them on the DUKWs, although there are plenty of experts in the House who know more about it apparently. The Archive; just a word on the Archive. It is not strictly part of the proposition but even the Minister referred to the Archive in introducing his proposition. It is a separate issue. It again is under-funded chronically and it provides interestingly services to Government for which the government does not pay, and I am sure that there is wiggle room there to make the whole thing make sense. I was surprised when, at a Scrutiny hearing recently, the Minister for Planning and Environment was telling us that they wanted £100,000 to reorganise their files and get them sorted so that people could find things quicker. They had not consulted the Jersey Heritage Trust which you would have thought was a kind of first step really if you are organising your deposits in terms of documents. But it seems to me that there is a lot of expertise there that the Government could use and that the funding could surely be in some way some kind of user pays. But it is separate; it is outside the scope of this proposition. I want to talk a little bit about this idea of “raise your own money” and I am very glad that the Minister has included the capital refurbishment and renewal money in the proposition now, the £465,000 that Locum said you needed to refresh our wonderful sites just to keep them up to scratch and make them a bit new and a bit interesting each time so that people will come back and find that there is something a bit new there. That £465,000 before, as I understand it, the Council of Ministers was saying: “Well, we will put in £150,000 and then the Trust can somehow get sponsorship or get some money off its own bat.” Now, it is funny, this, because it is not going to be easy. It is certainly not in the present climate. That is the first problem, it is just not going to be easy. The Jersey Heritage Trust is charged apparently to say what efforts they have done to do this but a problem was mentioned to me by someone connected with the Trust that it is hard to get sponsorship from commercial organisations for an organisation that is under attack. It is under attack from the States, from people saying things like what we have heard some Members say today, that it is a badly run and incompetent organisation which goes totally against the visitor experience and against the Locum report. But the fact is there is a perception out there of a slightly off-keel organisation and, of course, to your commercial sponsor that is a stumbling block, it is an obstacle. A further point, of course, is that there are many sources of funding available to U.K. heritage organisations and museums which are not available here. We do not have regional money; we do not have E.U. (European Union) money; we do not have Arts Council money; we do not have lottery money. So a lot of the sources just simply are not there and so it comes back really to the States and the question of how proud we are about our heritage and I have just got a little note to myself, do we really want the Pepsi Cola Elizabeth Castle? I am not sure we do and I am not sure the Medical Officer of Health would like that either. That is the sort of temptation, is it not, to do anything, anything to get the money? Now to the joyful email that I got from a constituent who happens to work for the Heritage Trust. It really brings a lump to my throat. She first of all summarises the work of the Jersey Heritage Trust. I will not read it out but she lists all the things that the Heritage Trust provides for the Island it is a staggering list of interpreting, welcoming visitors, managing and liaising with the Société and the National Trust; the sheer quality of the sites that they manage, huge collections, access to the collections when people ask; welcoming primary school children, foreign tourists, the list is endless. Then she has the job of typing out the visitor comments which must be quite a nice job when the comments are like this. I will read some of them out for the sites because this is what we are talking about and I just really

wonder why there is this undercurrent of resistance or criticism when there are comments like this and my goodness, these are better comments than I used to get from my hire bikes. **[Laughter]**

[16:15]

No, I say that in jest because, in fact, it is a slightly different kettle of fish. This is La Hougue Bie: “Endlessly fascinating evidence of human nature and spirit over 2,000 years.” Got that wrong, did they not, over 2,000 years makes one think? “Very interesting and worth the entrance fee. The most impressive burial monument I have seen. Nice to be able to interact with the archaeology.” “Came last in 1967, greatly improved, really loved the museum, will come back with the grandchildren.” Will come back with the grandchildren. That is 4 people times £500 average spend. That is £2,000 into the economy and that is not the only comment that says: “Will come back with the grandchildren.” “(4:16:27 French spoken).” “Nice staff too, very friendly and informative” and that comes again and again, nice staff, very informative, and, again, that is a major issue. “Enjoyed the visit. Thank you for providing this wonderful oasis amid life’s many storms, U.S.A.” and so it goes. Mont Orgueil Castle: “Fantastic, much more to see than Windsor Castle” somebody from Hampshire. “We loved visiting the castle and just got engaged at the top.” **[Laughter]** So it has that sort of effect, does it not? “Very good, one of the best castles I have visited. Good combination of ancient history and modern art.” Culture vultures. I remember Senator Ferguson recalling adverts about shopping. There are different markets that Jersey Tourism appeals to. One of them is specifically culture vultures. They are not a huge market, maybe 10 per cent of the market, something like that, but they are very keen on their culture and we need to provide that if we are to succeed when the upturn comes. I picked out again what Senator Ferguson said about a destination in the Caribbean that had gone down 60 per cent. That is because of long haul. That is because of the cost now and the effect of peak oil and we want to be placed where we can pick up on the recovery when short haul becomes more and more attractive. The same for the quality of comments on all the other sites, so I shall not read more out. But it was lovely to read, absolutely gorgeous to read, and it, as I say, brings a lump to the throat and you wonder if this is the organisation that some people have been talking about today. When the Visitor Attraction Quality Assurance Scheme Inspectors came from Visit Britain, which they do every year, they said that the staff at Jersey Heritage were not good, they were not excellent, they were outstanding, and we just got rid of 25 per cent of them. That is the extent of the sacrifice that has already been made by the Jersey Heritage Trust. That same inspection said J.H.T. is not highly staffed and pointed out they only have 2 curators for all the various museums. I would say that is understaffed. Jersey Heritage Trust has been cut already. We do not have to think that we are throwing good money after bad. The money has already been cut. They have been cut to the bone and what we are saving is the skeleton and it is a pretty high performing skeleton and I urge Members to support the proposition. **[Approbation]**

5.1.15 Deputy M. Tadier:

I should start off by saying that I also support Jersey Heritage and I support heritage as a concept in general. I did work for a time at Tourism and I was always very pleased, apart from in a professional capacity, as a Jersey person to be able to show tourists, some of whom came for the first time some of whom may have been here many times, the various attractions that Jersey had and has still to offer. More personally, I know my brother had a hand in building Hamptonne. He was working with the stonemason at the time, a Breton stonemason, and I do love particularly to go to Hamptonne as well. We have heard 2 conflicting, if you like, versions of where Jersey Heritage Trust is at the moment. On the one hand, we have certain Members who believe that it is a completely inefficient organisation in need of reforms. On the other hand, we have people saying that they are doing a splendid job under tough circumstances and I am sure that the truth lies somewhere between the 2. I am not an expert on this issue so I am going to avoid coming down on either side but I think that it needs to be said that heritage is a difficult thing to manage and, from my experience, whenever I have been to the sites and taken tourists there, I have always had a good

experience and so have they. I do have some concerns, however, largely, as have already been pointed out by some Members, to do with the comments from P.A.C. I am concerned and I would hope that the Minister could address these concerns in summing-up because it is a proposition that I would like to support. It has been said the obvious question is why has an *ad hoc* funding request been made here? Senator Perchard has already said that we are going to be debating this again during the Business Plan debate. I am concerned about the potential for double standards as well. Certainly, we have been told whenever requests are made for additional funding, we have to match that with savings and we have to have a spending stream for that. But here we have a request from the Minister himself and there is no suggestion as to what might need to be cut or where the additional funding stream should come from. It is just going to “magicked up” by the Council of Ministers in the Annual Business Plan. Comments to that effect are said by P.A.C. and I will quote it again: “An additional £200,000 may not seem so reasonable if the actual consequence is a £200,000 reduction in spending on cancer treatments” *et cetera*. I am sure we could all find many laudable areas that we would love to spend money on and which we would also fight for passionately. I would like the Minister to explain how this fits in with his more general support for the 2 per cent cuts, both unilaterally and within his department. There seems to be a contradiction there. We know that the Minister is proposing cuts but he has had to do a U-turn already on the lifeguards. We know that assistance in schools for language assistants had been proposed to have been cut although I have heard a rumour that that is no longer going to take place but perhaps that is for another debate. That is what somebody has told me. But anyway to get back on to it, there seems to be inherent contradictions here and I would like to hear from the Minister. I would also like to address the underlying problem that we have here. If it does go through today, this is in some ways a quick fix. How do we know, I would ask the Minister, that the funding asked for now is going to be sufficient in future years? We do know that we have a declining tourism industry and I want to talk about this very briefly because the underlying problem in Jersey is that tourism is on the decline. We have promoted finance ruthlessly in the past. I believe that finance still gets a grant from the States, is it to the tune of £400,000 per year or higher even, I am being signalled. Surely that money could be better used elsewhere. The finance industry - though it does bring certain benefits to the Island, and I am sure there is also a negative side to it - is certainly big enough to fund itself and we do really have to look at that stream there. We know about the “cuckoo in the nest” syndrome, how by promoting finance so ruthlessly it has pushed out other industries and tourism cannot compete. As finance is on the increase, costs go up and we are supporting the few rather than the many. So these are the underlying issues which need to be addressed. I am concerned that these are not being met. I would like to see a scenario where museums, be they Mont Orgueil Castle, which I never knew had such an aphrodisiac effect until the Deputy of St. Mary explained that to me and I shall be avoiding that. The poor gent who went up to Mont Orgueil, a free-spirited single young man came down with a ball and chain around his legs [Members: Oh!] but I guess that is a subjective way of thinking. But on a more serious note, it is good to hear those very good stories about our lovely assets that we have. In the U.K., for example, we know that they can afford to give free access to their museums and London, among the many other sites, do have free museums where we can go in as tourists or as locals. Over there, they can also go in. Unfortunately, Jersey is so poor that we cannot afford that at the moment. We cannot afford free doctors’ visits. We cannot afford free dental care. We cannot afford free access to museums because we are socially a poor Island. This is ultimately something that needs to be challenged. We are very wealthy, of course, in terms of G.D.P. (Gross Domestic Product) but the money never touches the sides. This is ultimately the problem. This is what needs to be solved and I would like to hear the comments from the Minister as to whether he is in agreement about that and I hope that he can convince me to support this proposition in spite of the fact that I think it does smack of a certain amount of double standards from the Minister.

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

This proposition is not solely about funding. If it were just about funding, then it would have been in the Business Plan. It is about agreeing to set the parameters for a service level agreement which we would not have been able to do in the Business Plan. Okay, it might only be a list in Appendix A but from that list, a service level agreement will be drawn up which will cover governance, audit, benchmarking and regular reporting, all the things that we expect to see from a government-funded organisation. It seems to me sometimes that we pay lip service to the protection of our countryside and our heritage. We have already missed one chance this year to protect our countryside with the Plémont scenario. Are we to miss the boat again and watch the good ship Heritage sink and disappear without trace? Once our heritage is lost, it is lost. I suppose we could let it fall into ruins and show people around the ruins but even then will come a time when you need to maintain those ruins. Picking up on some of the points that people have made. Primarily the problem that Heritage has, as others have said, is the significant reduction in visitor numbers. This has resulted in less visitors obviously to the heritage sites. Other organisations in Jersey have suffered similarly and we need to reposition ourselves, not only to be more attractive to visitors as an island but we need to reposition ourselves so that we attract, as many of the local restaurants have done and other attractions, local people time and time again. A very good example of that here this year has been the Marilyn Monroe Exhibition where locals and visitors alike have gone back several times to see that, but it does not come cheap. You have to invest. You have to update and that is partly what this is about. Heritage have to reposition themselves as these other restaurants and other places have done. We are faced with a reducing income and the need for greater investment if we are to ensure that our heritage sites remain open. It is very easy, very easy indeed, to be critical with comments that they should be raising more money, and as has already been said in the Locum report, the Locum report is showing that Heritage punch well above their weight and is raising more money than any other like organisation that Locum have ever worked with. So where is the money going to come from? Heritage are looking after our property, the States property, the Island's property, and if they do not do it we will have to and I dread to think what that will then cost if we attempt to manage it.

[16:30]

We are very good at bringing in cultural strategies. We are very good at bringing in laws with regard to public records. What we are not very good at doing is funding the things that we decide that we want organisations to carry out on our behalf. If I was to be honest, if Heritage had a fault, it is that they have been too accommodating sometimes. They have said: "Yes" to the Archive rather than putting in a proper robust business plan and making us pay for what we have asked them to do. They have tried to accommodate us. They have tried to help us and we are going to criticise them for doing that. How else have we helped them? Well, the Tourism Development Fund paid for the renovations of a derelict building, the prize-winning maritime museum for which we then send them a bill for £80,000 a year rent. That is helping them a great deal. That is how we help them. We have failed in numbers of areas to provide leases, to provide maintenance agreements and we tell them that they need to get a grip and that they need to sort themselves out. Pots and kettles come to mind. The board's skills have been strengthened over the past month. The trustees have robustly and vigorously and yet professionally, as has been said before, reduced their annual costs by £350,000 a year and they have done that, as I say, professionally, reorganising at all levels. I would like to thank ... and say how sorry I was, but thank those staff that were made redundant for the work that they put in. How sorry I was to see them go. **[Approbation]** But the board did that professionally and robustly and we could learn from that. We do not seem to be able to do that. Where have been the headlines in the *Jersey Evening Post*? Where have been the disgruntled Heritage staff? They have not been there because of the skills of the board that we have in place at the moment. We could all learn from that. Now, let us get to the Archive. We are going to look at that separately at another time but Heritage took that on at our request but then we say: "Well, do it on the cheap." We need to get some sort of proper agreement in place for them separately and what was mentioned before, I think by Deputy Le Hérissier, was the family history

days. Are we to criticise Heritage for going out and getting sponsorship which they did to fund the family days, tell them not to take the sponsorship, not to do the days, are we going to criticise them for doing that? I think not. This is an organisation that needs our help. This is not about rewarding poor performance. This is about meeting government's obligations with regard to our heritage and I urge Members to support it.

5.1.17 Deputy J.B. Fox of St. Helier:

First of all, I ought to declare that between retiring from the police and joining the States, I was a guardian at Mont Orgueil and Elizabeth Castle so I have acquired some knowledge, which is very useful. One of the things that we keep talking about is the lack of tourists coming in. Yes, that is so. We have less tourists but we also have a lot of local people that bring in their relatives and friends and we have a lot of schoolchildren and we have a lot of other short-term visiting folks that come and enjoy our historic castles. I shall be supporting this proposition and I will tell you the reasons why. It is not just money, though money comes into it. We have valuable historic assets that are irreplaceable and they are irreplaceable but they do cost a great deal to keep afloat. Certainly with the castles and certainly with the various other museums, a huge amount of voluntary work has been done in order to bring this together and to maintain it and keep it together, and we forget about this. If it was not for all these good folks that are giving up their valuable time, we would not have the heritage for the reason that we like the Island to live in, we like the Island to visit in, *et cetera*, and it is very, very important. But government, when they own things, do make mistakes. They go for lowest tenders. They go for the quickest solution or the easiest one to do. Mont Orgueil was pointed with cement, the worst thing you can do for an historic building. Now that has all been rectified and it has taken years to do and it has cost an awful lot of money but we have now something that can last for hundreds of years which before was deteriorating because of the way that we did it and it was wrong. I am not blaming people in the past. I am not going back into history and saying that we could have done things better, *et cetera*. Yes, we could have done and, yes, things have not been perfect, but I will say that we have an awful lot of goodwill. What we need to do is give the support that when we identify a problem - whether it is this famous DUKWs that we have talked about or we are asking the Museums Service to look after our national archives, *et cetera* - we have got to make sure that we find the right balance to keep our heritage going, keep our visitor attractions going, keeping our learning for our young people going. It was not that many years ago when I was a governor, or still am a governor at various schools, when the town children often were quoting that milk came from the milk carton because they did not know any different. Fortunately, they have all been well educated since then and they have been to Hamptonne and they have been to other farms and dairies and various things like that and they are much more educated. But I think again that costs money and it also takes time and it is things like this. I am not going to repeat all what is in the various reports. It has all been said in most of today but I will say one thing. I do not like things being brought in piecemeal. This one has been brought in piecemeal before what I consider should have been done through the organised Business Plan. I can see why the Minister does it though, because of all the other things that would come up. But I will say one thing, everywhere else we are cutting down but we do not seem to be cutting down in appointing new consultants, new managers, new senior people at great expense. I think that is where we should start looking at adjusting our accounts and ask do we need all these or should we start thinking about our frontline? I rest the case.

The Bailiff:

Does any other Member wish to speak?

5.1.18 The Connétable of St. Brelade:

I think it is quite easy to be cynical about the Heritage Trust but there is clearly work to be done. We have heard from other Members about the reduction in tourist figures over the last year or 2 and clearly the trustees are going to have to work hard on their sales and also that means cut

administration proportionately and I think this is what they are doing. One of the great difficulties is that art and culture and finance mix like oil and water and I think this is what we have suffered from over many years. But what the Minister, I think, is quite clearly trying to do, with the direction of the C.A.G. and others, is establish exactly what the baseline is to be and I think this is what we are trying to agree today. I for one am grateful to the various philanthropists in the Island who have contributed to supporting the Heritage Trust by lending exhibitions and so forth and long may they continue. We need to encourage more of those. There are marvellous collections in the Island and to give those people confidence to lend them, we need to give the Heritage Trust some sort of direction. I am quite satisfied that the board has been well reinvigorated with the appointment of several new trustees and I am sure that they will give it the sort of direction that is required by us here today. I am also confident that by expressions that are given during Council of Ministers meetings that the Minister for Treasury and Resources will be very careful how the funds discussed are going to be bled out of him, and I think this is really what he has to do and I can confirm other Members' confidence that that will be the case. I was also interested to note recently that the previous director of our Museums Service over here is now looking after royal palaces and I did note a comment that they break-even. Perhaps we should aspire to that one day. The Archive comments have been well ventilated. One thing that does occur to me is that in terms of genealogical research, there is an option to charge for that and surely that can pay for itself and contribute to the coffers of the Archive which I understand it does not do at the present. Finally, I think that we need within the States to work together to utilise various knowledge within different areas and I would suggest that my department, in providing transport, needs to work with the Heritage Trust in providing transport to the museums where necessary, to the heritage sites, and also, of course, I could consider transport to Elizabeth Castle. I did note on a recent trip to Vannes in the French Gulf of Morbihan, which has a lot of water around it, that the Connex company provide transport to the outer islands there so it is not beyond the realms of possibility. So, I will support the Minister in this. It is tight but I think it is important for us to give a baseline from which he can work.

5.1.19 Senator P.F. Routier:

I have to say in recent times I have been very, very impressed with the trustees and the way they have gone about their fresh look at the way the Trust is being operated now. They have come with a new insight and they are looking at things in a more commercial way. I think we should encourage them also to take the opportunity to use the support and the backing that has been promised by the Minister for Treasury and Resources if they go out and look for commercial sponsorship and try and raise as much funds as they possibly can. I hope we will encourage and speak positively with the people that we come across in the commercial world and to say to the commercial world: "The Trust is a really good organisation" and we should be talking the Trust up because they do do a tremendous job and negative comments by ourselves or people in the Chamber does not help their cause at all. I think we must go forward and when we are out in the community ensure that the Trust is given as much support as possible and that will engender obviously support for them to raise money for themselves. Obviously this proposition is a request for the Chief Minister to include additional financial provision for the Trust for £200,000 in the draft Annual Business Plan for 2011 and beyond. I am quite happy to support that proposition today but I have to say I will be reserving my position when it comes to the Business Plan. We do know what is in the Business Plan but we do not know what amendments are going to be coming. There may be some amendments coming, we may prefer to support that. It is quite possible but I cannot today put my hand on my heart and say that £200,000 to the Heritage Trust is going to be better than £200,000 going to a specific opportunity at the hospital. I cannot say that today. I think that is the problem we have with this proposition. **[Approbation]** The proposition is well-meaning and I want to support it and the Heritage Trust needs to be supported but it is going to be coming down to the Business Plan when we approve the money. I will be supporting it today but I have to say, hand on heart, that until we get to look at the full package of particularly social measures and

social issues which I am interested in, if they need to be supported I will probably be supporting some of the social issues perhaps above this.

5.1.20 The Deputy of St. John:

As a former trustee of the Heritage Trust, and can I say when I left they were in the black, **[Laughter]** a lot of the problems stem from this Chamber in that we have not given the necessary funding year on year, whether it is to the Archives, whether it is to the Heritage Trust, wherever, whatever department, we have always given them shortfalls. If they ask for £300,000 we give them £250,000. I was also the trustee of the Arts Trust when we did the alterations on the Opera House.

[16:45]

There was £300,000 needed to complete the job to a satisfactory standard, what did we give them? £250,000 and that is the way this Chamber has dealt with things as long as I can remember. Yes, the Heritage Trust has made mistakes. We have heard about the DUKWs and one or 2 other things. Some of the problems are the board of the day. Some people do not have their feet on the ground because they are in the arts and therefore they are treading the boards or whatever they call it and the Heritage Trust, they are into the Archives or whatever and funding, as far as they are concerned, is all secondary. There needs to be a balance and I hope the Minister for Treasury and Resources and the Chief Minister take note. There needs to be a balance of people on any group of trustees, of people from all walks of life. In fact when I was on the Heritage Trust I was often told by former Deputy Don Filleul and by one of your predecessors, Sir Peter Crill: "It is good to have you here, Phil, because you bring us back to reality, cautional things and maintenance" because we all know that the States of Jersey do not maintain their properties as they should be maintained. We take over the castles and the forts and we do not maintain things as we should because we do not give the funding to the Heritage Trust in this case or the amount of funding that is required. Historically, this has been year on year and in the times of plenty, when we had the opportunity of making sure that these properties and these semi-businesses, the Trusts, were fully funded as they should have been, we kept them short of funds. We finish up with scenarios where we have the Marilyn Monroe exhibition running for 2 seasons instead of one and yet we have got so few visitors coming that it had a knock-on effect that people do not go to the museum because they have already seen the Marilyn Monroe exhibition, so instead of updating that we cannot afford to do it. These are the problems we have so we can start cutting staff but instead of cutting staff from the top end, like we do in the States we take staff away from the bottom end so therefore we create more problems. The people at the top are still getting their - whatever the figure is - £80,000 a year but the people at the bottom who are only earning £22,000 a year - or whatever the figures are today - those are the ones we are cutting out instead of taking a sensible amount out across the board and this is what is happening. I do have a little bit of sympathy - not a great deal - for the Minister for Education, Sport and Culture because this should all have come in the Business Plan later on in September, not now. With that said - I know he is behind me so I have got to be careful what I say because the knives are out - it is important that we do put the funding in place if we are going to do something. I can remember when the former Connétable of St. Lawrence pushed for the Archive Centre and he pushed for it for a number of years but from day one we have underfunded it, by not giving it the funding it needed to give it the start it needed. I am given to understand there is something like a backlog of 40 years plus of material to be gone through into the archives. I do not know if that is correct or not but I am given to understand that and it probably is correct. That being the case, why have we not given it the funding? We have had a Ministerial system in place now for nearly 5 years. It has not all been bad times. When they took over we were still in the good times. They should have made sure that the funding was put in place so that it could be properly manned within the archives. That has not happened. It is all well and good coming here in the bad times and saying: "We need more funds. We need more funds" but in fact it cannot happen. As the previous speaker said, if something comes along during the Business Plan that is more important for the Island then obviously Heritage will lose out. It is of concern that we take on

all of these responsibilities and then we give them to a group of trustees and we do not give those trustees the tools to do the job. It is important, very important, that we give them the tools to do the job and in this case if they need additional funding it must be found. I am going to support the Minister this afternoon, although I have said earlier in the Members' room I was probably not but I have been persuaded by one or 2 of the arguments by other Members and I will give them my support, but on the understanding that if something does come along in the Business Plan which has got a higher priority it will have to take its chance. If any more cuts have to be made within Heritage or within the Arts I sincerely hope they are measured cuts but I do not think they can take a great deal more because the tourists are just not coming to this Island and I think we will be looking at closing some of these ... I can see the Minister for Economic Development swerving around on this one and so am I because my heart is telling me to do one thing and my mind is telling me to do another and it is difficult to want to support something like this, knowing that the problems have come from within this Chamber and knowing full well the funding probably will still not be there in a year or 2 years' time to keep this all afloat. So I do have concerns.

The Bailiff:

Does any other Member wish to speak? Just before you do can I just say from the Chair that a number of the speeches seem to be going over very much the same ground. It is hard to think at the moment of many new points that could be made but if there are new points no doubt Members will make them. Does anyone still wish to speak? Yes, Constable.

5.1.21 Connétable J. Gallichan of St. Mary:

Thank you for those words of guidance, Sir. I hope that I have just one tongue-in-cheek thing to open with, this is going to be very short. The Connétable of St. Helier, when he spoke earlier, said that he would rather have seen - I understood him to say - the money spent on Victoria Avenue spent on the maintenance of the heritage sites. Even if that was possible or true, of course it is too late for that but there are other things happening for fiscal stimulus and I wonder if the Constable of St. Helier would support the diversion of the funds earmarked for the Cheapside regeneration to go towards some of the Heritage maintenance. There are many things that we say, we have got the sugary sayings that we have: "We do not own these buildings. We are merely custodians of them for the future." What we are doing is honouring the past with the maintenance of these buildings. One of our strategic aims is enhancement, the strengthening of community values. We have heard of the voluntary work that goes on with these sites and Heritage, as a whole, with all the different organisations. Voluntary work is a core feature of Jersey society. It manifests itself in many different ways concerning heritage; with people who assist, people who put on displays, people who are just there to point the way to tourists. We do have tourists, I do not think that our tourism industry is quite dead yet. If we do not maintain the assets that we have got now, what we are saying is that all the work that these people have put in and all the resources that we have done in the past to maintain the buildings, we might as well forget it because that is what we have to do, we have to continue. There are 2 things that I know - especially from being a Constable - firstly, if you do not spend money on your assets in a timely basis it always costs you more in the long run. There is no short way around it and the second thing I would like to say is you do not know what you have got until it is gone. There you go.

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

Just very briefly, there has been a lot of emotive conversation and speeches this afternoon about support or not support of Heritage and I do not believe that is what we are doing here this afternoon at all. This is about funding for Heritage and I think just from my role on P.A.C. I am quite concerned that in 2008 Education managed to find £500,000 from within their budget to support the overspends of Heritage. In 2009 Education managed to find £1.4 million from within their underspends to support Heritage. I am slightly concerned now, in bringing this proposition forward today rather than in a Business Plan, is that there may well be a thought that in doing it this way we

are ring-fencing the Heritage element and moving it aside from the Education element and the savings that we have to make within there. This is one reason why I put a great deal of caution this afternoon. I will not support it and like my good friend, Senator Routier, will make my final decision when we come to the Business Plan. Somebody just sent me this little note I think is useful to record: "If we do not limit our speeches we will be as old as the relics that we are discussing." Perhaps that is a thought and I will sit down now.

The Bailiff:

Very well. Does any other Member wish to speak? Yes, Deputy Jeune.

5.1.23 Deputy A.E. Jeune:

Again, I will be very brief but what has become apparent to me is the support that there is in the way that the Minister has moved all this forward since taking office and I think it is both within this House as well as within the community and, yes, it is obvious mistakes have been made. The trouble is all too often in Jersey we do not learn from mistakes and we do not hold people accountable. I would ask the Minister, please, in his summing-up, to confirm that he will ensure that the Trust looks outside the box and uses smart ideas for income generation and that he agrees to take on board the comments of the Council of Ministers.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon the Minister to reply. If I may say so, Minister, it is not necessary to address every single speech in reply. **[Laughter]**

5.1.24 The Deputy of St. Ouen:

Sir, it might take some time because I am going to focus on the people that have suggested that they might not support my proposition but I will try and summarise it as best I can.

The Bailiff:

If it is necessary simply in reply to deal with the issues which have arisen rather than ...

The Deputy of St. Ouen:

Absolutely. I think that I will start by the comments made by Senator Shenton where he says: "Why?" and others have said: "Why has the Minister chosen to follow this route rather than follow the Business Plan process?" I suggest that Senator Shenton talks and asks the Comptroller and Auditor General because it was his main recommendation contained in his report and if Senator Shenton does not know why, I will tell him. The problem with the Business Plan process, as currently provided, has created the situation that Jersey Heritage Trust find themselves in ... sorry, I am not giving way. For the simple reason that the Business Plan is simply approving funds for a particular department and not for specific needs and it is an overall sum. More importantly it is not just about funding. Everybody has missed the point because the Comptroller and Auditor General's advice was: "First of all, identify the level of activity that the States wish to support and then attribute the sum of money that is required to deliver it." That is what my proposition does. It says: "If you want to keep open these public sites, if you want the public to have access to these sites, if you want to keep the Maritime Museum, the Tapestry Gallery and Elizabeth Castle open, to the extent that it is described in Appendix A, then you need this sum of money." If you choose not to provide that sum of money or if we do not, as an Assembly, provide that sum of money we cannot and we will not be able to expect Jersey Heritage Trust to provide access to those sites. We have heard much said from others about Hamptonne and how sad it is that it is closed for most of the time. Absolutely. Ask yourselves why. Has everyone been asleep over the past 9 or 10 months when they have read in the paper: "Jersey Heritage, Maritime Museum must close, Tapestry Gallery likely to close, Hampton likely to close because of the financial situation Jersey Heritage found themselves in"?

[17:00]

This is not, as the Deputy of St. John suggested, solely the blame and the responsibility of Jersey Heritage Trust. That is our responsibility as an Assembly and unfortunately, in the past, this Assembly has neglected its duty to ensure that they acknowledge the proper cost of the services that they require Jersey Heritage to provide and acknowledge the sum that is necessary to do it. We come to the Business Plan process itself, it is not perfect. Yes, at the Council of Ministers we have had very, very robust discussions about funding. It is difficult for me, as Minister for Education, Sport and Culture, recognising the financial pressures that Jersey Heritage Trust find themselves in to acknowledge that the Minister for Treasury and Resources needs £500,000 for 4 extra staff but those are the issues that we have had to discuss. That is the sort of prioritisation process that has gone on within the Council of Ministers. It is not comfortable but - and it is an important but - everybody acknowledges, including the Council of Ministers, that this Assembly is the sovereign body that determines what is done. More importantly with Jersey Heritage Trust, I am not directly responsible for Jersey Heritage Trust. All I am is the political sponsor acting on behalf of this Assembly so it is absolutely right that I have come to this Assembly and make the Assembly aware of the situation that is facing Jersey Heritage Trust and the consequences of inaction. That is what I have done. If people think that I am wrong then fine. That is my judgment call. If people believe that they can simply wave a magic wand to throw a sum of money into a pot and expect everything to be all right, it is not. Jersey Heritage Trust cannot even continue to provide this level of service, that is outlined in Appendix A, which currently the public are enjoying at the moment because they are £200,000 short. Why do I know that? Three independent detailed reports, starting with the Comptroller and Auditor General, secondly with Locum and supported by a very detailed financial review carried out by BDO. What do we get as a result? We get my Scrutiny Panel that scrutinises my department suggesting that there is not enough evidence in the public domain. I have absolutely ...

Deputy R.G. Le Hérisier:

I was speaking as an individual. Was there not a fourth report on the general management?

The Bailiff:

Deputy, only if the Minister gives way. Despite the power of your voice the rules stay the same.

[Laughter]

The Deputy of St. Ouen:

I think I might be able to challenge him on that. Every single piece of information that Deputy Le Hérisier raised and asked me to consider is contained within those reports and I will tell you now, I have based all the decisions and all the actions relating to this proposition around those reports. This is not the James Reed Bright Ideas Club. This is a Minister that has spent perhaps far too long in the last 18 months dealing with this matter. I certainly am not prepared to see it allowed to go on any further and I hope and I expect that States Members will consider that when they vote.

Deputy J.A. Martin:

Sir, could I ask the Minister for a point of clarification in case I have missed something? I think the penny did drop about half an hour ago. The Minister for Education, Sport and Culture, for clarity, is asking us to increase the bottom line Business Plan by £200,000 and is also asking this in light of giving no compensatory savings which we will all have to do if we bring an amendment, is that quite clear?

The Deputy of St. Ouen:

No, it is not. What is quite clear is that if the States wish to choose to support the level of activity, as identified on Appendix A, the States will have to contribute £2.3 million, that is £200,000 more than I currently hand over and grant to Jersey Heritage Trust. In addition to that, to maintain and

refresh our heritage sites - because currently there are no funds described to do that and never have been because of the *ad hoc* nature of this Assembly, not my proposition - then we need to attribute an additional £465,000. There is an expectation that the Jersey Heritage Trust will be required to raise as much income as possible to meet those amounts. What has been included currently in the draft Business Plan is a total of £350,000 which is accounted for by £200,000 additional revenue grants plus £150,000 to go towards the total of £465,000 required to refresh the sites. That is in the Business Plan now. I am not looking for additional money. All I am wanting to do, and maybe it is too soon, but what I am doing is saying: "This is the base line. This is the minimum that we are going to require Jersey Heritage Trust to deliver with regards to public access to our heritage sites." If we do require that we must acknowledge we cannot hide from the fact that there is a cost involved. The cost is identified in the proposition. The contribution that we will be required to make, subject to the Business Plan debate, is identified in this paper. If things change then obviously access will change.

The Bailiff:

Very well, then the appel is called for ...

Deputy J.A. Martin:

Sir, can I just ... I am sorry I ...

The Bailiff:

You cannot have a continuing debate ...

Deputy J.A. Martin:

No, it is a point of clarification from you, Sir.

The Bailiff:

I wonder, but anyway.

Deputy J.A. Martin:

This money is added to the bottom line of the Business Plan, when anybody is bringing amendments we have an extra £200,000 to play with from the budget, I think that is the point.

The Deputy of St. Ouen:

This sum of money, the £350,000, is already allocated in the draft Business Plan which Members have in their hands.

The Bailiff:

Very well. No, we have got to come to a halt. We will move on to the appel then. The Minister has replied. I invite Members to return to their seats and the Greffier will open the voting. Have all Members had an opportunity of voting?

POUR: 41		CONTRE: 9		ABSTAIN: 0
Senator T.A. Le Sueur		Senator B.E. Shenton		
Senator P.F. Routier		Senator J.L. Perchard		
Senator P.F.C. Ozouf		Senator A.J.H. Maclean		
Senator T.J. Le Main		Connétable of Trinity		
Senator F.E. Cohen		Connétable of St. John		
Senator A. Breckon		Connétable of St. Peter		
Senator S.C. Ferguson		Deputy R.G. Le Hérisier (S)		
Senator B.I. Le Marquand		Deputy J.A. Martin (H)		
Senator F. du H. Le Gresley		Deputy of St. Peter		
Connétable of St. Ouen				
Connétable of St. Helier				

Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy J.B. Fox (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

Senator B.E. Shenton:

Sir, it is nice to see 9 businessmen in the States.

6. Draft Income Support (Amendment No. 5) (Jersey) Regulations 201- (P.77/2010)

The Bailiff:

Very well. We come next then to the Draft Income Support (Amendment No. 5) (Jersey) Regulations 201-, Project 77, lodged by the Minister for Social Security and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Income Support (Amendment No. 5) (Jersey) Regulations 201-. The States, in pursuance of Articles 5 and 18 of the Income Support (Jersey) Law 2007, have made the following Regulations.

6.1 Deputy I.J. Gorst (The Minister for Social Security):

Income support legislation requires the Minister for Social Security to bring forward any proposals to changes to the rates of components of income support for consideration by this Assembly. The component rates must be reviewed at least once a year. Improvements to income support benefit can be achieved in 2 ways; the value of components can be increased, alternatively, the value of disregards and incentives can be increased. Disregards are applied to different types of income and savings. Some are provided as a fixed amount, others are percentage disregards. In order to

implement increase in benefits on the 1st October, component rates and disregards must be finalised by the end of August. In reality this means that component rates, which are set by regulation, need to be approved by this Assembly before the summer recess, hence being here today. Disregards can be amended by Ministerial Order and can be set in August. These Regulations provide for component upratings which are explained in detail in the report. However, my emphasis this year is very much on improving incentives. This includes additional funding of £1 million that will form part of the Business Plan debate in September. I should just say that it was perhaps presented in the media that my department would be offsetting this additional money against my savings of £2 million. That is not correct. So that Members are absolutely clear about that, I will be and have proposed £2 million worth of savings in the Business Plan and Members will have the opportunity to vote on that. I have a separate line for £1 million to increase incentives and that is what I will be proposing. It is not a netting-off, continuing doing existing services, it is stopping providing some but providing and allocating growth monies to an area which I think is much needed and I hope that Members will approve and agree that. I should say that we are able to bring forward the improved incentives in the work incentives to October of this year. Should Members not approve my Business Plan increase in September then I will have to look at reallocating my budget and stopping or reducing that incentive come January of next year, just so that Members are absolutely certain what it is that I will be proposing. Having said that, as I have already just outlined, what we are doing today is in actual fact just agreeing the increases in the component levels and not the incentive levels; that will be done by order later in this year, in actual fact in August so that it can also be in place for October. The earnings disregards, I am proposing that it will be increased by 4.5 per cent which will take it from the current 12 per cent to 16.5 per cent and what this achieves will allow an ongoing incentive for people in steady employment and it will also encourage those who are not in employment to take employment because it will make it more economically and financially beneficial for them to take a job. In actual fact every pound, therefore, that they earn we will disregard the first 16.5 per cent of that pound and therefore they will be better working, every hour that they work it will be of benefit to them. We also have somebody going into employment; we disregard the first month of their salary so they can receive benefit and salary for the first month that they are in employment. I will be considering later this year whether there is not more that I should also be doing for those who have been unemployed for 6 months or more. It is a concern to me and to the department that people who are unemployed for a length of time find it more difficult to get back into work and that is an area that I will be targeting during the course of the rest of this year as well. I am also proposing to increase incentives for earnings, pension income, maintenance income and savings. Again, although they are not included in the Regulation (because that is just about the components, as I have said, and if Members look at the report they will see that the details have been provided there) but briefly that is an increase in the maintenance disregard from 10 per cent to 20 per cent. Absent parents should be responsible for the upkeep of their children and by increasing this disregard I hope that it will act as a financial incentive for the parent looking after the children to pursue regular maintenance payments going forward. With regard to pension income disregard, I am proposing to increase that by 12 per cent. Pensioners currently receive a fixed disregard and I am proposing to increase that fixed disregard from £32.69 per week to £36.61 per week for an individual pensioner.

[17:15]

I am also proposing to increase the capital disregards, that means the amount that an individual or household can have in assets before we take it into consideration in income support and that I am proposing to increase by 5 per cent, which will mean for a single working person they will be allowed to have £9,137 in the bank, that is an increase from £8,700 and for a pensioner couple, the disregard will increase from £21,600 to £22,700. I hope that Members will agree that this is appropriate and that they will be able to support what I am proposing. While the majority of the money that I have in my budget will be going to increase working incentives, it is only fair that I also put aside money for those who are not able to improve their working capacity, that being

pensioners and that being those on L.T.I.A. (Long Term Incapacity Allowance) and I propose a small increase in that from 5 to 8 per cent. Because of the emphasis on improving incentives not all the other components have seen or will be seeing an increase this year. In particular the adult and lone parent components I am proposing to freeze them. Households will, however, see increase in their benefits through the improvements and the incentives that they will be able to claim should they be working or should they have savings or be pensioners, *et cetera*. The accommodation components have also been frozen in conjunction with a freeze on the Housing Department rentals. This will not affect Housing Department tenants. People will see no change in the level of support provided for their accommodation costs. The majority of private sector tenants also pay rents at or below the current maximum component levels and they will also be unaffected by this freeze. In addition to the component increases I am also proposing a small change to the definition of earnings in the Regulation. The effect of this change is to make it easier for parents with low incomes to qualify for help with childcare costs, therefore encouraging them to return or remain in work. I would just like to, at this point, pay tribute to the now Senator Le Gresley who, wearing his previous hat, made this suggestion at a meeting a number of months ago with myself and departmental officers and therefore I hope he will, for one, feel able to approve this change. I am conscious of the time and the agenda. I hope that Members will support this. I believe that it is a step change and a step forward in the way that we provide benefits to the most vulnerable members in our community. For all the criticisms of Income Support, past and present, what it has done is it has allowed us, as an Assembly, to have all the benefits under one roof and to use the mechanism of the income support benefit system in a way that we see fit and in a way that we want to have desired outcomes for those who need support. I believe that this proposal, when we come out of the recession which we all hope will start happening later this year and during the course of next year, will enable and really incentivise those individuals on benefit to get back into work because I keep saying it and it is reiterated by all the evidence and academic research: "Work is good for us." We ought to be encouraging everyone into work. We might not always like it but we know that mentally, physically and emotionally work is good for us, the academic evidence tells us that, therefore I hope that Members will give me their wholehearted support in approving these Regulations.

The Bailiff:

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

Deputy A.K.F. Green:

Sir, could I seek guidance from you. My son, who lives with us, is in receipt of some of these components. I am not sure it is appropriate that I should be helping to agree to them, Sir.

The Bailiff:

I would have thought that is a direct financial interest.

Deputy A.K.F. Green:

I think it is, Sir. Should I withdraw?

The Bailiff:

Clearly it is up to you whether you wish to withdraw or not. Very well. Does any Member wish to speak on the principles? Yes, Deputy De Sousa.

6.1.1 Deputy D.J. De Sousa:

I welcome these amendments, this proposition and these increases to assist people that are working and on low earnings and also those that could return to work, so I commend the Minister for bringing this proposition. I just wonder if, in his summing-up, he can clarify for me on the private sector rents, how they will not possibly lose out by a component being frozen because in the private

sector rents are much, much higher. There is no fair rent in the private sector so I wonder if he could clarify this for me in his summing-up.

6.1.2 Deputy P.V.F. Le Claire:

I would like to congratulate the Minister for bringing forward these today for our approval. He is right on track and he said earlier today that he would be doing this and it proves that he has not been sitting there in his ivory tower doing nothing. Just to pick up one part of the changes that he spoke about - and I would like him to just put his thinking cap on in regard to this - if we are really going to incentivise individuals to get back into work, one of the things that my father told me that he did not appreciate was when he went to try to get work after having retired that his pension was being calculated as part of his income which would then be regarded as part of his income for tax and he felt that he was being taxed on money that he had already paid tax on in the first place. When you move from £32.69 - I think the Minister said - to £36.61 it is not going to do a great deal to incentivise pensioners to go out there and get jobs if they feel that their first income, which they have already paid tax on, is being used to calculate their income tax in the second round of things. It certainly will not incentivise me in the years to come when I get there. The other thing is, on the Council of Ministers which the Minister sits, perhaps he could start asking some pointed questions about why it is we are paying thousands of pounds to millionaires to sit on land in agriculture payments without means-testing them. Why are we doing that?

6.1.3 Deputy G.P. Southern:

The Minister is to be heartily congratulated on managing to squeeze £2.4 million additional payment out of the budget at this particular time in order to do, by and large, exactly the right things. The right things that various Income Support panels I have been on, have been telling him or his predecessor to do for the past 3 years but well done for that. In particular, the move on childcare I think is a wise one, to move from the assessment against the net income to one against the gross income is to be welcomed because it will sweep more people into that particular benefit. On the other changes he has made a substantial move, I believe, towards incentivising a return to work or certainly work itself as a motivation for people to improve their lot and that is certainly one of the factors that was highlighted many years ago by Income Support advisers and that is to be welcomed. On the capital disregards, however, the incentives to save, it seems to me that we are missing an opportunity here. The fact is that over and above the limits pensioners, among others, are penalised really quite heavily by the way we treat deemed income from savings. The fact is we treat them as having received £4 for every £1,000 over the limit in their savings, an interest rate (you work it out) of 20.8 per cent. The reality is that interest rates have gone through the floor, £4 a week for every £1,000 - I can see a Constable frowning there so I will repeat it - an interest rate of 20.8 per cent when in fact most pensioners on their savings have seen the interest rate go through the floor and they are not even achieving 5 per cent, 3 per cent maybe, 1.5 per cent from actual income. Yet we say that the deemed income is much more substantive than that but with that reservation I do recommend and praise the Minister for having made, by and large, the right moves at this stage. One of the things I think we are going to find following these increases is that we must take a very careful look at where the minimum wage is because the incentive to work ties in to the minimum wage and it seems to me that a trend we are finding, from the survey my panel is conducting, is that benefits seem to be, at certain levels, outstripping what the minimum wage brings in. We have got to be very careful to get the right sort of balance between where the minimum wage is set in order to truly incentivise work and where benefits are set but that is a warning for the future and not a criticism at this stage.

Deputy R.G. Le Hérisier:

I wonder if the speaker could outline how he gets 20 per cent, I am obviously a bit slow in this regard.

Deputy G.P. Southern:

Certainly. If you are deemed to receive £4 a week from your every £1,000 over the limit, that is an effective rate of 20.8 per cent. If you do the calculation; £4 a week over the year is an annual rate of 20.8 per cent which nobody is getting and if they are getting it in a bank somewhere I wish they would tell me the name of the bank because I would like it.

6.1.4 The Deputy of St. John:

The Minister quoted, and I quote: “Income Support is a way we see fit.” I am concerned because Income Support was taken away from the Parishes and given to the Minister’s Department to administer. I am aware that people still are falling through the net and I hope when the Minister sums up that he can assure us that people, when they go and see him, do not fall through the net. But I, in fact only very recently, had to seek help for a person who has fallen through the net and it is of concern that this can happen. Previously, when we had the Connétables ...

The Bailiff:

Deputy, I am sorry but this is simply a debate on the components of income support. We are not concerned with whether it should be in the Parishes or the Minister and I think that is outside of the parameters of the debate.

The Deputy of St. John:

Well, let me put it in a different way then, Sir. **[Laughter]** Let me scratch my head a moment. Income Support is still of concern and I sincerely hope the Minister will work closely with the Committee of Connétables to see that nobody does fall through the net because, as I say, I know people that it is happening to right now and, therefore, much more work is required within their department to see that all people are protected.

6.1.5 Senator P.F. Routier:

I will be very brief. Certainly Income Support is now really maturing into something which I think was always in our minds at the outset. I think it was Deputy Southern who was saying that certainly the incentive payments was something that should have been put in at an earlier stage. I would have loved to have been able to do that, propose that to this House, when it was first introduced but, as he quite rightly said in his speech, the Minister has got £2.4 million to play with and that is how he is achieving it. At the early stages, when Income Support was established, there was a limited budget and so I have to congratulate the Minister on bringing forward the increases, incentives, not only for work but also for savings and I think we can now be more comfortable that Income Support is now moving into a direction where it is becoming fully matured. I congratulate the Minister.

[17:30]

6.1.6 Senator F. du H. Le Gresley:

I would also like to congratulate the Minister on his proposals in this proposition, many of which, I have to say in my former job, I had put forward as recommendations so it is very pleasing to see them in this proposition, particularly the increase in the earnings disregard which is higher than the amount I expected to see so I am particularly pleased to see that. I have only 2 concerns and I have expressed one of these to the Minister already. My concern is about the long term incapacity disregard which has gone up by 3 per cent to 8 per cent and I have suggested to the Minister that when we review again that that disregard should be increased substantially along the lines of what we are proposing to do for maintenance. In other words, I would like to see, personally, a disregard in the region of 20 per cent. The reason for that is that there are people there on this benefit who really would like to go back to work but the incentive is not great enough for them to take up, in many cases, what would need to be part-time work. I think it would do everybody a service in the Island if we can encourage people, not the people obviously on 100 per cent long term incapacity but the people on 50 per cent or less, if we could encourage more employers to offer part-time work

and the incentive was there in the scheme at a much higher level than it is at the moment, I think we would be doing a great service to the people who cannot work full-time because of injuries or sickness. Deputy De Sousa has also mentioned my other concern which is about the fact that the housing component is going to be frozen. I am aware that this will not affect States tenants and possibly not tenants in social housing such as housing trusts, if the trusts agree to freeze their rent as well. But it is a fact that rents are still rising in the private sector and people who are on income support are going to be badly affected by the freezing of this housing component. I have made some inquiries about the Rent Control Tribunal which is a body that was set up to deal with issues of high rents and I have established from the department yesterday that the Rent Control Tribunal has not sat for 3 years because no cases have come before it and the reason are 2-fold. The first reason is that we still have a ridiculous piece of legislation which was created in 1993 which was set up by the Constable of St. Clement (who was at that time the Minister for Housing) which was to encourage more landlords to offer their properties for rental and the regulations state that if your agreement allows you to exclude the right to go to the Rent Control Tribunal then that is okay, you can have that in your agreement and therefore rents that have that clause in them cannot be looked at by the Rent Control Tribunal. I would suggest that with the rising cost of living in Jersey and the high rents that are being charged in the private sector that is something that we need to look at again and I think the Rent Control Tribunal should be very active at the moment, albeit it not doing anything for 3 years. That is a different matter and maybe that is a matter for the new Minister for Housing to consider and certainly if he does not do something I intend to do something about it myself. Those are my 2 points really. I think the Minister has done an excellent job with the money that he has available and I hope all the Members will be supporting his proposition.

Deputy K.C. Lewis:

Sir, may I propose the adjournment.

The Bailiff:

That is a matter for Members or it is whether they wish to try and complete these particular matters. Does any other Member wish to speak on the principles? Then may I suggest, Members, that we proceed to try and wrap up these Regulations. Very well, Minister, I call upon you to reply.

6.1.7 Deputy I.J. Gorst:

As I do not think any Member has spoken against what I am proposing I would like to thank them. I will very quickly cover a couple of points. Deputy Le Claire talked about the pension disregard. The reason I am improving the pension disregard is because I do not believe that pensioners can increase their income any other way. I am not saying they should go out to work. I am recognising they have a fixed income which is their pension and therefore increasing the disregard. The Deputy of St. John talked about people falling through the net, well of course it is law that governs income support and if people fall outside of that law, which is approved by this Assembly, then yes, they will not be helped because they will not be entitled to income support. If he has some questions about changing the law then of course I am always prepared to listen but it is this Assembly that made the ultimate decision on that law. As I say, through the review there will be opportunities to come forward with amendments in due course to the law anyway. If I could then take the private sector rents, which Deputy De Sousa and Senator Le Gresley talked about, Members might recall that last year, when I brought forward the uprating proposition, I was proposing to increase the housing components and I got a thorough beating despite people ultimately voting for that proposition, because I was told that what I was doing was just putting money into the pockets of private sector landlords. I have taken that consideration on board. This is a one-year freeze. It is not the solution to the answer full stop. The Minister for Housing and I are committed to working together to finding practical solutions to that problem in the marketplace. Obviously Members felt that basically subsidising private landlords was not appropriate. It is not something that can be solved overnight and therefore to go some way to doing that, to test the market to see what happens

in reality and to give us a year's worth of evidence, I am proposing to freeze that component this coming year. Of course housing sector tenants will not be affected because the Housing Department have agreed not to increase their rents. A good number - careful of the words I am using there - in the private sector are at fair rents anyway and which are set by the Housing Department and therefore they will not be increasing either but there is potential that some landlords might put their rent up. I hope that they will not but it is a private sector, they might do. As I say, we will do this for a year and we will then have good evidence I hope to be able to propose a longer term solution. Deputy Southern also talked about the deemed income from savings and the deemed 20 per cent. What I should say about this is that deeming income at this level is, on one hand, quite simply a mechanism of tapering benefit. It would not be appropriate that we continually paid benefit even though people had hundreds of thousands of pounds in the bank and it is a methodology of tapering that benefit. Each year, when I brought forward my proposition, I have asked officers to provide me with information about how I could get the most bangs for my buck - I believe is the Americanism - but in this instance it is: "Would I be better, would I get more people into the net and help more people with savings if I increase the capital disregard, i.e. increase the capital amount, or by improving the deemed income?" Each time the numbers have shown, and I do not have them with me unfortunately today, that I help more people by increasing the capital disregard and that is why each year that is what my proposal has been and not the deemed income. Deputy Southern made some points about minimum wage which he is looking at and I will be including in my review in due course. Senator Le Gresley talked about the L.T.I.A. disregard and, as I said earlier, the rationale for increasing the disregard from 5 to 8 is simply in recognition that some of these individuals will find it difficult to increase or improve their earning capacity. I should say though in his speech he talked about wanting to increase the disregard to help those individuals get part-time work. If those individuals are in part-time work or are wanting to find part-time work, of course they will benefit from the increased earnings disregard that I am proposing anyway. It is right that that is something that ought to be reviewed. Deputy S. Pitman - he will not be surprised to know - he has raised this matter with me on a number of occasions. I am pleased that I am able to put forward this small increase. I know that some Members would like more - I am winding-up quickly now - but it is something that should go into the full review. With regard to the Rent Control Tribunal I think it is probably something more for the Minister for Housing but of course I am prepared to work with him and I am sure he will be prepared to work with Senator Le Gresley. I will sit down now. I hope that Members will support it and I am very pleased to be able to bring this forward because I think it is a step change in improving income support.

The Bailiff:

The appel is called for then in relation to the principles of the regulations and I invite Members to return to their seats and the Greffier will open the voting.

POUR: 40		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. John				

Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				

The Bailiff:

Deputy Southern, do you wish this matter to be referred to your Scrutiny Panel? Then we move on the Regulations individually. Do you wish to propose them *en bloc*, together with the schedule?

Deputy I.J. Gorst:

If I could, Sir, please. Thank you.

The Bailiff:

Yes, seconded? **[Seconded]** Does any Member wish to speak on any of the individual regulations? All those in favour of adopting Regulations 1 to 4, kindly show? Those against? They are adopted. Do you propose the Regulations in Third Reading?

Deputy I.J. Gorst:

Yes, please, Sir.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading, kindly show? Those against? The Regulations are adopted in Third Reading. The adjournment is proposed and so the Assembly will adjourn and reconvene at 9.30 tomorrow morning.

ADJOURNMENT

[17:41]