

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 2nd JUNE 2015**

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[9:32]

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

## **COMMUNICATIONS BY THE PRESIDING OFFICER**

### **1. The Bailiff:**

I am sure Members will be aware that Mr. Peter Hanning, the former Connétable of St. Saviour, died on 18th May after a long illness. Mr. Hanning was Connétable between 24th August 2007 and October 2011 when he lost his seat in the general election. Apart from his work in the Parish and in this Assembly Mr. Hanning States' work involved sitting as a member of the Privileges and Procedures Committee during the time that that committee developed the Freedom of Information Law. He sat on the Planning Applications Panel where he served from September 2007 until November 2010 and he was a member of the Corporate Services Sub-Panel reviewing the proposed importation of bovine semen, which the panel recommended that this took place. He was a great believer in the importance of the community demonstrated by many examples but perhaps none more telling than his support of the primary school visits to the States Chamber. During his time as a States Member he attended every visit by St. Saviour schools. Peter Hanning was a gentleman. This is an overworked description and frequently does not really fit the man but in this case it does. He was unfailingly courteous even when agitated about the subject matter of the debate. He was unfailingly kind in his treatment of those about him and his contributions in debates were measured and thoughtful. I know Members will join me in expressing our admiration for Mr. Hanning and on your behalf I extend our sympathy to his widow and his family. I ask Members to stand in his honour in the usual way. **[Silence]** May he rest in peace. There is nothing further under A.

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

### **2. Resignation of the Connétable of Grouville as Chairman of the Economic Affairs Scrutiny Panel**

#### **The Bailiff:**

The Connétable of Grouville has written to me in the following terms: "I am writing to notify you in accordance with provisions of Standing Order 137(2)(b) that for personal family reasons I wish to resign as chairman of the Economic Affairs Scrutiny Panel. I was advised by the Greffier this could be done with immediate effect. I would be grateful if you would notify the States of my decision so that my resignation becomes known and so that necessary steps can be taken to appoint a new chairman." The panel continues under its vice-chairman for the time being and Members will no doubt wish to give consideration to the possibility of electing a new chairman at the next sitting.

## **QUESTIONS**

### **3. Written Questions**

#### **3.1 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING TRAVEL EXPENDITURE:**

##### **Question**

Could the Chief Minister provide details of the total amounts spent on flights for each Minister and Assistant Minister since 1st January 2014, breaking the information down per Minister/Assistant Minister per month?

**Answer**

Please find below the details of the total amounts spent on flights for each Minister and Assistant Minister since January 2014.

	<b>BAILHACHE PHILIP</b>	<b>BRYANS RODERICK</b>	<b>DUHAMEL ROBERT</b>	<b>FARNHAM LYNDON</b>	<b>GORST IAN</b>	<b>GREEN ANDREW</b>	<b>LEWIS KEVIN</b>	<b>LUCE STEPHEN</b>	<b>MACLEAN ALAN</b>	<b>MEZBOURIAN DEIDRE</b>	<b>MOORE KRISTINA</b>	<b>LEHERISSIER ROYSTON</b>	<b>MARTIN JUDITH</b>
<b>Jan 2014</b>	832.00	262.00			311.00								
<b>Feb 2014</b>	475.00				326.00				268.00				
<b>Mar 2014</b>	523.00				231.00				754.00				
<b>Apr 2014</b>	893.00	397.00			5,397.00				170.00				
<b>May 2014</b>		74.00			3,012.00			118.00	5,994.00				
<b>June 2014</b>	139.00				191.00		74.00		691.00				
<b>July 2014</b>	268.00				120.00	118.00			116.00			179.00	
<b>Aug 2014</b>		217.00	469.00									145.00	
<b>Sept 2014</b>	592.00				312.00								
<b>Oct</b>	131.00				296.00								



<b>2014</b>													
<b>Nov 2014</b>	429.00				519.00								
<b>Dec 2014</b>	146.00								149.00	123.00			
<b>Jan 2015</b>	512.00						167.00						
<b>Feb 2015</b>	429.00			314.00	183.00		472.00						215.00
<b>Mar 2015</b>	483.00	243.00		514.00	601.00	299.00			96.00		75.00		
<b>Apr 2015</b>	91.00				173.00			197.00					
<b>May 2015</b>	103.00				482.00					138.00			
<b>TOTAL</b>	<b>6,046.00</b>	<b>1,193.00</b>	<b>469.00</b>	<b>828.00</b>	<b>12,154.00</b>	<b>417.00</b>	<b>713.00</b>	<b>315.00</b>	<b>8,238.00</b>	<b>261.00</b>	<b>75.00</b>	<b>324.00</b>	<b>215.00</b>

	NOEL EDWARD	NORTON MURRAY	OZOUF PHILIP	PALLET STEPHEN	PINEL SUSIE	PRYKE ANNE	ROUTIER PAUL	RYAN PATRICK	TRUSCOTT GRAHAM	VALLOIS TRACEY	BAKER JAMES	LABEY CAROLYN	LEFONDRE JOHN
Jan 2014			782.61										
Feb 2014			1,615.45									80.00	
Mar 2014			409.50			343.00				243.00			259.00
Apr 2014			635.00				91.00						51.00
May 2014	85.00		4,606.00			124.00							
June 2014			1,038.28			284.00							59.00
July 2014			321.50			107.00	811.00	386.00			181.00		106.00
Aug 2014			127.67			94.00							
Sept 2014			783.98										576.00
Oct 2014			473.94										131.00

<b>Nov 2014</b>			3,828.50				664.00						
<b>Dec 2014</b>			423.00										
<b>Jan 2015</b>			202.00			0.00							755.00
<b>Feb 2015</b>			481.00			522.00						525.00	287.00
<b>Mar 2015</b>		360.00	93.00	150.00	123.00		401.00		123.00	100.00			
<b>Apr 2015</b>		197.00	360.00										
<b>May 2015</b>			365.00				516.00						
<b>Total</b>	<b>85.00</b>	<b>557.00</b>	<b>16,546.43</b>	<b>150.00</b>	<b>123.00</b>	<b>1,474.00</b>	<b>2,483.00</b>	<b>386.00</b>	<b>123.00</b>	<b>343.00</b>	<b>181.00</b>	<b>605.00</b>	<b>2,224.00</b>

### **3.2 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE LIVING WAGE:**

#### **Question**

Will the Chief Minister circulate to members the paper entitled 'Living wage number report' which underpins the Living Wage report?

Will he also show the figures and the calculation used to arrive at the row "Total disposable income" in tables 11, 13, 16, 19 and 21 of the above document?

What explanation can he offer for the anomaly in the London Minimum Income Standards (MIS) figures which purport to show that it is on average some 36% less expensive to live in London than it is in the rest of the UK when this is contradicted by Statistics Unit figures comparing Jersey costs with those in the UK?

Will he further explain to members why, despite this anomaly, he has used the London MIS in the tables concerning the New Zealand and Vancouver estimates?

Does he accept that rather than claiming that the living wage is already met by the combination of minimum wage and income support it would be better to state that the living wage for Jersey is to be found in the outside London estimate in Table 16 and 17 as between £6.53 and £12.28 or as a weighted average of £8.92 based on 2013 figures?

#### **Answer**

The Living wage number report (Numbers Report) is a technical report that was provided in draft and in confidence to the Health & Social Security Scrutiny Panel, in accordance with the Scrutiny Code of Practice. The Scrutiny Panel also received a private briefing on that report.

The draft report was confidential because it contains information from other jurisdictions which we do not have permission to put into the public domain. It is also a highly technical document that requires additional context and briefing to aid understanding, as demonstrated by this question.

(Please note, the Living Wage Number Report is distinct from the Living Wage Executive Summary, the Detailed Living Wage Report, and the Economic Assessment previously published on 13 May 2015.)

**Will he also show the figures and the calculation used to arrive at the row "Total disposable income" in tables 11, 13, 16, 19 and 21 of the above document?**

Total Disposable Income in table 11, 13, 16, 19 and 21 of the Numbers Report is the sum of:

- A. net earnings at a particular wage rate (net being after social security contribution and income tax are deducted) plus
- B. any in-work benefits the household is eligible for (in-work benefits being income support).

All the values are in 2013 terms and all figures have been rounded to the nearest 10p.

The tables cannot be replicated without breaching confidentiality.

**What explanation can he offer for the anomaly in the London Minimum Income Standards (MIS) figures which purport to show that it is on average some 36% less expensive to live in London than it**

**is in the rest of the UK when this is contradicted by Statistics Unit figures comparing Jersey costs with those in the UK?**

The living wage campaign for London and the National (outside London), living wage campaign have chosen different minimum income standards and different methodologies to calculate their respective living wage rates. These are independent organisations and there is no agreed methodology for setting a living wage rate. The difference may arise from the London and Outside London Living Wage groups choosing to include different items, and allocate different costs to those items in the respective shopping baskets of household goods (minimum income standards) that underpin their calculations. This was indicated in Table 4 of the detailed living wage report.

All living wage organisations make pragmatic decisions about what is and is not included in their shopping baskets. If items are excluded from a basket in one jurisdiction, but included in another this will affect the basic living costs 'target' the household is required to meet. Similarly organisations can, and do, choose to include the same items but associate different values to those items, either because they associate a higher cost to the item, or because more of these items are included in that basket.

Establishing and maintaining a Minimum Income Standard for a range of households requires extensive research and a substantial ongoing commitment. As such, living wage organisations make pragmatic decisions about how frequently these are updated.

The Statistics Unit data is not relevant in this context because it focuses on the cost of individual items, not on the number or type of items in each basket. The Statistics Unit figures have been used to estimate the Jersey cost of the London MIS.

**Will he further explain to members why, despite this anomaly, he has used the London MIS in the tables concerning the New Zealand and Vancouver estimates?**

As explained in the published report on the living wage investigation, it has not been possible to apply the outside London living wage calculation to Jersey, due to the capping mechanisms included in the outside London methodology.

The first cap limits the increase in net household income in line with the rise in net income that would be achieved by someone on average earnings. The second cap limits the increase in the living wage itself relative to the increase in average earnings. This capping is undertaken to limit the impact on employers. Capping the living wage is perceived by many campaigners to be fundamentally at odds with a living wage philosophy, as the wages are supposed to be free from the pressures exerted by market forces.

Any other calculations based on the methodology of other jurisdictions would be based on the London MIS because the calculations can be fully replicated in Jersey.

**Does he accept that rather than claiming that the living wage is already met by the combination of minimum wage and income support it would be better to state that the living wage for Jersey is to be found in the outside London estimate in Table 16 and 17 as between £6.53 and £12.28 or as a weighted average of £8.92 based on 2013 figures?**

This question specifically refers to a figure in an unpublished document. However, the answer will be no, as explained in the detailed living wage report it is not possible to fully replicate the Outside London rate because it is capped using two different mechanisms, as explained above, and the pre-capped information is not available.

The detailed living wage report (7.2.7) offers a list of considerations for any organisation or individual wishing to calculate a living wage rate. These decisions heavily influence any living wage rate.

### **3.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING INCOME POVERTY:**

#### **Question**

Figures produced by the UK Office of National Statistics (ONS) this week shows that one third of the UK population experienced income poverty (disposable income below 60% of median) in at least one year between 2010 and 2013, compared with 25% in the rest of Europe. What equivalent figures, if any, does the Chief Minister have for Jersey?

To what extent does the Chief Minister consider that figures like these are in part the product of, and not improved by, austerity measures such as reducing the public sector workforce and services, and cutting benefits as proposed by both the UK government and the Council of Ministers?

What estimates, if any, does the Chief Minister have for the impact on poverty figures of the proposed savings programme involving some £125m of savings and charges especially for pensioners, and lone parents who are 40% and 60% prone to falling into income poverty as defined above?

#### **Answer**

The Statistics Unit run an Income Distribution Survey approximately every 5 years. The most recent data relates to 2009/10. The analysis identified that:

- 13% of households had an income below 60% of the median household income (termed ‘relative low income’) before housing costs, and
- 21% of households had an income (‘relative low income’) below 60% of the median household income after housing costs are taken into account.

Comparison with the UK focussed on the proportion of *individuals* living in a relative low income household both before and after housing costs. The Jersey figures were compared with the most recently available UK statistics at the time.

- One in eight (12%) of individuals in Jersey were living in relative low income in 2009/10 before housing costs, compared to 18% of individuals in the UK (UK data source: “Households Below Average Income 2008/09” report, ONS).
- After housing costs are taken into account, 19% of individuals in Jersey were living in relative low income in 2009/10, compared to 22% of individuals in the UK in 2008/09.

The Income Distribution Survey 2014/2015 is currently underway, with the year-long data collection phase now closing. Results are expected by the end of 2015, and will provide updated information on the level of median household income, and the proportions of households and individuals living in households with less than 60% of the median household income (i.e. living in relative low income) for the period 2014/15.

To compare the fiscal measures undertaken by the UK government with those in Jersey is not informative. The decisions taken in the UK have meant that departmental expenditure has fallen in

real terms every year since 2010, and further reductions are planned in coming years. In Jersey, we have continued to support public services since the global financial crisis and undertaken additional investment through fiscal stimulus.

The measures being considered over the life of the next Medium Term Financial Plan will fund increases in expenditure in areas like health and education, while looking at where savings can be made across all departments. They do not represent a reduction in public spending of £125 million.

As to the impact of the spending proposals, this is a complex picture. Much of the extra spend in health and education will help people at the margins of our society, like the planned ‘pupil premium’ which directs resources to those families who are most in need, and the investment in health as our society ages. Furthermore, when making savings, the emphasis is on public sector efficiency, not on service reduction, and any impact on individuals will be carefully considered.

The “Resource Statement to the draft Strategic Plan” lodged on the 23<sup>rd</sup> April, 2014, was clear that changes in the benefit regime, for example, would be focused on supporting financial independence, targeting benefits to those most in need, and limiting the impact on individuals. The full plans will be outlined in the Medium Term Financial Plan, including savings and the reprioritisation programme.

Putting Jersey’s public finances on a sustainable basis will allow continued funding of key public services, investment in our infrastructure, and the stability and confidence needed to facilitate future economic growth. This will ensure that Islanders from all walks of life benefit from the decisions we make.

### **3.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING WORLD EMPLOYMENT AND SOCIAL OUTLOOK:**

#### **Question**

Has the Chief Minister read the International Labour Organisation report “World Employment and Social Outlook” which points out that the global shift to insecure jobs (as indicated by temporary, short-term or zero-hours contracts and mock self-employment) since the financial crisis has fuelled growing inequality especially in the UK where salaried work is declining as a proportion of total employment?

What lessons does the Chief Minister believe that the report findings have, if any, for the growth of inequality in the Jersey economy?

In the face of evidence that half of new jobs created in Jersey in recent months are insecure zero- hours employment, does the Chief Minister concur with the report conclusions that insecure employment leads to a “vicious circle of weak demand and slow job creation” and, if so, what measures do he and other Ministers plan to take to prevent this?

#### **Answer**

I have not read the International Labour Organisation report “World Employment and Social Outlook”. For Jersey, however, the Income Distribution Survey is run every five years, as the primary source of information of income equality, and will next report at the end of 2015. Only then will we have an objective measure to track what has happened over the last few years.

We do have, however, an increasingly positive set of economic indicators on earnings, inflation, employment, unemployment, retail sales, and business outlook. These are encouraging figures, which show more people in work, and earnings outstripping inflation.

In particular, employment rose by nearly 2,000 in 2014 to a record high. This included a substantial proportion of zero hour contract staff, and while this is something to be monitored, zero hour contracts are a valid part of a flexible labour market, and have a role to play for both employers and employees.

There is a risk that job insecurity can impact on demand and employment creation but it is not clear that is the situation in Jersey, particularly when employment is rising and unemployment falling. It is pleasing that the ILO refer to the need to stimulate investment opportunities to boost job creation and productivity, as this endorses the approach set out in the Strategic Plan and underpinning the next MTFP.

### **3.5 DEPUTY P.D. McLINTON OF ST. SAVIOUR OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING FINANCIAL SAVINGS:**

#### **Question**

Given that all States departments are being expected to make considerable ongoing savings does PPC consider that such financial savings should also be made in relation to the functioning of the States Assembly and, if so, would PPC consider bringing forward for approval amendments to Standing Orders to limit members to two written questions and two oral questions per sitting of the Assembly?

#### **Answer**

A majority of members of PPC agree that the States Assembly should participate fully in the current initiatives to reduce States expenditure and, although the budget of the States Assembly is set by PPC without interference from the Council of Ministers, PPC has already notified the Minister for Treasury and Resources that it is content to make savings in the Assembly budget that match the percentage reductions being made in ministerial departments. PPC has not yet finalised the precise details of how these savings will be made but is satisfied that it can achieve a total ongoing annual saving of £392,000 by 2019. If the States agree to the filming and web-streaming of the Assembly there will be an additional need for savings to offset that cost as PPC has agreed to absorb the cost of filming within its current cash limits.

PPC does not, however, believe that it would lead to any noticeable financial savings in the Assembly's budget if the number of written questions were restricted to two per member per sitting as suggested by the questioner. In addition PPC considers that questions are an important way for members to hold Ministers and other officeholders to account and the committee has no current plans to amend Standing Orders to change the provisions on the number of questions permitted.

### **3.6 DEPUTY P.D. McLINTON OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING FREEDOM OF INFORMATION REQUESTS:**

#### **Question**

Will the Chief Minister –



- a) provide the total number of Freedom of Information (FOI) requests that have been received to the end of April 2015?
- b) inform members how much has been spent on FOI since the Assembly decided to implement the Law and will he also advise the number and cost of providing answers to FOI requests separately from the public and the media?
- c) state whether departments will be receiving extra resources in the future to deal with FOI requests or whether they will have to divert resources away from providing other services to the public to deal with requests?

**Answer**

- a) 284 FOI requests were received to the end of April 2015.
- b) The spending detailed below does not represent the full cost of FOI. It covers set-up costs, the central FOI team and extra staff employed throughout the organisation to support departments.

The spending does not include the time other departmental staff spend researching and answering the questions. That cost is absorbed into the running of departments as staff do this work alongside business as usual.

**Spending to date**

2012	£22,200	
2013	£111,955	
2014	£1,115,915	
2015 (to April 30)		£489,780
2015 (forecast May 1 to Dec 31)		£1,010,220

**Total projected programme spend £2,825,970**

<b>Requester Type</b>	<b>Percentage of Requests</b>	<b>Number of Requests</b>
Charity	1%	4
Law Firm	1%	3
Media	33%	94
Individual	59%	167
Commercial/Business	6%	16

<b>Total</b>	<b>100%</b>	<b>284</b>
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FOI costs are not tracked by the type of requester, so it is not possible to provide the cost of providing answers for the public as compared to the media.

- c) All FOI funding currently ends at the end of 2015. After that, funding is dependent on proposals in the Medium Term Financial Plan.

Departmental staff will continue to be responsible for researching and answering FOI requests in addition to carrying out their daily duties.

### **3.7 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE DISCRIMINATION (JERSEY) LAW 2013:**

#### **Question**

What plans, if any, are there to introduce 'religion' as a protected characteristic under the Discrimination (Jersey) Law 2013?

#### **Answer**

There are currently no plans to introduce religion as a protected characteristic. The States Assembly committed in 2011 to introducing protection against discrimination on grounds of race, sex, age and disability. The anticipated timetable to introduce these characteristics runs to 2018. The States Assembly may decide that further protected characteristics should be added in the future, subject to financial and manpower resources.

### **3.8 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING BUSINESS TRADING NAMES:**

#### **Question**

Would the Chief Minister set out the requirements that exist for businesses to register the name they are trading under and state who is responsible for policing whether businesses are following those rules?

What penalties are there for businesses which trade under names they have not registered and which purport to be a limited company when they are not?

#### **Answer**

The Registration of Business Names (Jersey) Law 1956 sets out the requirements for businesses to register the names they are trading under.

Article 2(1) of the Registration of Business Names Law states that the Registrar of Business Names is the Registrar of Companies, appointed pursuant to Article 196 of the Companies (Jersey) Law

1991, namely an officer appointed by the Jersey Financial Services Commission. The current Registrar is the Director General of the Jersey Financial Services Commission.

Article 9 of the Registration of Business Names Law deals with penalties for default in registrations.

If any insular authority, such as the Registrar of Business Names, were made aware of an allegation that the Registration of Business Names Law was being infringed, the matter would be referred to the police for investigation and to the Attorney General for potential prosecution. Prosecution would not necessarily be limited to those actions falling under the Registration of Business Names Law, as using a misleading business name with the requisite intent could amount to fraud.

In addition to the requirements under the Registration of Business Names Law, there are a number of licensing requirements in the Control of Housing and Work (Jersey) Law 2012 (the “CHWL”) that are likely to be relevant to any business operating in Jersey. Licenses under the CHWL are issued by the Population Office and if someone were carrying on an undertaking without an appropriate license, the Population Office may serve a notice to cease operation. If the notice were not complied with, the Population office would apply to the Royal Court for an Order requiring the person to cease the illegal undertaking.

### **3.9 DEPUTY S.Y. MÉZEC OF ST. HELIER OF THE CHIEF MINISTER REGARDING PUBLIC SECTOR VOLUNTARY REDUNDANCY:**

#### **Question**

What information, if any, is being given to public sector workers about their entitlement to Income Support if they take up voluntary redundancy under the scheme recently announced?

#### **Answer**

Social Security has provided guidance on voluntary redundancy and income support. This information was included in the information on the voluntary redundancy scheme which was made available to States employees on June 1<sup>st</sup> 2015. The details can be found on gov.je.

Social Security has also offered to meet individuals on a one to one basis to discuss the personal implications of accepting redundancy.

### **3.10 SENATOR Z.A. CAMERON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING INVESTIGATIONS IN TO GENERAL PRACTITIONERS:**

#### **Question**

- a) Would the Minister state how much money has been spent on the 46 investigations into general practitioners undertaken by the Primary care governance team and Wessex?
- b) Were any patient safety issues found that necessitated subsequent disciplinary action?

#### **Answer**

**a) Would the Minister state how much money has been spent on the 46 investigations into general practitioners undertaken by the Primary care governance team and Wessex?**

The investigation of complaints is one component of the Primary Care Governance Team's role and responsibilities. The team provides the clinical and corporate governance framework for primary care and, as well as dealing with complaints, supports GPs and practices in delivering high quality care to patients.

Investigations account for a relatively small part of the team's overall workload. Therefore it is not possible to quantify how much of the team's time is taken up with this one aspect, and to say how much of the team's overall budget of around £310,000 in 2014 is accounted for by this one area. The Primary Care Governance Team is funded through the Health Insurance Fund as agreed by the States when the primary care governance arrangements were established.

All complaints are considered carefully, whether or not a formal investigation takes place. Whilst it is clearly important to ensure that the costs of any investigation are managed carefully, the main concern is to ensure the standards and the quality of primary care are assured and that patients in Jersey can have the confidence that GPs are up-to-date and fit to practise.

**b) Were any patient safety issues found that necessitated subsequent disciplinary action?**

To safeguard the confidentiality of both the patient and the GP, the results of investigations are not made public.

Since the Primary Care Governance Team's inception, the Medical Director has required doctors to address issues that have arisen out of investigations. These actions are usually agreed informally, although undertakings may be required from the doctor. This has occurred on one occasion.

Whilst the Medical Director, in consultation with appropriate experts and regulatory authorities, has the power to suspend or restrict the practice of a GP, these formal powers have not proved necessary in Jersey. Rather it has been the case that GPs readily seek to improve the quality of their practise and engage with educational plans.

**3.11 DEPUTY M. TADIER OF ST. BRELADE OF THE CHAIRMAN OF PRIVILEGES AND PROCEDURES REGARDING ADMINISTRATIVE SUPPORT FOR ELECTED MEMBERS:**

**Question**

Will the Chairman provide a comparison of secretarial, administrative support and office accommodation that is made available to other Commonwealth parliamentarians and, if this information is not readily available, undertake to undertake some research in this regard and report back to the Assembly to ensure that Jersey is providing optimal support for its elected representatives to carry out their work most effectively in the public interest?

**Answer**

PPC as currently constituted, or as previously constituted, has not to date undertaken any comparative survey of the facilities available for members in Jersey against those available to members in other Commonwealth parliaments. PPC did however undertake a comprehensive survey of States members in

2009 to ascertain members' views on improving facilities but the percentage of respondents who considered that improvements were needed was relatively small. Only 26% of respondents thought that a library with no staffing should be established and the same percentage thought that researchers and/or a research budget should be available to States members. Only 18% of respondents thought that a library with staff should be created. In light of the survey results no significant changes to the facilities for members were proposed by PPC at the time.

PPC has not discussed the request made by the questioner and I have therefore asked for this matter to be included on our next agenda so that PPC can decide whether it would be worthwhile to undertake the study requested by the questioner.

### **3.12 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING HERBICIDE PRODUCTS:**

#### **Question**

Will the Minister confirm the legal status of herbicide products containing glyphosphate and state whether he has information on how much of it is sold and used in Jersey and whether he accepts research that suggests 'it is probably carcinogenic to humans'?

Will the Minister inform members if there are any plans to ban or mitigate its use and availability in Jersey?

#### **Answer**

The storage, sale, supply and use of pesticides in Jersey is regulated and controlled by the Pesticides (Jersey) Law 1991 (the Law).

The Law permits the use of a list of 'approved' herbicides and pesticide products. This list mirrors the list of approved products compiled by the UK Chemicals Regulation Directorate (CRD) in the Pesticides Register of UK Authorised Products.

The replication of the UK CRD list in the Island's legislation, means that products that have been revoked or introduced in the UK can be quickly updated in Jersey. The island also benefits from the in-depth research that is required to keep the list current and safe for the environment and human health.

When referring to glyphosphate in his question I am assuming the Deputy means glyphosate. The herbicide Glyphosate is the active ingredient in a range of agricultural (professional) and domestic (amateur) herbicides. It is listed in the UK CRD and hence has approval for use in Jersey.

Glyphosate was contained in nine separate commercial herbicide products that were imported through the merchants in 2013. In this year, records show that the total volume of product containing of glyphosate was 3,300 litres. The products were mainly used by commercial growers to control the growth of weeds. All commercial users are trained and hold certificates in the safe use of herbicides. The above figures exclude amateur or domestic products.

The International Agency for Research (IARC) on Cancer have classified glyphosate as 'probably carcinogenic to humans'. Officers from Public Health concur with the classification and conclusions of the IARC.

Glyphosate remains as an approved product on the UK CRD list. It is not anticipated that the Minister will remove glyphosate independently of a decision by the UK at this stage.

#### **4. Oral Questions**

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

I wonder if before we do that, I have just seen a message from Deputy Higgins who has informed me that he is currently malade, and I wonder if I could take that and amend the record.

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

Deputy Higgins is entered as malade.

[9:45]

##### **4.1 Connétable C.H. Taylor of St. John of the Chief Minister regarding the United Kingdom referendum on membership of the European union:**

Could the Chief Minister confirm what, if any, consideration has been given to ascertaining whether Jersey citizens will be able to vote in the forthcoming referendum in the United Kingdom on membership of the European Union?

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

Yes, consideration has been given to this issue; however, although our interests are clearly affected by the outcome of the referendum, I do not believe it is constitutionally appropriate for Jersey as a jurisdiction to take part in the forthcoming United Kingdom referendum on their membership of the E.U. (European Union).

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

Has the Chief Minister liaised with other Crown Dependencies and are we unified in our approach to this question?

##### **Senator I.J. Gorst:**

I am informed that we are.

##### **4.1.2 Deputy S.Y. Mézec of St. Helier:**

Given the Chief Minister's answer in which he accepts that this is something important for the Island, does the Chief Minister consider that there is a democratic deficit with regards to Islanders' relationship with the E.U. and would he think that it would be appropriate to look at changing that constitutional relationship in future?

##### **Senator I.J. Gorst:**

I do not see the democratic deficit with regard to our relationship to the E.U. It is the current Government's policy not to seek to change our relationship either with the United Kingdom or with the E.U. Our relationship with the E.U. is governed by Protocol 3 but of course we put a lot of work into our relationship more broadly with the E.U. where they treat us as third countries and we have to show equivalence for all sorts of pieces of directive and legislation. We are not members of the E.U., unlike Gibraltar who will be taking part in the referendum because they are members of the E.U. There would be a democratic deficit if we were to vote on whether the U.K. (United Kingdom), who are members of the E.U. when we are not, telling them what they should do.

##### **4.2 Deputy J.A.N. Le Fondré of St. Lawrence of the Chief Minister regarding the Dame Heather Steel report:**

Could the Chief Minister provide an update as to when the Dame Heather Steel report will be released?

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

In the terms of reference for the Steel report, the Bishop of Winchester undertook to supply a copy, when he received the report, to the Bailiff, the Dean and the United Kingdom Ministry of Justice. Terms of reference also provided that the report or a summary of its findings would be published. The Bishop of Winchester has not yet supplied the Steel report to the Bailiff, Dean or the U.K. Ministry of Justice so it has not yet been published in summary or redacted form. I will say, however, that I am greatly disappointed that this matter has not been brought to a swift conclusion. [Approbation]

**4.2.1 Deputy J.A.N. Le Fondré:**

Just for the record, could the Minister confirm that the Bishop has received the report?

**Senator I.J. Gorst:**

As far as I am aware that is the case.

**4.2.2 Deputy J.A.N. Le Fondré:**

For the purposes of fairness to everyone who has been involved, does he think that the report should be released as soon as possible and what measures is he going to take from now, within his powers, to secure the release without further significant delay?

**Senator I.J. Gorst:**

I am not sure that it is in my power to force the Bishop of Winchester to release the report or I do not believe that there are necessarily mechanisms in place. I would have thought that the undertaking in the terms of reference and verbal conversations that I have had with the Bishop of Winchester previously, not necessarily about this report, about openness and transparency, making sure that the way that the church was acting was shown to be open and transparent and was shown to be undertaken in a timely manner would indicate that the Bishop is going to comply, I hope now speedily, with the terms of reference in that report. I should say this is not the only report. We of course then wait for the publication of the Gladwin Visitation report. Once those 2 reports have been published I understand that the Archbishop of Canterbury himself will then be setting up another commission to come and look at the relationship with the church, so this is part of a process and it needs to be got on with as swiftly as possible, and the undertakings in the terms of reference ought to be met as soon as possible.

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

Given that neither of the 2 main witnesses, the church warden or the complainant, HG, were called as witnesses to give evidence or gave evidence, does the Chief Minister agree that the report cannot be said to be a full account of what happened and is itself therefore discredited?

**Senator I.J. Gorst:**

I have not seen the report. I have not been part of the methodology used in the report. The report was commissioned by the Bishop of Winchester in an independent process, so I have got no grounds to accept the comments that the Deputy is making.

**4.2.4 Deputy M. Tadier:**

Does the Chief Minister agree that generally, in the sense of natural justice, one would have expected in an investigation which was looking into abuse of a vulnerable person by the church in Jersey, one would expect both the alleged abuser and the abused person to have been called to give evidence and where that evidence has not been given the report at least must be said to be faulty.

**Senator I.J. Gorst:**

The Deputy seems to be drawing conclusions prior to the publication of the report. I am surprised to hear he does know what is in the report. I suspect he does not. The previous report written by Jan Korris was published, as I understand it, almost instantly that the Bishop received it. That set off a process. That report made claims and accusations that need to be appropriately addressed. I hope that the Steel report, followed by the Gladwin report, is going to address those issues so that the church and the community in Jersey can move forward.

**The Bailiff:**

Deputy, your question contains a statement which arguably could be criticised for misinformation. My understanding had been that the report was not into whether abuse had taken place but into the processes of the church in relation to the question, which is a different issue. It might not be necessary when looking at the processes of the church to ask the original complainant to give evidence. Is that a shared impression that you have? If so your question does not seem to be quite appropriate.

**Deputy M. Tadier:**

I am sure your intervention will be of interest but my point is that in the global context it is as a result of alleged abuse that had happened in the church, so globally I think the points are valid.

**4.2.5 Connétable J.M. Refault of St. Peter:**

I would just like to ask the Chief Minister that given the concern shown by Members here this morning raised by this question, the ongoing concern within the community of Jersey, and particularly within the church community of Jersey, and also in part of the church community within the United Kingdom, there is ongoing concern about the lack of this report being aired and is leaving Jersey still impugned in some regards with regard to the lack of the detail coming out. I would ask the Chief Minister: is he prepared to commit to use his best efforts to try and bring this matter to a conclusion?

**Senator I.J. Gorst:**

I am not the only one who is dedicating to endeavour that the terms of reference are adhered to in the way that was initially understood. I understand that at the heart of these reports are a vulnerable individual and their concerns must always be thought of, and the concerns remain. But the continuing lack of release, a lack of movement, is not helping, I do not believe, anyone or the church importantly, because it is not just about individuals, and ultimately therefore our community to move forward. These reports must be released so that we can all, if we need to, learn. If apologies need to be given they can be given so that we can all move forward.

**The Bailiff:**

We come to question 3 which Deputy Mézec will ask of the Minister for External Relations. Chief Minister.

**Deputy S.Y. Mézec:**

I did want to ask this to the Minister for External Relations not the Chief Minister so I would like to withdraw it then.

**Deputy M. Tadier:**

Can I ask on a point of order again? When did we know that the Minister for External Relations would not be here for question time because if we do know these things in advance we should not be able to put questions to a Minister who we know is going to be absent? It happened last time with a different Minister [**Aside**] ... same Minister in fact and it is courteous for Members to be able to know in advance.



**Senator I.J. Gorst:**

My experience is it is a jolly good bet that the Minister for External Relations might be out of the Island and not necessarily in the Assembly. I think I am right in saying that the duties of the External Relations Ministry are undertaken concurrently with the Chief Minister and therefore it should not matter whether it is myself or the Minister concerned answering the question. But I appreciate the concerns of the 2 Deputies. I understand that there is a protocol in Standing Orders that when those asking questions make it explicit that they would like to ask the question of the Minister then that question may need to be rearranged accordingly.

**The Bailiff:**

Greffier, was that notice given in this case? Deputy, on another occasion if you wish a particular Minister to answer the question then may I suggest that you give the Greffier notice. It is more difficult in the context of external relations because the States of Jersey Law does indeed provide that the Chief Minister has the responsibility for external relations as well.

**4.3 Deputy R. Labey of St. Helier of the Minister for Economic Development regarding the Condor Liberation:**

Would the Minister advise Members what advice the Economic Development Department received in relation to the suitability of Condor Liberation for cross-Channel ferry operations and, in particular, detail what advice was received on the vessel's seaworthiness and unique design and indicate who provided that advice?

**Senator L.J. Farnham (The Minister for Economic Development):**

I think I would have preferred to stay en défaut for a few minutes longer. The Economic Development involvement through the Harbourmaster and Maritime Administration was to supervise but not to approve the company's introduction into service, including ensuring the various certification and safety provisions conducted by U.K. Maritime and Coastal Agency, as well as the registering authority in the Bahamas, and the professional classification society were carried out. It is the responsibility of the operator to obtain these certifications and without them they would be unable to trade commercially. Maritime authorities in the Channel Islands, U.K. and France are satisfied that due diligence has been taken by Condor Ferries and that all appropriate certification was in place prior to introduction into service. This certification will be regularly reviewed by the flag state in the Bahamas and if required can be inspected at any time by the relevant port authorities. Furthermore, as has been widely reported in recent days, the States of Jersey and Guernsey together with Condor Ferries have commissioned an independent report to confirm the sustainability and review the performance of Condor Liberation. The combination of the berthing incident, disappointing reliability and punctuality, together with some uncomfortable crossings have led to a raft of ill-informed and inaccurate comments which has undermined the confidence of some Islanders in the Condor Liberation. We want to draw a line under this speculation which is causing untold damage to the reputation of both the company and our tourism offering. Further details of this report, which will be funded by Condor Ferries, including the name of the independent body that will carry it out, will be finalised over the next few weeks and Members will receive from me later today a full letter of update on the Condor position.

**4.3.1 Deputy R. Labey:**

Most of the criticisms are not ill-informed speculation. They are fact, as perceived by ferry passengers, and I would invite the Minister to withdraw that. Some of these passengers are marine architects, naval engineers, one I read in the Guernsey press was a Royal Navy sailor with 35 years'

experience on the high seas, 50 foot waves in the South Atlantic and never had seasickness until he travelled on the Liberation.

[10:00]

Does the Minister not accept that most of these complaints are legitimate and wholly justified and very damaging when they appear in TripAdvisor?

**Senator L.J. Farnham:**

No, I will not withdraw it and I do not agree with all of the reviews on TripAdvisor. I think we must separate safety from the comfort of a ride. Now the sea is a very unpredictable place to be. Many Members here have enjoyed a very pleasant crossing in the bar ... I mean on the Liberation from Guernsey to Jersey while we had flat seas then. The Channel is a notoriously challenging stretch of water and different ships have different characteristics. Now there have been some scurrilous and unsubstantiated scaremongering in my opinion on the safety of the vessel. I am not confusing that with discomfort. Of course we listen very carefully to those passengers who have suffered discomfort and we are putting pressure on Condor to investigate that, look into the characteristics of the ship to see if they can improve that. But I stand by my comments that there have been some scurrilous and inaccurate reviews on the ship's safety.

**4.3.2 Deputy M. Tadier:**

It sounds almost like the Minister is acting as a rapporteur for Condor rather than necessarily in the public interests which he should normally be doing. He has told us lots about the scurrilous rumours that have been going on about Condor but perhaps could he elucidate us on the concerns that he thinks are valid and which do need to be addressed by Condor on their new boat and which of the comments are factual and need addressing?

**Senator L.J. Farnham:**

I work in the best interests of this Island and the people of this Island, and our tourism industry and our economy. That is certainly not best served by pedalling ill-informed rumours about the safety of a ship. Condor provides a lifeline service in freight and they have maintained those schedules well during this difficult period and my department, together with my counterpart, my colleagues in Guernsey, the Minister for Commerce and Employment, the External Transport Group based in Guernsey, the Ferry Services Steering Group over here, are regularly holding Condor to account. We are meeting with them again at the end of next week in a joint Channel Islands session and the pressure is on for them to sort out the problems that they do have, which relate to customer service communication and understanding the discomfort of some passengers on the ship. But I am acting in all of our best interests.

**4.3.3 Deputy R. Labey:**

An independent review or inquiry has to be seen to be independent. If it is being paid for by Condor and Condor are appointing the board, the panel, the reviewers, does that look independent?

**Senator L.J. Farnham:**

Just to be clear, I do cover this point in the letter I am going to send to States Members later. The naval architects who will carry out the review will be appointed by the External Transport Group and the Ferry Services Steering Group and Condor will pay for it.

**4.4 Deputy M. Tadier of the Minister for Treasury and Resources regarding the disused Fort Regent swimming pool:**

Will the Minister state whether there has been any consideration given, or any approaches made, with a view to making the disused swimming pool area at Fort Regent into a temporary skate park; if not, why not and, if so, will the Minister give details?

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

If I may, I would ask my Assistant Minister, Deputy Noel, to take this question. He has responsibility for the area.

**Deputy M. Tadier**

I do normally ask for the Minister for Treasury and Resources to answer the questions, and that is a standing position, but clearly for expedience in this case I will make an exception.

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

That is very kind of Deputy Tadier but I do believe that he is misinformed that it is a standing request.

**Deputy M. Tadier:**

I have the email. I am not misinforming anyone. I can dig the emails out and circulate them. But, as I have said, for expedience I am happy for the Assistant Minister who was not elected by this Assembly to do the job of the Minister for Treasury and Resources to answer that question under delegated responsibilities.

**Deputy E.J. Noel:**

There has been no recent consideration given or approaches made with regard to making the disused swimming pool area at Fort Regent into a temporary skate park. The disused pool area is in a significant state of disrepair and is awaiting demolition. The building is boarded up to keep it safe and secure and, as such, it is not appropriate for temporary use of any sort. Any proposals for the redevelopment of the pool for demolition and alternative use will require a planning application that details an alternative use. The Rediscovering Fort Regent project has proposed a provision of permanent beginner, intermediate and advanced skateboarding areas as part of the team/extreme sports zone to the northern end of the Fort site. This proposal is to be sited at the Snow Hill end and linked into the improved access from Snow Hill itself.

**4.4.1 Deputy M. Tadier:**

I thank the Minister for that information. I think that last bit of information will be positive to those who have an interest in those kind of extreme sports. Can the Minister perhaps give more detail on the planned timescale for the demolition of the swimming pool site at Fort Regent?

**Deputy E.J. Noel:**

The only indication I can give is that it would have to be part of ... we have taken advice on this, it would have to be part of a planning application to do so which serves up an alternative use and the alternative use would have to be funded. We are still working on that and it will be subject to funding it in the next M.T.F.P. (Medium-Term Financial Plan) and the following M.T.F.P. of the phasing of the redevelopment of Fort Regent.

**4.5 Senator Z.A. Cameron of the Minister for Health and Social Services regarding complaints investigated by the Primary Care Governance Team:**

Had any of the G.P.s (general practitioners) investigated by the Primary Care Governance Team raised concerns about the management of patients by the department prior to receiving a complaint made against them by an employee from the Health and Social Services Department?

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

The simple and short answer is yes, but importantly the 2 are not linked, as the Senator may be implying. The second action was not prompted by the first. Put simply, the complaint from the employee about the G.P. was not because the G.P. had raised concerns about the management of patients. Clearly I cannot go into more detail because of patients' confidentiality. But I would like to remind Members that the Primary Care Governance Team is duty bound, as one would expect, to investigate all complaints.

**4.5.1 Senator Z.A. Cameron:**

Disciplinary action and investigation of doctors in the U.K. recently has been reported to lead to burnout, poor mental health, even suicide, reduction in productivity, and emigration that used to work in Jersey's favour. Is the Minister concerned that the threat of subsequent investigation by the department might deter doctors from raising patients' safety concerns in the future?

**Senator A.K.F. Green:**

First of all, I am not the Minister responsible for disciplinary action of G.P.s in the U.K. I am the Minister for Health and Social Services for Jersey. So far no disciplinary action has been taken against any G.P. The findings of the investigations and complaints that have been investigated, the findings have resulted in agreeing action plans appropriately with the G.P. and ensuring that there is perhaps training or change in behaviour.

**4.5.2 Senator Z.A. Cameron:**

We can however learn from the U.K. experience, and would he plan therefore to ensure that recommendations from the findings from the U.K., such as the Hooper review, be implemented to ensure patient safety is protected in Jersey?

**Senator A.K.F. Green:**

The whole point of having a P.C.G.T. (Primary Care Governance Team) group is exactly that we protect patients, and patients in Jersey are generally very pleased with their G.P. service. We have generally an excellent G.P. service but they must have the right, when they have exhausted the complaints procedure through their own G.P. practice, to take it somewhere, have it properly investigated. This is about learning together. The Senator is paranoid that people seem to want to go out and discipline people. It is about learning and improving services.

**The Bailiff:**

Minister, G.P. I think is an abbreviation with which we are all familiar. P.C.T.G.?

**Senator A.K.F. Green:**

The performance list regulations health insurance for general medical practitioners.

**The Bailiff:**

Very well. That might come as a surprise to some. Any other questions?

**4.5.3 Senator Z.A. Cameron:**

There have been 46 investigations already and I just wondered how that compared to similar places elsewhere and whether he would look into this?

**Senator A.K.F. Green:**

I am advised that we compare very well with the jurisdictions elsewhere and that there was no need for concern; that 46 is on the lower side of investigations for this size of population.

**4.6 Deputy L.M.C. Doublet of St. Saviour of the Minister for Treasury and Resources regarding possible future uses for the current Police Headquarters site at Rouge Bouillon:**

Can the Minister advise whether any discussions have been held and/or decisions taken place regarding possible future uses for the current Police Headquarters site at Rouge Bouillon and give details of these, given the forthcoming relocation of Police Headquarters to Green Street?

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

This is another matter that I am going to pass to my Assistant Minister although I will reassure Members they are going to hear far too much from me later on today.

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

The relocation of the police station and headquarters to Green Street releases a considerable amount of land on the site of the former Summerland factory, Broadcasting House and Thorpe House to go with part of the current Police H.Q. (Headquarters) and Fire Service site on Rouge Bouillon in early 2017. The former Summerland factory, Broadcasting House and Thorpe House site, together with the current Ambulance Station site, has been identified for affordable housing. Consideration of the 2 outlining planning applications for 152 properties on these 2 sites is pending completion, subject to the conclusion of a planning obligation agreement. It is proposed that the sites (when both are vacated) will be transferred to Andium Homes to prepare a detailed planning application and to develop out. A feasibility study will be undertaken this year to develop proposals for the co-location of the Fire and Ambulance Service on the current Police H.Q. and Fire Service site to provide a combined facility. However, capital funding to co-locate the fire and ambulance services is currently not proposed in the next Medium-Term Financial Plan. Funds are being sought to demolish the existing Police buildings and consideration has been given to using part of the site for a temporary car park.

**4.6.1 Deputy L.M.C. Doublet:**

Will any consideration be given to the adjacent primary school - Rouge Bouillon Primary School - given that this is a crowded town school with limited outside space, to some of that land on one of those sites being given to the school - to the Education Department - so that the children can have a playing field and some extra outside learning space?

**Deputy E.J. Noel:**

Naturally we will be working in conjunction with both Andium Homes, who has an adjacent usage of the site, and also the Education Department to do exactly that to see what improvements can be made to the location. But in the short term we would like to utilise that site for a short-term car park for both residents in the area and for commuters coming down Queens Road.

**4.6.2 Deputy J.A. Martin of St. Helier:**

The Assistant Minister said in his original answer the sites will be developed for affordable housing, and then he next said "will be turned over to Andium Homes". So will they be social rented or will they be first-time buyer or will there be a mix? Has this been thought through yet?

**Deputy E.J. Noel:**

I do not believe any final decisions have been made on the mix for the site but it consists of 80 apartments and 7 townhouses on the Summerland site and 65 apartments on the Ambulance site, so there is opportunity there to maybe have some mixed tenure or mixed use of affordable housing.

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

This is an ideal opportunity for the Ministers to demonstrate their commitment to the new regard for St. Helier in creating some extra space along with some extra housing. Will the Assistant Minister assure Members that he will be giving his and his Ministers full weight behind initiatives to create some additional space for children in this particular area?

#### **Deputy E.J. Noel:**

I am happy to give a commitment that we will be trying to create additional space for all Islanders, and particularly the residents of that area, to have additional space. That includes the children. That includes the elderly of the area. It includes the entire population of that part of Rouge Bouillon.

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

But will he be committing himself and his Minister to putting his weight behind this area as an exemplar in the earliest possible terms?

[10:15]

#### **Deputy E.J. Noel:**

I am happy to do that, not just for this particular site but throughout St. Helier. That is our fourth priority in the Strategic Plan. It is not just this area specifically. That weight will be spread throughout the whole of the town.

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

The Minister I think also said ... well, I am saying, does this all depend on the development for housing and possibly hopefully extra space for Rouge Bouillon School and people in the area? The Minister said there is no capital money for the combination of the Ambulance and Fire. How long does he think ... because I think this is a lynch pin. Will this hold this scheme up and if so how long does he envisage this to be?

#### **Deputy E.J. Noel:**

Currently there are no plans for any capital funding in the next M.T.F.P. which takes us up to the end of 2019, which it is envisaged that it will be funded in the following M.T.F.P. 3, and therefore the remainder of the site will be built out.

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

So can he just confirm that the housing project that he has just outlined will not be held up for the capital projects of the Ambulance and the Fire Station?

#### **Deputy E.J. Noel:**

The housing project can only start when both sites have been vacated.

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

The obvious question is when is that likely to be? Just to confirm, did we say 2020?

#### **Deputy E.J. Noel:**

I am informed that both sites will be available in the early part of 2017.

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

I think the question is will there be money available in 2017? So in reality what is the earliest point that we can expect to see (a) homes starting to be built, and (b) homes being moved into on those sites?

#### **Deputy E.J. Noel:**

That is really a detailed matter for consideration by Andium as to how they build up the site. The Summerland site combined with Thorpe House, *et cetera*, excluding the Ambulance site, could be commenced prior to the Ambulance Station moving. But that is really a question for Andium as a developer, how they would develop out the site.

#### **4.6.9 Deputy L.M.C. Doublet:**

Will the Minister perhaps talk with the Rouge Bouillon School, given that it is going to be used as a car park in the meantime, there might be some other ideas that the school might have, given how creative teachers and head teachers are in using space for children? They might have some ideas that do not cost anything that they could use that land, maybe as well as a car park or instead of.

#### **Deputy E.J. Noel:**

We have a joined-up government and of course naturally we will be - Property Holdings hopefully then combined with T.T.S. (Transport and Technical Services) - liaising directly with the Education Department to seek out the best usage of that site both in the short term and in the longer term.

#### **4.7 Deputy G.P. Southern of the Chief Minister regarding the provision of a BNP Paribas appraisal to the Corporate Services Scrutiny Panel:**

Having read the response from the Chief Minister to my written question 8816, I wish to apologise to the Minister for my enthusiasm in chasing this particular topic. I appear to have breached confidentiality because the document I refer to contains material that the Chief Minister has not had permission to put in the public domain, and so I wish to apologise to him and to my chairman for breaching confidentiality and withdraw this question.

#### **Senator I.J. Gorst:**

Could I thank the Deputy for those comments, for his apology, and for the withdrawal of the question? It is greatly appreciated.

#### **4.8 Deputy J.A.N. Le Fondré of the Minister for Treasury and Resources regarding the provision of a BNP Paribas appraisal to the Corporate Services Scrutiny Panel:**

Could I just say in asking the question that the position has improved since the question was lodged but it is still partially relevant but obviously because of the nature of things I have got to ask the question as lodged. The question as lodged was: why has the Minister not complied with his spoken undertaking to the States Assembly and his written undertaking to the Corporate Services Scrutiny Panel that the panel would receive an unredacted copy of the BNP Paribas appraisal under the confidentiality terms laid out in his letter of 28th April and to which the panel readily, and expeditiously, agreed? I would just note that essentially there is still an element of data that was previously requested that is still outstanding.

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

The BNP Paribas report included a confidentiality clause that requires the specific permission of BNP Paribas for the report to be released. BNP agreed for the report to be released to the

Corporate Services Scrutiny Panel provided the panel signed a non-disclosure agreement, an N.D.A. At a public hearing on 15th May 2015, I confirmed that I would release the report provided the panel signed this N.D.A. The States of Jersey Development Company provided an N.D.A. for the panel to sign which it refused to do so. The panel subsequently provided its own draft of an N.D.A. that was unenforceable. S.o.J.D.C. (States of Jersey Development Company) has met with the panel and had a second version of the N.D.A. that it hoped would be more acceptable. The panel unfortunately refused to read the revised version stating that as a parliamentary body it did not have to sign an N.D.A. I have made it clear that I would be happy to release this document, which is not our document, it is a document that was provided by S.o.J.D.C., commissioned by them, provided an N.D.A. was signed by the panel, specifically because of the involvement of a third party. However, I am, as the panel chairman has said, pleased to say that the panel signed the N.D.A. yesterday and the report was duly delivered and the panel now have it.

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

Two part question. Firstly, could the Minister clarify approximately when his department received the BNP appraisal in an unredacted form? Secondly, when will the Minister complete the outstanding element of the information that we have requested and can it be within the next 2 days?

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

As far as I am aware the department received a copy of the report ... the Treasurer received a copy of the report in February of this year. I am not sure what additional information the chairman is referring to. Perhaps he could allude to that. I am obviously always very happy to co-operate as much as possible but I am not aware of what is outstanding.

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

If I can come in. We are just waiting for some assumptions that were requested which are associated with the report.

#### **The Bailiff:**

Are you able to answer?

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

I will have a look at that and providing it is possible to supply those, I assume under a similar arrangement with an N.D.A., then they will be supplied. If there is any variation to that I will let the chairman know straightaway.

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

As you received the unredacted report in February why was there such a delay in delivering it to the panel?

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

For the reasons that I have already stated. There was an N.D.A. There was a requirement because of confidential data within the report for that to be signed. As I have pointed out, it is not actually our report. It is a report that was commissioned by the States of Jersey Development Company and involves a third party.

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

The request for a non-disclosure document to be signed by members of the panel was advised against because it was setting a precedent for other panels. We were more than willing to sign and agree to the process that is laid down within this Assembly and within the Scrutiny process. We were being asked to be personally liable and go beyond what is accepted and the advice we



received from the States Greffier was that we should not proceed on that basis. Can you confirm that ultimately what was provided was provided under the normal procedures that panels abide by?

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

The Constable raises a very important point. Yes, the N.D.A. that was provided was a particularly tight, commercial N.D.A. to protect commercially sensitive information. The reason for that, it happens typically in the commercial world, is for the reasons stated: to ensure that that sensitive information does not get into the wrong hands and would therefore, if it had, disadvantaged significantly S.o.J.D.C., which is a company, as Members know, that the public of Jersey own. That was a very difficult balance that I had to strike. With regard to the revised version of the N.D.A., that was watered-down to try and accommodate some of the concerns about personal liability. I accept that that was probably a bridge too far. There have been N.D.A.s signed in the past. At the time the McKinsey work was carried out an N.D.A. was signed by the then Scrutiny Panel and the sensitivity with S.o.J.D.C. is that some of that sensitive information about our critically important financial services industry found its way into the public domain, and that is why there has been so much sensitivity. I am pleased to say that there is not ... although the panel have now signed the N.D.A. that they have it is not necessarily as watertight, certainly as I would like to see it, or indeed S.o.J.D.C. would like, for the protection of all parties and I think this is a matter that needs to be taken up. I would add - I realise this is a long answer - that there is a code between the Council of Minister and Scrutiny which is still yet to be signed and a matter such as dealing with confidential issues and N.D.A.s is something that absolutely must be clarified. We cannot go on like this. The time to deliver this was too long. I want to help Scrutiny. I will do everything I can but there are commercially sensitive issues here and we need to be able to manage this better.

**4.8.5 Deputy M. Tadier:**

I do not know if I am the only one outraged to hear even that it was suggested that parliamentarians who are doing a Scrutiny function, a job and a function of this Assembly in the public interest, were even asked to be made personally liable for their States work. It drives a horse and carriage through the long-founded democratic principles of parliamentary privilege. That in itself should be shocking to most Members and indeed the public. Does the Minister acknowledge that this is one of the problems about the States getting involved in speculation, which is normally done by the private sector, especially when there are tensions because Government is supposed to be accountable yet commercial sensitivity dictates the need for the opposite of that? Will the Minister perhaps answer whether he is comfortable, even with a quango being set up, which appears to be increasingly politically unaccountable to the Assembly and the public about the problems of this mechanism?

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

As I think I have alluded to, there is clearly a concern around the passing of confidential data between third parties, external bodies that are owned by the States, and Scrutiny Panels or other areas of government for that matter that have a legitimate role to play. I would just pick up a point the Deputy made, and that was around speculation. This is not speculation. There is risk involved, as I have made clear with regard to the Jersey International Finance Centre. Of course any form of activity virtually has some form of risk but what this Assembly sought to do at the time that it set up S.o.J.D.C. was to mitigate that risk. I am sure later today we will go into a lot more around the ways in which that has been achieved. Risk has been mitigated but we do, as I said before, need to have an effective and clear mechanism between the Executive and Scrutiny as to how to deal with confidential measures. It is not appropriate that we are batting backwards and forwards trying to agree the appropriate and effective wording for protecting confidential data in this way.

**4.8.6 Deputy M. Tadier:**

But will the Minister acknowledge that there is a democratic deficit when we have instances like this where there are long delays with parliamentarians trying to do their job in Scrutiny and we also have an S.o.J.D.C., a States set-up body, which refuses to abide by undertakings given by former Ministers for Treasury and Resources in this Assembly when those policies have not been changed? We have a completely unaccountable S.o.J.D.C. and will he take them to task? If not, will he ultimately take political responsibility for these failing policies?

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

I do not quite understand where Deputy Tadier draws his conclusions from? S.o.J.D.C. are not acting against the requests and directions of either the Minister for Treasury and Resources or this Assembly for that matter, which gave clear directions. I have dealt in the past, in recent times in fact, with the comments relating to 200,000 square feet of the International Finance Centre and comments made by my predecessor in that regard. I think unfortunately the Senator made a mistake when he made a comment. He was being heavily questioned at the time and he made a comment that was outdated and related to the Harcourt development some years before that. It has since been clarified indeed in this Assembly with the approval in 2010 of P.73 which made it absolutely clear there was a change and indeed a change to the phasing of the development itself, which was introduced by the Minister for Planning and Environment at the time in 2011.

[10:30]

This is now a phased approach and 200,000 square feet is historic. I regret, as I am sure my predecessor did, that unfortunately he made a comment in this Assembly which some have been grasping hold of. It was a mistake.

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

Since receiving the BNP Paribas report in February has the Minister taken any appropriately qualified independent advice, other than that received from S.o.J.D.C., in order to have carried out due diligence in assessing the BNP Paribas appraisal upon which he has set so much store as to the returns to be generated by the Jersey International Finance Centre?

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

First of all, I would say that I would not describe it as the fact that I have set out so much store on the value of the return based on the BNP report. The BNP report is a development appraisal. It was commissioned by S.o.J.D.C. at the direction of their board, who are highly experienced in property development, to look at the development, to look at the first phase. That is the 6 buildings on the car park. That appraisal came up with a very positive outcome. However it was done at the request of S.o.J.D.C. It is useful and the board certainly found it valuable. It is not for me to second guess as to whether it is right necessarily or wrong. It has been assessed internally. We have had a look internally at it and officers have advised. But I think the most important factor, certainly with regard to mitigating risk on the Jersey International Finance Centre development, it is about the fact that it is a phased approach now, building 4 has been approved, as Members know, as well as a couple of other buildings through the planning process. Most importantly, a lease has now been signed - a legally binding lease - and in order for the funding ... S.o.J.D.C. are an independent company. They have to go for bank funding. There is absolutely no public money at risk here. If I can just emphasise that point: they have gone for bank funding and the bank are securing their loan on that particular building. I have to say they have been quite naturally doing their own due diligence. They have carried out their own independent valuation, which I understand is a Red Book valuation, which great store is held in, and that valuation has shown, even if no further tenants are found, this building is worth, when complete, in excess of the money being borrowed. I think that is a very sensible and good and strong position and that is exactly the

type of position that this Assembly instructed the S.o.J.D.C., with the approval of P.73, to undertake and Treasury are managing that.

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

May I go for a point of clarification? I do have a supplementary question later. The Minister just made reference to the fact there was a Red Book evaluation done. Is that different to the BNP appraisal?

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

Yes. I went on from the BNP appraisal to refer to the fact that before the lease could be signed and agreed obviously funding had to be put in place. Funding was agreed by a bank. S.o.J.D.C. have to go independently to get funding. They went to the bank and the bank, quite naturally, undertook its own due diligence. They had their own independent valuation in order to achieve that and that is what I was laterally referring to.

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

Picking up on an earlier comment - I thank the Minister for his most recent observation - can the Minister assure the Assembly that he and his officers, basically in the role of shareholder representative on our behalf, have examined the figures, I am going to say in the BNP appraisal, thoroughly and have full confidence that a return in the order of £50 million to £55 million will be made from the Jersey International Finance Centre?

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

Officers and many others have looked at this BNP report. They have come up with assessments of what the return is going to be. The best return estimate at the current time is £50 million. That is based on what appears to be perfectly reasonable assumptions. Obviously time will pass. We will continue to keep an eye on this and review it as time goes by. The most important point is that for this development, which is fantastic for Jersey in supporting the Jersey economy and jobs in our finance industry, it is absolutely critical that the right office space is provided and that a phased approach is taken in order to de-risk the development, and that is exactly what is happening. So buildings will not start until legally binding leases are in place, and that is what is happening with building number 4. We should be celebrating the fact that [**Approbation**] UBS have the confidence in Jersey to sign this lease, to be the first. The most difficult thing of all in any new development is being the first. They have taken that decision and I think it should be celebrated and I think there will be little doubt there will be more to follow. I think that is really encouraging news for Jersey and the economy and it shows we are beginning to turn the corner, hopefully.

#### **4.9 Deputy M. Tadier of the Minister for Planning and Environment regarding the use of photovoltaics in Jersey:**

Will the Minister advise whether there are any plans to optimise the use of photovoltaics in Jersey and in particular on States-owned buildings? What steps, if any, is he taking to encourage their general usage where appropriate?

#### **Deputy S.G. Luce of St. Martin (The Minister for Planning and Environment):**

Last year this Assembly agreed Pathway 2050, our energy plan that sets ambitious targets for us to reduce carbon emissions. Reducing renewable energy on-Island and off-Island is also part of that plan and renewables, even at the micro scale, increase our fuel security. In addition, those renewables also displace high carbon sources of energy like oil and gas and if they do that will help us to meet the carbon reduction challenge. While I cannot comment on future plans for the use of

the P.V. (photovoltaic) cells in States-owned buildings, this currently being within the scope of the Minister for Treasury and Resources, I can give the Deputy a very brief summary of the planning position. Such devices are currently exempt from planning control, subject to certain criteria. Up to 50 per cent of a roof plane can be covered in P.V. cells except on listed buildings and within the final approaches of the runway at the airport. Members may be aware that my department is currently reviewing the extent of permitted development rights within the planning and building law and, while I cannot yet give any firm commitment because this review is still the subject of Scrutiny input and public consultation, I can advise Members that I am actively considering the increase in the amount of P.V. cells that can be erected on a building without planning permission. I expect that the reduction in the cost of P.V. cells, together with the measures I have just mentioned, will encourage their uptake and our own progress to a decarbonised future.

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

I thank the Minister for that detailed answer and some encouraging words. Does he agree that while it might be up to the Minister for Treasury and Resources to look at putting P.V.s on States buildings, that presumably we are moving towards more joined-up government and it is probably not uncommon for the 2 of them to speak? Do we think that on buildings that we know are going to be there for quite a long time ... like perhaps the swimming pool roof at Fort Regent which I think is south facing, would be ideal for P.V.s but certainly other buildings that are either current or planned such as the Esplanade Quarter? Perhaps he could give an undertaking that a certain percentage of the roof at the Esplanade Quarter should be covered in photovoltaic panels before any construction is started?

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

While I cannot give specific assurances on the buildings on the finance centre, what I can do is assure the Deputy that any new buildings from now on that are approved, especially if they are large buildings and States-owned buildings, will certainly be taking into account the ability to use renewable energy. I would point the Deputy at one of our most recent States projects, which is the new school building in my own Parish of St. Martin where not only do we have solar panels on the roof but we are capturing all the water off the site to be reused within the school, and I am very confident that that building will be an exemplar in the future for other States buildings. I quite agree with the Deputy. In future we have got to make better use of solar power and especially on large buildings with south-facing roofs. If the swimming pool at Fort Regent was constructed again tomorrow I would expect the whole of the roof to be covered in solar panels.

#### **4.10 Deputy G.P. Southern of the Chief Minister regarding the removal of revenue expenditure from the economy:**

What economic impact assessment has the Chief Minister carried out on the effect of the removal of some £125 million (19 per cent of revenue expenditure) from the economy by a combination of redundancies, wage freezes, benefit cuts and user-pays and other charges, especially on low and middle-income households; will he publish the assessment and, if no such assessment has been carried out, when will he undertake such research?

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

Ministers are working hard to ensure that the next Medium-Term Financial Plan meets the recommendations of our independent economic experts, the Fiscal Policy Panel. We are aiming to address any potential structural deficit by 2018-19 while ensuring the measures we take minimise risk to the economic recovery. When our detailed proposals for savings and reprioritising spending are finalised, we will consider their combined economic impact and also the potential distributional

impact of particular measures. This information will be made available to States Members. The F.P.P. (Fiscal Policy Panel) will comment publicly on the proposals through its usual reporting structure, in particular when it publishes its annual report before the M.T.F.P. debate.

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

The key question there, as ever, is the timespan in which this will be performed. So, when can we expect to see the joined-up set of plans from each department and when could we see the economic impact assessment done on that? How long before the M.T.F.P. will we see this essential information?

#### **Senator I.J. Gorst:**

I am just trying to recall the timeframe off the top of my head. I think that the M.T.F.P. has to be published before the summer recess, June, and the debate takes place in the autumn. I am not sure if it is September or October; I think it is September. Therefore, the F.P.P. will have commented prior to that debate and therefore I will hope to have that work undertaken prior to that. Of course, some of it might be dictated by whether this Assembly approves the changes to the Finance Law later during this sitting because that will determine the detail of particular years.

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

Can we avoid, if at all possible, what usually happens? You publish the Medium-Term Financial Plan at the very end of the session and we come to it first up in September. So we have got the break, which most people take as holiday and very few civil servants are around to contact to find out what is happening. Can we have something, some information before we have the Medium-Term Financial Plan so that we can do some work on it before everybody else takes a holiday and it is very difficult to get in touch with departments and civil servants to work out what is actually happening?

#### **Senator I.J. Gorst:**

I think the publication is due later or the end of June and therefore there will be some time before people go on their summer breaks. I think the statutory requirement is 12 weeks prior to debate. Of course the problem is that one would like to have discussed and debated the M.T.F.P. prior to the budget.

#### **4.11 Senator Z.A. Cameron of the Minister for Health and Social Services regarding complaints made against G.P.s (general practitioners):**

What process was used to assess whether complaints made against G.P.s were of sufficient severity and concern to warrant investigation by the Primary Care Governance Team?

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

Anyone with a concern about a G.P. should feel able to express that concern and be confident that the issues raised where appropriate are fully investigated and acted upon. The P.C.G.T. (Primary Care Governance Team) is able to receive complaints directly from patients, from relatives, carers or healthcare professionals. As I said earlier, a complainant is always encouraged in the first instance to use the G.P. practices own complaint procedure but if they feel they are not able to do this or have already exhausted that procedure then the P.C.G.T. will consider the complaint. An investigation will be instigated only if there appears to be an issue that might be of concern. If it appears that there may be a concern then the P.C.G.T. is obliged to start an investigation. It is difficult to give examples of when a complaint would be deemed serious enough to be taken further but the principle would be anything that gives potential concern about patient safety or the

professionalism of the G.P. This could include the attitude of the doctor or their clinical judgment but might not include, for example, where a patient wanted a treatment that the G.P. was not licensed to give.

[10:45]

**4.11.1 Senator Z.A. Cameron:**

As the Minister has already confirmed that none of the investigations conducted by the primary care team necessitated disciplinary action being taken against any of the G.P.s concerned, does he consider that the £320,000 spent on the team represents value for money for the taxpayer?

**Senator A.K.F. Green:**

The Senator, maybe unintentionally, is potentially misleading the House. She knows full well that the money spent on the governance team is very little of the expenditure of investigations. It is ensuring the good governance of G.P.s and the registration of G.P.s and the ongoing training of G.P.s and it is not about investigating G.P.s.

**4.11.2 Senator Z.A. Cameron:**

The Minister has suggested that I am possibly paranoid, but rather than assume that this is the case, would he undertake to conduct a study on the processes applied by the Primary Care Governance Team by an expert in employment law that also considers the impact on the mental health, productivity, engagement and morale of local G.P.s subject to investigation to ensure that the processes are proportionate and not resulting in any unforeseen consequences to patient safety?

**Senator A.K.F. Green:**

We have an independent Medical Director appointed and working as a G.P. in the U.K. who carries out appropriate investigations and ensures good governance. I am advised that the number of complaints that we get, that this jurisdiction compares very well with other jurisdictions. If the Senator is asking me do I want to have a system where it is not safe for patients to raise concerns and they are ignored and swept under the carpet, no, I do not. I think patients should be able to raise their concerns safely and have them properly investigated. That said, I will always acknowledge that we have an excellent G.P. service in Jersey.

**4.11.3 Senator Z.A. Cameron:**

I think the Senator is misrepresenting me. I am saying that it should be safe for doctors to be able to raise concerns about patient safety within the organisation. The Medical Director is answerable to that organisation. He is not independent. Can the Minister confirm who the Medical Director is answerable to and who he is employed by?

**Senator A.K.F. Green:**

Clearly, the Medical Director is employed by Health and Social Services but in order to provide some independence, that is why the Medical Director works as a G.P. in Dorset and carries out the role here separately. He is professional; he is properly trained in this role. As I said before, we have an excellent G.P. service but we must ensure that it is safe for patients to raise concerns and, to specifically answer the question that the Senator also raised, it must be safe for G.P.s to raise concerns themselves. In fact, they have a professional obligation to do so.

**4.11.4 Senator Z.A. Cameron:**

Would he consider the recommendations made by organisations such as the N.S.P.C.C. (National Society for the Prevention of Cruelty to Children) that says that mandatory reporting should be by the organisation rather than the burden of the individuals concerned?

**Senator A.K.F. Green:**

The reporting of incidents that people have concern about must come from organisations and individuals. That is how it works in an open, mature culture where it is safe to raise issues, have them properly investigated and learn from the errors of the past.

**Senator Z.A. Cameron:**

I am very reassured by that. Thank you.

**4.12 Deputy S.Y. Mézec of the Minister for Transport and Technical Services regarding a user-pays charge for waste disposal:**

What details, if any, can the Minister give of the Government's plans to introduce a new user pays charge for waste disposal?

**Deputy E.J. Noel (The Minister for Transport and Technical Services):**

The Council of Ministers has agreed an ambitious programme of work for this term of office, which has been endorsed by this Assembly, to invest in our health and education services while also boosting the economy to create jobs and encourage new business. This investment will cost a significant amount and means modernisation changes across the whole of the public sector. We must have balanced budgets by 2019 and meet the demands of services. It is therefore necessary to review the way departments source their funding. As part of the £125 million difference in funding requirements by 2019, we have already announced a £35 million target consisting of savings from non-staff spending and funding from charges. Therefore, additional user pays charges for waste disposal do need to be seriously considered. Fairness is also important. I would like to refer Members back to my speech in November when I stated that I would like to investigate alternative income streams. For example, is it fair that through direct taxation the taxpayer funds 30,000 tonnes of commercial waste we receive at the Energy from Waste plant each year? This is currently estimated to cost the taxpayer some £3 million per annum. Just for me to clarify, a property developer can demolish a building and take all burnable waste from that development to the Energy from Waste plant for free. The taxpayer has to pick up the cost. For example, one tonne of plastic windows alone costs some £500 in chemicals and lime to process through the Energy from Waste plant. A waste charge would incentivise private companies to recycle as much as possible and provide additional local employment. I would also like to address the current unfairness in the liquid waste system for those of us that are connected to the mains drains versus those households who have to pay to have their septic tanks emptied. The department is only at the early stages of this review of waste charging and I would like to remind States Members that any new user pays charges for waste would require me to report a proposition back to this Assembly for approval.

**4.12.1 Deputy S.Y. Mézec:**

I was listening patiently to that answer and I have to say I thought the vast majority of it was irrelevant to what I was asking, which was about details of this new user pays charge. Could the Minister confirm whether he is simply unable to give any details whatsoever or, if he does know what form this user pays charge will take - who it will be charged to, potentially what rates and at what point - could he give us those details?

**Deputy E.J. Noel:**

I already answered that question in the last paragraph of my last answer and which I will repeat for Deputy Mézec. The department is only in the early stages of its review of waste charging and I

would like to remind States Members that any new user pays charges for waste would have to come back to this Assembly for approval.

**4.12.2 Deputy M. Tadier:**

Does the Minister acknowledge that residential people, individuals, pay for their rubbish facilities for collection obviously via rates but more so by general taxation? If he has got an issue with companies receiving these services subsidised by the taxpayer, is it not simply an issue of making a way to get corporation tax out of companies so that they can contribute for the facilities that they use rather than coming up with user pay charges which may then be applied to residential users who are already paying their taxes?

**Deputy E.J. Noel:**

Islanders do pay for collection via their rate system but currently they pay for disposal by direct taxation. Therefore, you could have 2 similar dwellings paying the same amount of rates for their collection. One has a large family in it, one has a single person in it; they both will be paying the same amount of rates. They will be paying different taxes, but there is no incentive there for either to recycle and to be more efficient in the disposal of their waste. It is about trying to also do what is best for our local environment and the environment as the whole of our planet. This is about also helping to change behaviour.

**4.12.3 Deputy M. Tadier:**

If the real driver for this was to encourage more recycling and reduce waste rather than just a stealth tax, which some of us think this is, would we not see other evidence of the former in the sense that we would have an Island-wide recycling scheme and that we would have bins in St. Helier and throughout the Island where the public can separate their glass, their plastic and their paper in the street? We do not see that happening under this current Minister or the Council of Ministers.

**Deputy E.J. Noel:**

There are quite a number of points there. One of the main ones I would like to address is that there is no stealth in user pays charges. It is not about stealth; it is about user pays charges. With regards to recycling facilities, the examples that Deputy Tadier uses are currently there and, yes, we do need more.

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

As the Constable of the Parish which I believe has the best record on recycling, can he confirm that we will have the lowest charges?

**Deputy E.J. Noel:**

Proposed charges for solid waste would be a gate fee at the Energy from Waste plant. If that applied to domestic waste as well as commercial waste then it would be up to the Parishes to decide whether or not they passed on that charge and, if they did, how they would do so.

**4.12.5 Deputy J.A.N. Le Fondré:**

It is really just to get the Minister to confirm one of his earlier statements he made in an answer that he does recognise that taxpayers do already pay for their waste to be treated?

**Deputy E.J. Noel:**

Yes, they do, and I refer back to my original answer to Deputy Mézec's question. We have a funding gap by 2019 of some £125 million. If we are going to prioritise health and education and the economy and growing jobs, *et cetera*, we need to fund our other services in a different way.



The use of user pays charges, we have already identified, is one of the tools, the mechanisms that we are looking at to raise this additional revenue.

**Deputy J.A.N. Le Fondré:**

So it is a stealth tax then?

**Deputy E.J. Noel:**

No, there is nothing stealth about it.

**Deputy J.A.N. Le Fondré:**

Sorry, I will correct myself and apologise to the Minister. It is a tax then? **[Laughter]**

**Deputy E.J. Noel:**

Deputy Le Fondré and I are both chartered accountants. We are both Deputies from St. Lawrence. I agree with him, user pays charges are a form of tax but they are probably a fairer form of tax than a blanket rate in specific circumstances.

**4.12.6 Deputy K.C. Lewis of St. Saviour:**

As has already been said, these services are already paid for in general taxation. Can the Minister inform the Assembly when he is anticipating bringing in a refuse tax and indeed a sewerage tax? How far down the road are we and are we going to have car tax brought back, which is something else we are already paying for?

**Deputy E.J. Noel:**

I would envisage that, subject to the approval of this Assembly, charges for our waste, be they solid waste or liquid waste, would hopefully come into effect by the end of the next M.T.F.P.

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

I was going to say as the Constable of the Parish with the most comprehensive recycling services but I am not going to have a dispute. **[Approbation]** Instead I want to ask the Minister would he confirm, as it has not been raised yet, that there is currently in place a covenant, called the Bellozanne Covenant which prevents any charging for waste and this would need to be lifted before such a plan could be implemented?

**Deputy E.J. Noel:**

The Constable is indeed correct there, and I would like to congratulate him on his recycling facilities, which I visited a couple of weeks ago. They are worthy of praise. He is correct that for us to be able, as an Assembly, to bring in a user pays charge for those using our Energy from Waste plant we would have to lift what is known as the Bellozanne Covenant.

**4.12.8 Deputy A.D. Lewis of St. Helier:**

Would the Minister agree that this is all about changing behaviour? It is not just about charging; it is about changing behaviour. I helped introduce a scheme in one of the Parishes. I met with a number of other Constables, none of which went forward with a recycling scheme. Does the Minister agree that this type of charge would encourage some of those Parishes to seriously consider a recycling scheme if they do not have one already?

**Deputy E.J. Noel:**

I would agree with Deputy Andrew Lewis there, but it is about raising funds to pay for our facilities as well. It is not just about changing behaviour but changing behaviour is a big part of it. I would like to see more recycling done on the Island and this will enable it. Currently, it costs you nothing

to take your waste to the Energy from Waste plant but it costs to recycle. If you have a gate fee then it makes recycling cost effective and that is what we would like to do.

**4.12.9 Deputy G.P. Southern:**

Would the Minister care to elucidate his statement that these sort of taxes can be made fair, fairer than income tax as a basis or not? What thinking has he given to making such charges fair?

**Deputy E.J. Noel:**

In terms of charging for liquid and for solid waste, user pays fees can be a fairer way of doing it if you are looking at a household-by-household instance. I gave the example you could have 2 identical houses paying the same amount of rates; one could be highly occupied, one could be lowly occupied. Surely it is fairer for their waste collection and disposal to be charged on a usage basis. To me, that is a fair way of doing it.

[11:00]

**4.12.10 Deputy S.Y. Mézec:**

I will attempt to help the Minister by pointing out I think what is meant by the term “stealth tax” is the fact that these sorts of user pays charges were not included in any of the election manifestos of the people who now comprise the Council of Ministers, not least of all him who did not have to produce an election manifesto at all. Could I ask the Minister then how much luck he believes he will have in trying to explain to the public that it is fairer to charge a user pays charge here when that will not be corresponded, presumably, with a reduction in income tax, so they will be paying more?

**Deputy E.J. Noel:**

Yes, Deputy Mézec has hit the nail on the head. Islanders will be paying more but they will be paying more for a better health service, they will be paying more for a better education service, they will be paying more for better support in our economy. That is why we are going to have a funding gap by 2019 of £125 million if we do not take corrective measures. We have already publicised that user pays charges will be part of our corrective measures.

**5. Urgent oral questions**

**The Bailiff:**

We now come to 2 urgent oral questions which I approved. The first is by Deputy Tadier of the Minister for Treasury and Resources.

**5.1 Deputy M. Tadier of the Minister for Treasury and Resources regarding an agreement signed by UBS with the States of Jersey Development Company to move into the proposed Esplanade Quarter:**

Following the announcement that UBS has signed an agreement with the States of Jersey Development Company to move into the proposed Esplanade Quarter, would the Minister inform Members exactly when this agreement was signed and explain exactly what incentives or inducements such as free rent periods were offered, if any, to UBS?

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

The agreement was signed on 22nd May 2015. The precise details of the deal contain commercially sensitive information and will not be disclosed publicly, as is the case with all deals between developers and tenants.

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

There is the rub. We have more and more quangos being set up which distance the people and the public from the services which are allegedly being done in their name, which are becoming increasingly opaque and politically unaccountable. The Minister said that the agreement was signed on 22nd May. Why then did it take just over a week for the States Assembly to be informed of these developments, given the fact that there is already a Scrutiny review going on and that there is a proposition which was on the table, which had I known about this I could have moved it to this session? Because I only found out on the Friday I could not propose that it be moved to today's session. Does the Minister accept that he could have informed the Assembly much quicker than he did?

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

In an ideal world, I would agree entirely with the Deputy. There was an agreement, though, between the company and the tenant that the delay in the announcement would be a week for personal reasons between the 2 organisations with people not available to be able to deal with the particular announcement. It was as simple as that, that they did not want it to be announced for that reason.

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

What is the nature of personal reasons and the fact that presumably these organisations have more than one person in each of them? UBS, I think, employs more than one member of staff who can deal with the public and P.R. (public relations) and S.o.J.D.C., given the fact that they have been spending most of their time on Facebook in a P.R. exercise over the last week, seem to have ample time on their hands to be able to liaise with the States Assembly and the public to make an announcement. So can he acknowledge that that excuse that he has given is unacceptable and that we should have been informed of this on 23rd May at the very latest?

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

It is not an excuse. It happens to be the fact. That was what was agreed. The 2 parties entering into this lease agreement agreed when the announcement was most appropriate for their own purposes, and that seems perfectly reasonable. It was a week between the actual formal signing and the announcement and that is all I can say on the matter.

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

Could the Minister, being aware, of course, of the Ministerial Decision signed on 14th October 2014, explain to this Assembly how less than one-quarter of the pre-lets having been signed complies with that Ministerial Decision?

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

I do not quite understand the Connétable's point. I alluded to earlier on in questions that before the first shovel, as it were, can go into the ground and the development can start, there has to be agreed funding in place and there has to be a viable project. Clearly the bank that is providing the funding to S.o.J.D.C. carried out their own valuation, their own appraisal of the value of the building, based on just one tenant, which is the tenant we are referring to, and that the building on completion, if that is all there is, the value of that building exceeds the construction cost and therefore meets the requirements laid out in the M.o.U. (memorandum of understanding) and agreed by this Assembly.

### **5.1.4 Deputy S.Y. Mézec:**

The Minister for Treasury and Resources, I think quite admirably, turned up to the meeting organised by Deputy Tadier on this subject very recently to make the case there. Could I ask him if

he will also be attending the demonstration scheduled for this Sunday and would he address the crowds there to try and make the same case to them?

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

I do not know exactly what form necessarily the demonstration is going to take, but I think to be most constructive, what I have learned from this process is that it is clear that there is a lot of misinformation, there is a lot of inaccuracy and there is a need to clarify a great deal of information around the Jersey International Finance Centre and how the development is being undertaken. I thank the Deputy for his recognition that I turned up to hear the other side. I think it is important always to hear both sides of the story, but it did make me realise that there was a need for States Members to have an update briefing on exactly where we are with this development and there is a need for the public to have not just a briefing but an opportunity to come and talk to the officers of S.o.J.D.C., to talk to me as the Minister responsible with a shareholder responsibility on behalf of the public. Therefore, I can tell Members that over the next week or 10 days, as soon as diaries are available, we are going to set up those 2 events to ensure hopefully greater understanding and remove some of the inaccuracies that are being perpetrated. I have to say some of them, very unhelpfully, are inciting quite a deal of anger among people. If I was sitting at home picking up the *Jersey Evening Post* reading an editorial [Approbation] talking about a battle for democracy all about the Jersey International Finance Centre, I would be incited. That is quite simply not the case, as Members will be very, very aware.

**The Bailiff:**

There is a 90-second rule, Minister.

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

This matter has been dealt with on many occasions. [Approbation]

**5.1.5 Deputy S.Y. Mézec:**

This Minister has said that a previous Minister has said things in which he was mistaken. So would he acknowledge that that contributes to a lot of the anger that the public are feeling about this?

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

More so, I would say the way perhaps that was reported did not help. Obviously it was unhelpful that that mistake occurred. However, it was very quickly clarified but I do not believe that the clarification necessarily got the prominence that was appropriate. The facts are the facts. The situation changed. Back in 2008 or preceding that, at the time of Harcourt, there was a very good reason for the 200,000 square feet. It was a third-party developer that was undertaking the development. There was risk; they had a track record of digging holes in America, in Las Vegas, and not completing a project. We in this Assembly did not want that and that is why the conditions were put in place. We are now doing it ourselves. The situation has changed.

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

Does the Minister think there is any significance in the fact that this demonstration that is being talked about was promoted at a meeting attended by some 40 people in St. Brelade by a failed Senatorial candidate whereas the Jersey International Finance Centre has been promoted and supported by the Chief Minister who topped the poll in the recent general election and who was elected unopposed in this Assembly? [Approbation]

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

I would just like to thank the Connétable for his contribution [Laughter] with which I thoroughly agree. I very much hope, picking up on the point that I made a few moments ago, that Members

will come to the briefing that we are arranging and that members of the public will also come and engage and hear the facts first hand.

**The Bailiff:**

I was just musing about the Standing Order 10(3): “A question shall not be framed primarily so as to convey information rather than seek it, or to convey a particular point of view”, Connétable. [Laughter]

**5.1.7 Deputy J.A. Hilton of St. Helier:**

Previously the Minister for Treasury and Resources referred, when talking about the BNP report, to the best return of £50 million based on perfectly reasonable assumptions. Can the Minister tell Members what the worst figure is?

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

Yes indeed I can. The worst figure has been produced not surprisingly, Members will know, by one of the competitors, Dandara, who suggest we are going to lose £74 million. There is a surprise. [Approbation]

**5.1.8 Deputy J.A. Hilton:**

I am sure BNP must have reported on a figure other than £50 million. Can the Minister tell Members what figure BNP did report on as a worst figure?

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

I have already spent some time on the confidentiality element. I have pointed out to Members that the panel have now got the report. They can draw their own conclusions, I am sure, from that. There clearly are a range of assumptions. The most important point is that we have to continue to update, as indeed S.o.J.D.C. are and the board of directors who are extremely experienced in property development matters. We have to continue to review as time goes on but we are taking a phased approach, as I have said many times, and that is de-risking it for the public and there is no public money at risk in this development.

**5.1.9 Deputy A.D. Lewis:**

Does the Minister agree that such public debate about this does absolutely nothing for the credibility of this scheme and as a result is dissuading people from taking tenancies? This is a serious matter. This is public money that is being put at risk, effectively, by having such public debate. The whole idea of the J.D.C. (Jersey Development Company) being put at arm's length is so this did not happen. How can the Minister find a way of quelling this debate so that you can get on and do the job with this arm's length organisation called J.D.C.?

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

The Deputy raises a very, very valid point. We have got to communicate better and we have got to hope that what we communicate is properly reported. At the end of the day there is cost to the public as a result of this continual public debate about this particular development. It represents risk. Deputy Tadier asked the question about inducements and incentives. Yes, it has cost us money to secure the first tenancy. That is not surprising; every single development, every development company, gives incentives. That is typical. What is not typical is that we are having to pay more. Every time we have debates of this nature, every time we have another review or another debate it costs more money to the S.o.J.D.C. and therefore it costs more money to the public of this Island. I do not think that is in anybody's interest.

**5.1.10 Deputy M. Tadier:**

Other developers may give inducements or incentives but they are not backed up by the Government. That is the difference, I think. The issue here is that on the back of the UBS contract we have then had a statement which says that building can now go ahead. The P.73/2010 which the Minister refers to talks about having to secure a sufficient level of legally binding presales and pre-lets to fund the cost of constructing the first phase of the scheme. Now, the only assurance we were given, because that is vague, it does not put any figure on it ... the only figure that this Assembly and the public have had to go on was the 200,000 square foot that the former Minister for Treasury and Resources gave and nothing has ever happened in this Assembly to say that that is no longer valid. So, on the basis of that, it is quite understandable that having gone into the election himself with his Ministerial colleagues, he waits until now to say that the former Minister for Treasury and Resources was mistaken and it is quite convenient timing. Does the Minister agree that whether the former Minister was mistaken or not, the fact is that the promise has now been broken, the goalposts have been changed, and that there is reasonable understanding that we should wait for the Scrutiny report to be finished before there is even any question of construction going ahead on the Esplanade Quarter, for the sake of openness, transparency and keeping one's promises to the electorate?

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

Promises have not been broken. I think I have explained this time and time again. A mistake was clearly made. That is regrettable. I have clarified the position and I think that if we look back at P.73/2010, we look at the memorandum of understanding, we look at the fact that the conscious decision the former Minister for Planning and Environment took in 2011 to phase the project in a different way, which dealt with the car park area, the 6 buildings first, that is what is being dealt with. There is still a lot of talk about sinking the road and all the rest of it. That is further down the track. At the moment, the first phase is dealing with the 6 buildings on the Jersey International Finance Centre. That is what S.o.J.D.C. have been tasked to get on with, that is what they are doing, and they are doing that building by building.

[11:15]

Each building has to be viable and that is why the most important fact in this is that the S.o.J.D.C. have acquired the financing. They went to the bank. The bank looked at that particular construction and, as I have said several times this morning, they were prepared to lend the money based on just the one lease agreement for 16,000 square feet. I have not said to Members, by the way, that the bank has also said there is a further 7,000 square feet option they have got. That is something we may yet see and there is a further tenant possibly in the wings.

**5.1.11 Deputy M. Tadier:**

I think it is worth asking: when was the mistake uncovered? We have heard only in response to the media that actually Senator Ozouf made a mistake. When was that mistake discovered by the Minister?

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

The Minister became aware of it I think when Members did, when it was drawn out that it had been said in Hansard. There was a great deal of debate, in fact, at the public meeting that the Deputy arranged in St. Brelade. I think it was one of those at that particular debate who asked the question about the 200,000 square feet. I clarified the position as I understood it. Having personally reviewed the documents, going back to P.73/2010, I was very clear that 200,000 square feet related to Harcourt. However, that particular questioner at St. Brelade said: "No, 200,000 square feet was what the former Minister for Treasury and Resources said." We then went back and looked at Hansard and saw the details. So that is when we became aware.

**5.1.12 Deputy J.A.N. Le Fondré:**

May I make a point of clarification on the last speaker? I believe the Scrutiny Panel raised it in correspondence to the Minister quite some time ago. The second point is that the Minister has frequently made reference to the statement made in 2009 and saying that 200,000 square feet related to Harcourt. Senator Ozouf made it quite clear at that point that the heads of terms of Harcourt had been terminated.

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

Sir, was that a question?

**The Bailiff:**

There was no question there.

**Deputy J.A.N. Le Fondré:**

Would the Minister like to comment, Sir?

**The Bailiff:**

Comment now, Minister, but Deputy Le Fondré has got his own question in just a moment. You are going to make a statement, there are going to be more questions. We are going to move on, but would you like to answer that particular question?

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

Which one, Sir?

**The Bailiff:**

The question that your predecessor had apparently made it plain that the deal with Harcourt was off when he made the last statement?

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

I had not noted that that is what he referred to. All I can say to Members is the clear fact that the 200,000 square feet related to Harcourt. Since then the phased approach, 2011 when the Minister for Planning and Environment changed the arrangements on the masterplan, made it absolutely clear that a phased approach was being dealt with and therefore it is also clear by association that the 200,000 square feet had gone.

**5.2 Deputy J.A.N. Le Fondré of the Minister for Treasury and Resources regarding legally-binding pre-lets in relation to the first building on the Jersey International Finance Centre, the robustness of financial estimates and financial assessment of the development:**

Further to the press release issued on Friday, 29th May in relation to the signing-up of UBS as the first tenant of the Jersey International Finance Centre, the J.I.F.C., would the Minister: (a) confirm the total number of legally-binding pre-lets that had been signed in relation to the first building on the J.I.F.C. as of the date and time of the press release and state the total amount of square footage this represents; (b) indicate what measures if any he has taken to ensure that the financial estimates produced by S.o.J.D.C. to justify the position that building can now commence are robust, that is the Minister ensuring that they are robust; and (c) give an undertaking to instruct the States of Jersey Development Company not to take any further steps to progress the development until the results of this financial assessment have been presented either to Members or, if the data is confidential, to the Corporate Services Scrutiny Panel?

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

We have covered a lot of this ground, but in any event, one tenant has signed a legally binding pre-let last October and a further tenant has signed heads of terms to enter into a legally binding pre-let. As reported last week, the legally binding pre-let with UBS represents in excess of 13,000 square feet and, as I have just mentioned, they have also agreed to an option of a further 7,000 square feet. The answer to (b), the final sign-off of the deal was always subject to third-party funding that required an independent Red Book valuation prepared for the bank that would substantiate S.o.J.D.C.'s appraisals. Third-party funding has been approved to construct building number 4 of the Jersey International Finance Centre for UBS to occupy. There is no public funding involved, as I have already stated. The answer to (c), contracts have been signed and there are penalties for each party involved should they not carry through those contracts as set out. This is standard practice. The States of Jersey Development Company has had to sign confidentiality agreements with UBS and other prospective tenants. The information being sought by the Deputy is not only commercially sensitive but S.o.J.D.C. would be in a breach of contract should they disclose it.

**Deputy J.A.N. Le Fondré:**

Just before I go to the supplementary, the Minister said 13,000 square feet whereas previously he had been referring to 16,000 square feet. Could he just clarify the figure?

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

My apologies. If I said 13,000 square feet that was a mistake, it should indeed have been 16,000 square feet. That is what UBS have signed-up on, with an option for a further 7,000 square feet, just for clarification.

**5.2.1 Deputy J.A.N. Le Fondré:**

I think we want to know what the legally binding situation is at the moment. To go back to the P.73 issue, the Minister is cited in the media that he is acting in the spirit of P.73 which established the rules under which S.o.J.D.C. was to operate. Given that the proposition is very explicit on the matter, could the Minister explain in broad terms how S.o.J.D.C. is complying with the requirement that, before committing to the construction costs, S.o.J.D.C. would have to secure a sufficient level of binding pre-lets to fund the cost of constructing the first phase of a scheme when we are talking about less than one-quarter, less than 25 per cent of the buildings?

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

Again I have covered this point, I believe, several times. The key factor is that bank funding is required; third-party bank funding is required by S.o.J.D.C. No public money is being utilised. The bank has had an independent valuation, Red Book valuation, and their valuation of this construction, the cost of constructing the building, is going to be covered as a result of the one legally binding lease agreement that has been signed; that alone. We do not expect it to just be that. Clearly it is going to take something like 18 months, 2 years to build and there is a significant additional amount of space. There is already one pre-let in place. We expect the value to increase. But the cost of construction is covered, by quite a significant margin I might add, and that is all the detail that I can give the Deputy.

**5.2.2 Deputy S.M. Brée:**

The Minister makes reference to the funding provided to S.o.J.D.C. and that no public money is being utilised. Could the Minister confirm whether he has any intention, or has been requested to or already has done so, to sign a letter of comfort to the lender as being the 100 per cent shareholder in S.o.J.D.C.?

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



I am delighted to put that myth to bed. I have not signed any letter of comfort and there is no guarantee whatsoever provided to the bank. S.o.J.D.C. have gone out and got their own funding arrangements with the bank, based on this particular site.

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

I apologise if I did miss the exact size of building number 4, and that is my question. Then on from that I think the Minister for Treasury and Resources said even if we only let 16,000 square metres ... sorry feet. Even smaller. Sorry, it does matter. The 16,000 square feet will pay for the whole of the building being constructed and the States will not lose any money. Did he say that and can he confirm the actual square footage of the whole of building number 4?

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

I can confirm both those points. Yes, I did say that. It is about 16,300 square feet to be precise, but that is the size that UBS have taken in terms of the legally binding agreement and, yes, the valuation carried out by the bank has confirmed that the construction costs will be covered, in fact exceeded comfortably, as a result of that commitment for the 16,300 square feet. The other point that the Deputy asked was the size of the building. It is 67,000 square feet.

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

The Minister earlier referred to a lot of misinformation. Could he confirm that the bulk of this misinformation is coming from his department, himself and S.o.J.D.C.? As an example, we have been told 200,000 square feet would have to be given before building would commence. This, we are now told, is not true. The misinformation that we are having to deal with is coming, not from the public but from Government itself.

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

No. I have explained the 200,000 square feet several times. It was a mistake that was made by my predecessor early last year. That matter hopefully has been clearly explained, and I am not aware of misinformation coming from either myself or my department and I would respectfully ask the Constable to withdraw that. He suggests that I am deliberately misleading and I take offence at that.

### **The Connétable of St. John:**

The Minister has said there is no risk to the public but if S.o.J.D.C. are forced to pull out of ...

### **The Bailiff:**

Connétable, before we go there, I thought you were going to deal with the Minister's request that you confirm you were not suggesting that he was deliberately misleading the Assembly.

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

I apologise if the accusation was incorrect, but I believe we were misled over the 200,000 pre-lets position. I am glad that he has now clarified the position and I will humbly withdraw the accusation. If I could continue, if S.o.J.D.C. is forced to pull out and forced to pay compensation - as you said it is legally binding on both parties - where will S.o.J.D.C. obtain the finances to pay the compensation? As this is part of the package that has been given by the Island to S.o.J.D.C., will it not be public money that would be handed over?

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

S.o.J.D.C. has significant assets and they are involved in other developments where other profits are going to ensue. College Gardens is an example, albeit a year or 18 months down the road before the profits start to flow. Nevertheless there will be profits there. There are some other sites

that they have planning permission on that they are considering either developing or possibly selling. So they have the wherewithal to cover the costs but I would simply ask Members: do we really want to stop this development at this stage? I do not think it is realistic to even consider that. It would cost millions of pounds if we were to do that, not even considering the reputational damage to this Island, **[Approbation]** the finance industry, and our economy more broadly. It is bad enough seeing front page articles talking about protests against the finance centre, thousands of people. That gets picked up, not just in Jersey. It gets picked up internationally. What sort of impression does that give of our financial services industry or of this Island as a whole? It is not doing any us any good whatsoever. We have been through a process to get to this point. Let us for goodness sake get behind the States of Jersey Development Company, celebrate something successful, UBS signing-up and committing, one of the major banks in the world, and let us get a move on with this. **[Approbation]**

#### **5.2.6 Deputy J.A. Hilton:**

The Minister, and indeed the Council of Ministers, is obviously very confident of the financial success of the Jersey International Finance Centre. Would the Minister be prepared to prove this by allocating some of the potential £50 million to purchase the Jersey Gas site to enable the Millennium Town Park to be extended? **[Approbation]**

#### **The Bailiff:**

No, that does not flow on from the question.

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

Good try, Deputy. Am I not able to answer that, Sir?

#### **The Bailiff:**

You are not required to answer that.

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

What a shame.

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

In preparing his statement and saying that the previous Minister for Treasury and Resources was mistaken, did he draw on the words of George Orwell's book *1984* and practise Newspeak, which is the quality to be able to claim that black is white in contradiction of the plain facts and to be able to rewrite history to the effect that we have always been at war with Eurasia and that is the way it is? What it seems to me is that the Minister is very concerned about the reputational risk that Jersey is facing but he is not concerned at all about the risk that his own Government is facing when they renege on promises and fail to listen to the public, whether that be at Parish meetings where there is universal support to give due weight to Scrutiny or to listen to the Scrutiny Panel's and the public's opinion themselves.

[11:30]

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

I am not quite sure where the question was in there, but all I would say to the Deputy is that things change, we have to move on, we have to continue to review the progress of the International Finance Centre, and that is exactly what is happening. Both S.o.J.D.C., the board of directors are doing that, but equally so are we from a Treasury point of view with our responsibility as the shareholder. We do listen, Deputy, to what the public have to say. That is why I came to St. Brelade to Communicare and listened to what the 40 or so people who were there had to say about that particular development. I think where we are failing ... sorry, you think there were more than

40 people? Okay, 50. We have to listen, we have to make sometimes difficult decisions. What I am really concerned about is ensuring that we get all the facts out so that the public can fully understand the position. I am at an advantage, in a sense, that I have seen both sides of the story. I think we are failing from the point of view that we are not getting the full story across about what S.o.J.D.C. are doing, what the Jersey International Finance Centre is all about. That is where we have made a failure and we have got to work up on that and that is why we are going to have the public meeting, and hopefully a meeting that Members will all attend, so that we can have an open debate.

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

As I asked the question, I would just like to note 2 points for the Minister and for the Assembly. Obviously our role as Scrutiny is to inform the Assembly on this matter and we have advisers in place. They are top-notch advisers.

#### **The Bailiff:**

It is a question, not a speech.

#### **Deputy J.A.N. Le Fondré:**

No, it will be a question, Sir, but I wanted to clarify something, which is that we were expecting the advisers to come back to us on a Red Book basis by the end of this month. That is our timeframe. It would have been a lot quicker if we had had the BNP valuation some weeks before now. The question I am going to ask, the reason I state that, is: it is a numbers issue and that is what we are looking at. It will either come out one way or another and that is what we are going to report on. But in asking the question, it picks up on the Minister's point about public perception. The public and this Assembly - the Assembly as the landowner on behalf of the public - were told that the project was going to be low risk. They were told it was going to be done by pre-lets and they were given undertakings, even if they were mistaken or not, as to the level of those pre-lets, and it is not just about one day. There are a variety of mistakes that have been made and those are some of them there. How have we got to the stage, from a public perception point of view, where those undertakings appear to have been watered-down and watered-down even more to something which is less than one-quarter of one building and less than 4 per cent of phase one? Does the Minister accept that, from a public perception point of view, there has been a change in the position?

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

I said a moment ago that circumstances change and, indeed, your position needs to also change because the commitment that we have is to ensure that we manage the relationship with S.o.J.D.C. and to ensure that they, to the best case possible, de-risk. In that respect, taking the buildings on a building-by-building basis is a very sensible thing to do. This Assembly, do not forget, put in place the commitment to ensure pre-lets and that is exactly what we are following through on, and I think that is the right approach to take. I do not think there is anything wrong with that at all. If circumstances change in the future then we will adapt as and when is necessary.

## **6. Questions to Ministers without notice - The Minister for Planning and Environment**

### **The Bailiff**

That brings this part of question time to an end. We now come to questions without notice. The first Minister up for questions is the Minister for Planning and Environment.

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

Would the Minister agree with me that the last weekend Future St. Helier seminar and workshops held in the Town Hall were extremely successful and will he agree to pass on my thanks to his officers who arranged the weekend **[Approbation]** and, I think, give confidence to both the States and to the public that the process begun at the weekend is going to continue now during the next 3 years?

**The Deputy of St. Martin (The Minister for Planning and Environment):**

I thank the Constable for his question. Yes, I completely concur that the weekend event that we held was a great success and I can assure the Constable my first job yesterday morning, very early, was to send an email to all those concerned with the organisation of the event to thank them for their hard work and diligence. It is not easy doing these things at weekends and it does rely on the goodwill of a lot of our staff and I thank the Constable himself for the use of the Town Hall and indeed his own staff. The Future St. Helier project is now very much alive and kicking and off on-train. We have got a great deal of information, great information which we have had from the weekend, and our job now is to assimilate it, pass it back to those people who contributed and then for the Ministerial group - myself, the Constable and the Ministers for Education, Housing and T.T.S. - to move forward with this as quickly and as best we can.

**6.2 Deputy J.A. Hilton:**

I wanted to ask the Minister a question about planning obligations agreements and, in particular, who makes the decisions around a planning obligation on a particular development. The reason I ask that question is because several people have told me that, for the new Dandara building on the Esplanade, the planning obligation agreement was just to return the footpaths back to good condition. It seemed to me that, on a development of that size, it should have returned a far greater benefit to the public. **[Approbation]**

**The Deputy of St. Martin:**

My advice to the Deputy is completely correct. It seems incredible to me to have to say that I agree with the Deputy inasmuch as it seems amazing that a building of such size and magnitude could not have contributed more in some sort of way, shape or form. I can assure the Deputy that something like that would not happen under my Ministry and it is my intention in the very near future to seek advice on how we can get gain out of every development on the Island, regardless of where it is, whether it is in St. Helier or out in the countryside, and certainly the Future St. Helier project relies very heavily on that scheme being put in place. I can assure the Deputy that, while I do not like looking back and that is a particular situation that is extremely unfortunate, certainly in the future I will be looking to gain something, even if it is a just a small amount, from every development on the Island.

**6.2.1 Deputy J.A. Hilton:**

I thank the Minister for his answer, but I did ask who made the decision around planning obligation agreements. Is the Minister able to tell me who made the decision in this instance?

**The Deputy of St. Martin:**

I am not sure who made that decision in this instance, but I can assure the Deputy that I will find out and I will revert to her with the answer.

**6.3 Deputy R. Labey:**

Is there, even with that Dandara development, a percentage for art or is there none of that ... I mean, I am not a great fan of that, as you know, but is there even that provision, the percentage for art?

**The Deputy of St. Martin:**

The permission was granted before I became Minister. I have to tell the Deputy I am not aware that there is. Again, I will find out and revert to him.

#### **6.4 Deputy J.A. Hilton:**

Like the Constable of St. Helier, I attended the planning workshop on Saturday and it was a very good experience. It was good to meet with lots of different people representing different organisations. The question I wanted to ask the Minister is: how much weight will he give to the views of people who live in St. Helier against other Islanders when it comes to parking standards and amenity standards in St. Helier?

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

I thank the Deputy for the question. Parking and amenity are 2 very different issues. The one about parking of vehicles, I accept it refers to people who live in town as much as those that come into town. But amenity very much affects those who have to live in St. Helier. The reason for the consultation is not just to tick the box and say that we did it and we then proceed as we wanted to previously. The idea of the consultation is to listen to what the residents have to say and we went into it and I was very clear with my officers before we started that I wanted them to sit and listen. I did not want the people who were contributing to be led in any particular direction and I am confident that we have got views from any number of ... we had 70 or 80 people who spent the whole of Saturday with us at the Town Hall. We got some great ideas. We got some really useful contributions. We will take those and move forward, but I think we all accepted before we started that there will be different views from different parts of St. Helier. We will have different views from those people who travel into town from those who live in town and it is our job to do the very best we can to make sure that everybody is heard and everybody gets a result out of the process. This is not a quick process. This is something which we will start very quickly on but there is quick; there are medium, short and long-term issues. Some of them will take decades to address, but I hope we can identify them and get started.

#### **6.4.1 Deputy J.A. Hilton:**

The north of town in particular was brought up by a large number of groups and certainly during the summing up there was a lot of concern about what is happening in the north of St. Helier, the amount of development. Does the Minister agree with me that it is extremely disappointing that a company that owns such a vast tract of land, from the Odeon Cinema down to the Salvation Army base, has not done anything in decades to improve that area, that that indeed is very disappointing, and what the Minister believes he can do to help encourage the owner of that land to come forward and develop it?

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

One of the subjects for discussion over the weekend came under the heading of “Community and identity” and it is quite clear that there are some parts of St. Helier where people who are living in those areas do not feel they had a sense of community or a sense of identity. The north of town, as the Deputy refers to, is an area which is going to undergo great transformation. We already know that there are 3 or 4 major sites in the area which are online and I am looking forward very much to making sure we do the very best we can. I have got some great and exciting ideas that have come forward for those areas and I look forward to seeing them implemented, but, as regards the site in Bath Street that the Deputy mentioned, it would certainly be my intention in the next few months ... if the owners of the site do not come forward to speak to me, I will go out and speak to them because it is my intention that we need to address all these areas and that one, in particular, is one that needs it. I will be seeking to see if I can work together with the owner of the land to see whether we can take something forward. Certainly the southern part of that site has an application in at the moment and it would be my intention to see more of it approved as well.

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

I would like to take the Minister for Planning and Environment back to his statement about planning obligations: "It will not happen on my watch." We just heard - and I must believe him because he is the Minister for Treasury and Resources - that we are building a building that has only got a pre-let of 16,000 square feet and, even on that basis, everything above that is profit. So 51,000 square feet of profit for S.o.J.D.C. What percentage of that profit is the Minister going to ask for a planning obligation to be returned back to St. Helier?

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

As I am sure everybody will appreciate, when you undertake a development you have to seek to have a certain amount of profit in order to move forward. I would say to Members, I am not going to comment at great length about the proposed development on the Waterfront, but this is part of the Future St. Helier plans. If people have got concerns about car parking, that money that will come from the development will go towards the private car parking under each of those office blocks, the 500 ... underground car park which will go on the site. That money will go towards the provision of open public green space which is going to be provided on site. **[Approbation]** That money will go towards building office blocks which - we were assured by the Town Planners Institute who visited Jersey less than a fortnight - are as good as or better than what you would expect to find in Central London. Most importantly, the profit will go towards building office blocks which will provide jobs for our future children and our grandchildren. **[Approbation]** Every development has to make a profit and I can assure the Deputy that that profit is going to be extremely well spent on car parking, open space and providing jobs for the future.

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

I am sorry, the Minister got a foot stamping for totally avoiding the question. It was about planning obligations and not about profit. The Minister is talking about the 50 so-called million - maybe more, maybe less - what that is going to do for St. Helier. I am asking him ... he said not on his watch. What is he going to do about such big developments on the Waterfront and all over St. Helier ... that we get the money now under the planning obligation? We heard what the profits are. That was my question.

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

I think I outlined to the Deputy where those profits would go towards. I do not want to duck my responsibilities but, once again, this is a scheme which was approved way before I became Minister for Planning and Environment. I am not aware of what the planning gain or planning obligations were or what the percentage for art is but I will find out and I will get back to the Deputy.

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

I am delighted that the Minister is considering changing the Planning Law so that planning gain will be a real reality for St. Helier. I would like to ask him about planning gain retrospectively, though. The development of the Girls College site was at the expense of Centrepont. Centrepont is currently at La Pouquelaye in a building that we own, which is in a sad state of repair. What can the Minister do now, retrospectively, to developments such as the S.o.J.D.C. development at Girls College to help fund and replace and renew buildings like La Pouquelaye centre, which is a hugely used community centre that is in a sad state of repair and which would benefit hugely from planning gain from the very development that ousted them from the site they were previously on? Could the Minister respond?

[11:45]

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

I am going to sound like a cracked record. Again, this is a scheme which was approved before I became Minister but what I can assure the Deputy is this. As I said, we will be looking and will achieve ways of getting planning gain or some contribution from each and every development on the Island in the very near future. If it is a Future St. Helier project and it is part of St. Helier - and it certainly sounds like it is - and it is a service that needs to be provided for, I do not see any reason why part of that planning gain cannot include a percentage for community. Certainly there is any number of different ways of describing it. We do have a percentage for art. We can have a percentage for community. We can have a percentage for the future of St. Helier.

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

My question follows on from written question 12 which is a question about herbicides. In the answer the Minister said that the officers of public health concur with the classification and conclusions of the International Agency for Research on Cancer which have classified glyphosate as possibly carcinogenic to humans. Nonetheless, glyphosate remains as an approved product in Jersey and the explanation given is that it is an approved product in the U.K. list. The question to the Minister would be: can we not, given the fact that we recognise it is likely to be carcinogenic to humans, just add that to the list in Jersey and what would be the barriers to doing that?

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

The storage and supply of pesticides in Jersey is regulated and controlled by our local law that permits the use of the list of approved herbicides and pesticides that are allowed in the U.K. The Island benefits greatly from the in-depth research that is required to keep the U.K. list current and safe to environment and human health. The glyphosate herbicide that the Deputy described is an active ingredient in a range of horticultural and agricultural domestic products but it is on the list in the U.K. and is, therefore, approved in Jersey. The international agency that the Deputy refers to has said that it probably has carcinogenic effects on humans, but I would stress that all commercial users are trained and hold certificates for the safe use of herbicides. Glyphosate remains on the approved product list, as I said, and I cannot see any point where I would anticipate removing it independently from the U.K. list at this stage.

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

Holland and France have banned certain products containing glyphosate and Brazil is shortly to follow. Does the Minister agree that we do not have to slavishly follow lists that are provided by the U.K. and if best practice is being implemented more quickly in other jurisdictions then Jersey should seek to act independently on occasions where it has become apparent that certain products are undesirable for either environment or, in this case, health reasons?

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

Certainly if there is any risk to health and it can be proved that it is a serious risk to health, we certainly need to look at it. I would remind Members, there is any number of other substances - tobacco, alcohol - that are a risk to health but what I would stress to the Deputy is this. We do keep a very close eye on it. He will be aware, I am sure, that the list changes almost annually and every year that goes by more chemicals are removed from the approved list. It is becoming more and more difficult for farmers to find chemicals to control weeds and this, in particular, is what we are referring to here, but I will do some more research on behalf of the Deputy and see what countries closer to us but not the U.K. are doing with glyphosate chemicals.

### **7. Questions to Ministers without notice - The Chief Minister**

#### **The Bailiff**

That brings the first period of question time to an end and we now come to questions of the Chief Minister.

### **7.1 Deputy J.A. Hilton:**

I would like to ask the Chief Minister the same question that I asked the Minister for Treasury and Resources. The Council of Ministers obviously have a lot of confidence in the financial success of the Jersey International Finance Centre. I would like to ask them to prove their confidence by committing the money to purchase the Jersey Gas site, for the benefit of Islanders, to extend the Millennium Town Park from the proposed £50 million that has been talked about today.

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

I thank the Deputy for her question. I think it is a very good question. I support the building of the International Finance Centre on the Esplanade car park because I believe in Jersey's future and I want to create a future for our children and our grandchildren. **[Approbation]** The creation of jobs for the future, I think, is fundamental to our success. That is the primary reason. The secondary reason is the reason that the Deputy raises in her question, and that is using the profits from the development of the finance centre ... the planning gain is a separate issue and perhaps if Deputy Martin wants to ask me about that I will try and address that as well, but the profits can be used to regenerate and redevelop other parts of St. Helier which are long overdue investment of that money. The question that she raises about whether it could be used for the gas site is a very good one. We have to set in place a protocol with the Parish and with the Connétable of the Parish and it might be that some of that money could be used exactly for that sort of purchase or exactly for that purchase. There is work to be done before we can get there, but it is schemes exactly like that that those profits can be used for.

#### **7.1.1 Deputy J.A. Hilton:**

Is the Chief Minister saying that he will commit to that money in the Medium-Term Financial Plan 2016 to 2019 to deliver the extended town park?

### **Senator I.J. Gorst:**

The Deputy knows that the buildings have got to be built. You have got to get to a review date in order to be able to realise capital value from them, in order to be able to realise profit for it to be then re-invested, but the Council of Ministers are not unsympathetic to the comments that were made in this Assembly about the need for open space in the north of town and finding a way of delivering it. Releasing of profits in due course from the International Finance Centre, I believe, can help deliver part of that vision.

### **7.2 Deputy J.M. Maçon:**

Will the Chief Minister be working with the Minister for Economic Development in following the French example to ban local supermarkets from throwing away unsold food and donating that to charities and good causes for animal feed, for example?

### **Senator I.J. Gorst:**

This is not an issue that I am fully sighted on but it is my understanding that some already do so and I am not aware whether that practice has been stopped for any reason. I certainly can work with the Minister for Economic Development to do such a thing. Of course, there are health and safety issues and food health issues. Certainly we do not want to be developing a society that is simply a throwaway society, but being more creative in how we use what we have got.

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



I will not be asking about that question I asked the Minister for Planning and Environment but I do have one that you have probably got the answer prepared for. I apologise to Deputy Mézec that it is along the lines of his oral question 3, but I do think this is so important that I am going to ask the question and I really do not mind that it is the Chief Minister that answers it. The U.K. Prime Minister at this very moment is getting a better deal for the U.K. before he goes to referendum, which he is absolutely committed to. Where and who is representing us, Jersey, in those talks?

**Senator I.J. Gorst:**

We have, as I would have said - had Deputy Mézec wanted to know the answer to the question rather than just being more concerned about the personality answering it - been engaging actively with the new U.K. Government in order to ensure that our interests on these areas are properly understood and taken into account. As I said in other answers, we have no desire to change our formal relationship either with the E.U. or the U.K., and the U.K. Government knows and they understand that. We have engaged in the balance of competencies review that the old Coalition Government had undertaken and, therefore, this is a very important part of what Ministers are doing, have done and will continue to do over the course of the re-negotiation that the U.K. Government is now starting to undertake.

**7.3.1 Deputy J.A. Martin:**

Sorry, I know it is not undertaken. They are already talking. This referendum could be as early as next year in the U.K. and I want to know who do we ... is it the Chief Minister? Is it the Minister for Home Affairs? Who is sitting round the table - not with the old Coalition - with the new majority Conservative Government, who are already having really hard talks on a better position for U.K.? Where are we on this? Are we being left behind? Are we going to be sold-up so they can get a better deal for maybe part of Wales?

**Senator I.J. Gorst:**

It does not work like that. The Deputy has got to remember we are not part of the E.U. We have a relationship and we ... I see the Deputy shaking his head over on the opposite side of the Assembly. Is he really trying to suggest that he thinks we are members of the E.U.? Of course he knows we are not and, therefore, this is a matter which must be considered carefully and delicately. I have already written to the members of the new U.K. Government, building on strong relationships that we have; members of a Government which understand Jersey's position - they understand Jersey's relationship - and talking about the areas that we are concerned about that we want them to consider. But just as importantly is the work that the C.I.B.O. (Channel Islands Brussels Office) is doing in Europe because, whether the U.K. relationship with Europe changes or not, our relationship will maintain, I suspect, the need for equivalents around third country access to markets. We have been working on that for many years and we have shown that we can achieve that equivalency. If we look at data protect, if we look at aviation security or if we look at selling of some financial products into Europe, we show that we can already meet those equivalence criterion. That is just as important as the negotiation, which we acknowledge will have implications for us; that the U.K. is now undertaking.

**7.4 Deputy R.J. Renouf of St. Ouen:**

Would the Chief Minister undertake to release the Council of Minister's report into the future hospital and would he commit to giving Scrutiny adequate time to plan and undertake its review of the decision?

**Senator I.J. Gorst:**

I think this is probably better directed at the Minister for Health and Social Services, but I see no reason why we could not release the timetable and, of course, we know that Scrutiny have got to do

their work. This is a massive capital project but, not only is it a massive capital project, it is of great importance to every Islander to make sure that not only have we got the service right that Senator Cameron keeps referring to, and she is right we have got to get the service right, but at the same time we have got to have the right physical provision in order to deliver the bits of the service that will remain in the hospital. Of course, one of the main ends is that we get more service out into the community.

#### **7.4.1 The Deputy of St. Ouen:**

When will Members have that timetable?

#### **Senator I.J. Gorst:**

He is asking me a question that should be directed to the Minister for Health and Social Services. Had he asked the Minister for Health and Social Services, I am sure he could have told him that. I do not have those details on the top of my head, but I will endeavour to liaise with the Minister for Health and Social Services and we will issue a statement or an email later today telling the chairman when that timetable can be issued.

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

This is a little long-winded but I promise I will get there in the end. Two weeks ago a visitor passed away on the driveway of a local hotel in St. Saviour. It was on a Sunday morning, around 9.30 a.m., and the person was still on the driveway at 1.30 p.m. I was called by the owners of the hotel and I went down. The police were there and I was told that there was not an ambulance free to come and remove the person. When I asked why, I was told that there were only 2 or 3 ambulances at the most that worked at weekends. This was quite a distressing Sunday morning because it was a young person who was also there with a young family. The hotel was very distressed, so was the owner and so were most of the people who were there. I felt very bad, to be honest with you, because there was very little I could do. I asked the police if an undertaker could be called, knowing full well that it really could not because it was an unexplained death, and I was told: "No" they had to wait for an ambulance, which arrived 5½ hours later. I would like the Chief Minister, if he could - because he is the Chief Minister - to please look into this and to try and make sure that this occurrence never ever happens again, where a person who passes away unexpectedly is left on the driveway of a hotel or exposed outside because we cannot find an ambulance to take this poor person to the mortuary.

[12:00]

#### **The Bailiff**

I think the question is: will you look into it?

#### **Senator I.J. Gorst:**

Firstly, can I say that I am extremely disappointed to hear what sounds like such a tragic and sad incident not only, obviously, for those directly affected and the young family, as the Connétable has said, and I am sure the sympathy of every Member of this Assembly goes out to them. They should not, on top of that extremely distressing time in their lives, have had to wait so long for a response from part of our emergency service. I understand that Health are aware of the incident and the Assistant Minister for Health is undertaking a review. That review will be important and I am sure that he, together with the Minister, will put in place any necessary changes to ensure such an incident does not occur again.

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

On behalf of the hotel who asked me to bring this forward, I would like to thank you very much and hope that this never ever has to happen to anyone again.

**7.6 Deputy R. Labey:**

When the Chief Minister and his team were preparing their suggestion to Her Majesty the Queen that she might like to give the foreshore to the Island, was the spectre of seigneurial rights rearing its ugly head foreseen and, if so, what consideration was given to avoiding another £10 million capitulation?

**Senator I.J. Gorst:**

I hope the Deputy will not be surprised to know that it absolutely was and the comments in the *J.E.P. (Jersey Evening Post)* which ... sadly I was out of the Island last week, so I did not have the pleasure of reading that august organ, but I understand that comments have been made in that publication about the Le Pas deal and potential challenges along the same lines. I do not accept that premise for a number of reasons, not least of which that that was settled in 2003. It had been ongoing since 1989 and, of course, as we know, in 1989 the States had not enjoyed the 40 years of possession of the foreshore which gives rise to title, but we have now enjoyed in the region of 65 years of possession and thus the Le Pas situation I do not accept can be repeated.

**7.7 Deputy M. Tadier:**

Does the Chief Minister agree with the comments of his Minister for Treasury and Resources that the former Minister for Treasury and Resources made a mistake when giving an undertaking to the Assembly about the 200,000 square foot?

**Senator I.J. Gorst:**

As the Minister for Treasury and Resources said, the previous Minister for Treasury and Resources suffered - I am not sure if that is the right word; enjoyed perhaps might be a better word - a constant barrage of questions on this particular subject, as the current Minister for Treasury and Resources is. Even 10 or 20 minutes ago the current Minister for Treasury and Resources misquoted the square footage that the current signed-up pre-let has agreed to. These things happen. It would appear that the previous Minister for Treasury and Resources, under such circumstances, referred to a historical understanding about the amount of pre-lets that would need to be agreed.

**Deputy M. Tadier:**

Sir, a supplementary?

**The Bailiff**

There will not be time for an answer, Deputy.

**Deputy M. Tadier:**

That is all right. I think the ...

**The Bailiff**

No, I think the purpose of question time is to ask for an answer. Is that not right?

**Deputy M. Tadier:**

I think the question ...

**The Bailiff**

We have now used up the last 2 seconds, so it is too late.

**Deputy M. Tadier:**

Thank you, Sir.

### **The Bailiff**

There is nothing under J. Under K, the Minister for Treasury and Resources will make a statement regarding the Jersey International Finance Centre.

## **STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

### **8. The Minister for Treasury and Resources - statement regarding the Jersey International Finance Centre**

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

The announcement of a major tenant for the International Finance Centre is very positive news for the Island and its economy. The decision by UBS, a leading financial services business, to take up a lease for more than 16,000 square feet demonstrates the growing confidence shown in recent statistical surveys that our economy is turning a corner and businesses are feeling optimistic about the future, and it means the States of Jersey Development Company can now go ahead with the first phase of this scheme. This is a major step in a project that began in June 2006 when the Minister for Planning and Environment commissioned Hopkins Architects to produce a masterplan for the Esplanade Quarter. That masterplan was approved by the States Assembly in 2008 and a clear majority of Members have since supported the concept through a total of 5 propositions attempting to defer or stop the development. The most recent was in February 2014 by the former Senator Alan Breckon. All were defeated. The former Corporate Services Scrutiny Panel attended a confidential briefing by S.o.J.D.C. in March 2014 as they considered undertaking a full review of the project. Following the briefing the chair of the panel, former Senator Sarah Ferguson, made the following comments: "The panel considered that they had received sufficient information to satisfy themselves as to the viability of the project and would not raise any further questions." Now, nearly 10 years after the masterplan was first commissioned, we are about to see the foundations being laid for the first phase of a much needed centre for our financial businesses and we should not let anyone persuade us that these buildings are not needed. We must offer prime, Grade A office space with state of the art facilities if we are to keep our existing businesses and attract more. These top quality companies provide valuable employment for local people and income we need to run our public services. Just last year S.o.J.D.C. had to vacate their offices to provide one of your Europe's biggest hedge funds with headquarters that were appropriate for their needs and last week UBS spokesmen said they need new efficient premises located in the commercial centre of St. Helier for their business to continue to flourish. It will not just be UBS and all the other companies who benefit from the work of the S.o.J.D.C. Taxpayers also stand to benefit from their taxes paid by companies and their employees and from the profits generated by S.o.J.D.C., which will be used to regenerate areas of St. Helier. I would like to clear up the issue about how funding for the International Finance Centre is being dealt with. No taxpayers' money is being used in the construction of the finance centre. I would like to repeat that for our friends in the media. No taxpayers' money is being used in the construction of the finance centre. S.o.J.D.C. is a limited company and is borrowing from banks like any other developer and, as with any commercial lending, the bank undertakes its own due diligence on the viability of its lending including an independent valuation of building 4. To be clear, the States of Jersey is not providing any security or letter of comfort for this lending. If I may I would like to clarify a point that I spent much of last Friday explaining to various media organisations and that is the original agreement that 200,000 square feet of office space should be pre-let before Harcourt could start work on the finance centre. This requirement was established following a debate in 2009 which requested that the development should not proceed until our economy had improved. The 200,000 square footage

stipulation was put forward by the former Minister for Treasury and Resources in a statement to the Assembly. The Chief Minister confirmed the pre-let as a condition for the Waterfront Enterprise Board to meet before Harcourt could start work. This condition was clearly linked to the development agreement with Harcourt for a completed financial district. When the agreement with Harcourt fell away so did the 200,000 square feet stipulation as there was no longer one developer contracted to construct the completed district. The next date I need to draw to Members' attention is the debate on Proposition 73 in 2010 to establish the States of Jersey Development Company. This debate provided another vote of confidence for the project as, in approving the proposition, the States Assembly agreed again that the Waterfront should be developed as a centre for financial businesses. The proposition also made the following stipulation about pre-lets: "If it is proposed that a specific development is undertaken directly by S.o.J.D.C. before committing to construction costs S.o.J.D.C. will have to secure a sufficient level of legally-binding pre-sales or pre-lets to fund the costs of constructing the first phase of the scheme. This will remove part of the sales risk of a particular development project and will ensure that there will be no financial liabilities relative to a particular development's construction costs. S.o.J.D.C. is meeting this requirement by securing a legally-binding pre-let with UBS before starting work on building 4. This pre-let is sufficient to secure borrowing to construct the building and to service the debt on it. Also, the sale value of the completed building with the current level of pre-lets exceeds construction costs. This meets the 2010 requirement approved by the Assembly and it abides by the spirit of the 2009 decision. The economy is improving and we have secured enough pre-lets to cover construction costs. I know some have been concerned by a comment made in the States Assembly by my predecessor which suggested that the requirement agreed in 2009 for 200,000 square feet of pre-lets still stands. I can only assume that Senator Ozouf was thinking of the original agreement in relation to Harcourt when he mentioned this figure in his answer. The 2010 proposition to establish S.o.J.D.C. stated clearly that the development company should pre-let enough space to make the construction of each building viable. The need to have pre-lets in place before construction begins was set by the States Assembly to mitigate risk and that is what has been secured. If I can turn to the Esplanade masterplan, only the Minister for Planning and Environment can approve a masterplan or variations to it, but in 2008 the Minister decided that, although it was not legally required, he would ask the Assembly to endorse the masterplan. He then updated the plan in 2011 without returning to the Assembly. He did not need endorsement as the changes did not depart from the broad concept of the masterplan. They merely changed the sequencing by designating the construction of office buildings as the first phase of the work. The accompanying report said that the Minister was satisfied that the changes are acceptable and that the principles which define the masterplan will not be compromised. I regard the Esplanade masterplan as a living document that must be allowed to evolve and be flexible enough to respond to changing circumstances. Within the parameters of the masterplan, S.o.J.D.C. is taking a phased approach. Work will start on each building when enough tenants have signed up to make each building financially viable. Phasing the development in this way allows S.o.J.D.C. to construct a financial business centre that will suit Jersey's needs as they develop over the coming years. The development of a financial business district is a key part of the Council of Ministers' vision for the future of St. Helier as a vibrant place to live and work. After a difficult period of economic downturn, S.o.J.D.C. is in a position to move forward with the first phase of the development. These offices are needed and, by using S.o.J.D.C. to develop them, Islanders and especially St. Helier residents will benefit rather than a private enterprise as any profits will be used to improve the parts of our town that are identified as needing regeneration. I know this pre-let agreement is being announced before the States can debate Deputy Tadier's proposal, but the heads of terms for this agreement were signed more than a month before Deputy Tadier lodged his proposition. So his proposition was too late for this agreement to be halted without S.o.J.D.C. having to pay a substantial financial penalty. S.o.J.D.C. sought and received all the necessary Ministerial approvals under the memorandum of understanding and the company's

articles of association before Deputy Tadier's proposition was lodged. Pulling out of this contract would have caused severe reputational damage for Jersey and would have had an impact on S.o.J.D.C.'s ability to attract future tenants.

[12:15]

As it is, S.o.J.D.C. is in discussions with 14 potential tenants who, collectively, will need 330,000 square feet of Grade A space over the next few years. As the work progresses, half the site will be provided for public use as squares, parks and water features. No private developer, driven solely by profit, would provide these valuable public amenities. I hope Members are feeling as positive as I am about the confidence shown in our Island by the decision of UBS to upgrade its office space here in Jersey. I am confident we will see more companies taking on pre-lets in the coming months and it is evident that the more of our financial district we can build the more regeneration we can fund of St. Helier. I would like to move ahead with Phase 1 of the masterplan and construct all 6 buildings on the existing car park with work starting on each one as S.o.J.D.C. secures enough pre-lets to make them financially viable. We can then move on to the subsequent phases of the work as future need dictates. That is the beauty of a masterplan that is flexible enough to respond to changing circumstances. We should never forget that the financial services industry is the key to Jersey's economic health both now and for the foreseeable future. It makes a substantial contribution to the employment of local residents and without the major contribution it makes to our tax revenues we would not be able to sustain our high standard of essential public services. We have a much envied reputation as a quality international finance centre and it is for this reason that UBS has taken this decision despite the other options open to them. We are working in an increasingly competitive environment with many other centres bidding for a share of global financial services. We cannot afford to be complacent if we are serious about protecting our existing business and attracting new business. As highlighted in our policy framework for financial services industry, we are committed to the continuous development of high-quality office accommodation to meet demand. If we do not provide suitable accommodation that modern professional firms expect, we will struggle to build our economy by attracting quality businesses to relocate to Jersey. More worryingly, if we do not provide suitable modern office accommodation, we may see some of our key businesses relocate to places that can provide the facilities that they require. To start work on our International Finance Centre sends out a positive message: an international organisation has demonstrated confidence in Jersey and its future and the right infrastructure is being put in place to support existing businesses and to accommodate new ones. We have a strong position in the provision of banking, fund and trust businesses. We accommodate services that not only benefit Islanders but also the U.K. and European economy. These are strengths that we must build on and the development of an international finance centre has an important role to play in the continued success of Jersey and its economy. **[Approbation]**

**The Bailiff:**

The time for questions now starts.

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

The Minister in his statement only alluded in passing to car parking, which is a concern to the public. Could he confirm for us that the existing public car parking is going to be replaced in secure, underground, well-lit conditions but, on top of that, there will be parking provided for the businesses that relocate or start-up on the Esplanade quarter so there will be a net increase in parking provided on the site? Could he further confirm that, while the site currently provides no open space at all, the new site will be given over around half of its space to new public shares and parks?

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

I thank the Constable for his question and, yes, I can confirm, first of all, an additional point. There will not be any loss of car parking space during the course of construction. Members may well be aware that temporary parking has been provided to the south of the road. So there is no loss of space during construction and, indeed, when construction is complete all car parking spaces will be replaced underground - so we will not have to look at car parking in the future - in a lit, safe, secure environment. Indeed, on top of that there is parking being provided for each of the buildings and the occupants within the buildings will, therefore, have the ability to have underground parking. I can also confirm the point the Constable makes about open space and it is an important point because you would not see this type of open space - 50 per cent of the site or so - in terms of parks and water features and such like if it was a private developer. It simply would not be viable to give that amount of space over in this way for the benefit of the community.

#### **8.1.2 Deputy J.M. Maçon:**

Can the Minister confirm that, therefore, in this agreement it now prevents this site to be used as the new hospital site, which is the most favourable site in the report that is yet to be released, or can he clarify the situation, please?

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

Yes, I can clarify the situation. What we are talking about in Phase 1, which I have been alluding to during the course of the morning, is the area which is the car park where the 6 buildings are going to go. This is not the site that is being considered for hospital. One of the sites for the hospital is to the south, around effectively the Radisson area. That is the area that is being considered as one of the possible sites for the hospital.

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

Does the Minister acknowledge that when he engages in demagoguery to the effect on his first page of the statement saying: "We should not let anyone persuade us that these buildings are not needed; we must offer prime Grade A office space," that he could very easily be accused of both arrogance and an authoritarian approach where, surely, what we should be doing as politicians is being open-minded and listening to those members of the public and perhaps experts who say: "I do not know if these buildings are needed and I do not know if it is the place of Government to provide Grade A office space or, indeed, whether the figures add up. I want to know more"? Does the Minister think that the last approach is much more befitting of a democratic institution such as the States Assembly and, hopefully, the Council of Ministers?

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

In no way whatsoever was I seeking to be arrogant or authoritarian in any shape or form. What I would say is that we have to respond to the facts. The facts are that there is demand for these spaces. I think the lease that has just been signed-up to demonstrates the demand and certainly the work that has been undertaken by S.o.J.D.C. and others to date, looking at demand profile over the coming years, demonstrates demand. At the end of the day demand is what is going to prove the point because, as I have said several times today, no building works are going to start until that demand is in place, until legally-binding agreements are signed-up.

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

In terms of demand, will the Minister not concede that what the S.o.J.D.C. and the Minister himself have been doing is they have been scrambling around desperately trying to find a tenant to sign up in time to cut off the work of the Scrutiny Panel and any propositions coming to the Assembly in the meantime and they have had to move their own goalposts because the demand out there is so difficult to come by that they cannot even get the 200,000 square foot that was originally promised - which I do not believe was a mistake - which represents pure political spin that may

come in handy at Thursday's cricket match but certainly does not do us any favours with the public?

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

No, I do not agree with that at all. That is just simply not the case and the 200,000 square feet - the Deputy said he agrees with it - that relates to roughly 3½ buildings. They are all varying sizes, so it would depend which 3 but at least 3 buildings would have to be completely pre-let with legally-binding agreements. That is just not practical. The only reason that that was put in place was when there was going to be a third party developer (in that particular instance it was Harcourt) taking on the development and that commitment and they agreed to it but, of course, that did not proceed.

**8.1.4 Deputy K.C. Lewis:**

The Minister said in his statement that he must be allowed to evolve and be flexible enough to respond to changing circumstances and we are being asked to trust the Minister and S.o.J.D.C. That being so, does the Minister not believe that the Corporate Services Scrutiny Panel should also be trusted and be given unfettered and unrestricted access to all relevant information without draconian restrictions?

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

I have made it clear both to the panel, and I will state it again here publicly, that I fully support the Scrutiny process and absolutely the Scrutiny Panel should have access to information. As I explained earlier on today, the reason that the data was not transmitted as quickly as I know the panel would have liked - and, frankly, as I would have liked - was the issue over the N.D.A. We need to deal with this not just in this particular case but more broadly and the code of practice between Ministers and Scrutiny needs to be finalised. It is currently sitting with Scrutiny. That issue must be resolved otherwise there is a chance that we will have similar to this in the future. Yes, they must do that, of course, and let us not forget, as I alluded to in my earlier comments, the former Corporate Services Scrutiny Panel did look at this, did have access to the data that was available with a briefing that S.o.J.D.C. gave to them and, as a result of that, were comforted to the extent that they did not undertake a review. Any reviews that should have been done should have been done a long time ago. This is too late. I said right at the beginning: the train has left the station. Costs have been incurred. We have spent, through S.o.J.D.C., £5 million to get to this point. To stop now would cost millions more. The review, yes, but it should have happened before and the previous Corporate Services Panel chose not to.

**8.1.5 Deputy K.C. Lewis:**

Does the Minister not agree that things have changed drastically since the last Corporate Services Panel were in office?

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

No, I do not. I mean the last panel were in post until the elections last October. That is not that long ago. If the Deputy would like to give more information as to how things have changed drastically I would be delighted to hear what they are.

**8.1.6 Deputy A.D. Lewis:**

The Minister will know that, although I am fully supportive of the development, I am not as supportive of it being a publicly-owned development. That said, the Minister said that only if it is public ownership could open space be provided in such a development. Does the Minister really believe this? Does he have no faith in the planning application process? Does he have no belief in the Minister, who stated earlier that there could be a change in the law so planning gain could be a



real reality so that such developments will always include public open space? In other words, this can be achieved by the private sector. Does the Minister not agree?

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

Yes, I would not want to mislead. The point that I was trying to make was that it is unusual to see this level, 50 per cent of the site, being put over to open spaces, but the Deputy is right. Of course, there is planning gain; not to that extent. I think it would be very difficult for developers generally, private developers who are in the development to make profit, to give over that amount of gain. There needs to be a consistent approach to planning gain. I am shocked to see that, for example, the development adjacent to the Grand from Dandara has got no planning gain for some reason or if there is any it is very minimal. I do not think that is right for a building of 150,000 square feet. There needs to be something given back to the community for the benefit of the community if there is going to be that level of profit generated.

**8.1.7 Deputy J.A.N. Le Fondré:**

Yes, it is all about assurances to this Assembly as far as I am concerned and if mistakes have been made they should be corrected speedily. Because the Minister has briefly made reference to HSBC having performed a Red Book valuation, could he confirm the following: whether the Red Book valuation applied to just the first building and, secondly, given that he has talked about positions changing and needing updating, whether he has updated the viability position of the Jersey International Finance Centre as a whole by having a Red Book valuation performed since he has been in office?

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

The Deputy referred to mistakes. I was not quite sure what he was ... he did not allude or give any detail as to what he was referring to. I assume it was the 200,000 square feet that he was speaking about. In relation to his question about the valuation, yes, it was a Red Book valuation, as I stated earlier, and it did relate, as I understand it, to the first building. That is the one where funding was being secured. So it related solely to that particular building. In terms of viability, I am perfectly satisfied with the viability, which has been confirmed by this valuation that the bank has undertaken for this particular construction to start on building 4. With regard to future viability, we are continually looking at options for reassessing that and I am happy to update the Deputy in due course as we progress that matter.

**Deputy J.A.N. Le Fondré:**

At the moment that is a no?

**The Bailiff:**

Was that a question or a comment?

**Deputy J.A.N. Le Fondré:**

It was a question.

**The Bailiff:**

At the moment it is no, was the question.

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

Yes, correct. I did nod at the Deputy and he accepted it. Sorry, I should have said it for good record.

[12:30]

### **8.1.8 Deputy R. Labey:**

Is the Minister for Treasury and Resources' confidence in the £50 million dividend such that we can start spending it now on areas of St. Helier that are badly in need like Havre des Pas on the north of town. **[Approbation]** Say a £5 million a year rolling out programme over the next 10 years?

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

I do not think any Minister for Treasury and Resources, and particularly this one, would wish to see any money spent until it was in the pocket. I do not think that is a good position to be in. There is - and this is an important point, I believe - opportunity here to generate value as a result of this development proceeding. There has been an undertaking, and it is formed within the Strategic Plan, that money will be recirculated into projects within St. Helier to regenerate St. Helier and that is absolutely appropriate. The timing, of course, is another matter. We need to see how it progresses. I believe that now that the first legally-binding agreement has been signed it will give some confidence to other tenants to come forward. This has been a tremendous barrier. Potential tenants and businesses have not wanted to commit to the cost of progressing to just heads of terms, let alone anything else, in the environment where it is on, off, on, off and continual attacks which make the uncertainty almost impossible for business to operate in and great courage to UBS for going forward and committing themselves in an environment such as that. Hopefully now this demonstrates we are up and running.

### **The Bailiff:**

There are no further questions. We now come to Public Business and the first item of public business is the Draft Restriction on Smoking (Motor Vehicles) (Jersey) (Regulations), P.36, lodged by the Minister for Health and Social Services and I ask the Greffier to read the citation.

## **LUNCHEON ADJOURNMENT PROPOSED**

### **The Connétable of St. Peter:**

Sir, before we start, may I request that we consider adjourning now and starting this proposition immediately after lunch or take a small item?

### **The Bailiff:**

We cannot get through most of it now? You do not think we would?

### **The Connétable of St. Peter:**

I will get through the proposition but I doubt we will get into the debate before lunch, so it would be nice to do it all in one.

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

Can I make a suggestion that we maybe take some smaller items if the other Ministers are ready to go?

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

We could do P.38, Sir, if that helps.

### **The Bailiff:**

I am not sure I can identify any particularly small ones. Are you proposing the adjournment now, Connétable?

**The Connétable of St. Peter:**

In the absence of an alternative, yes, Sir.

**Senator I.J. Gorst:**

Sir, there is an appointment right at the end of the Order Paper. I am happy to take that.

**The Bailiff:**

The appointment of commissioner? That cannot be debated until tomorrow.

**Senator I.J. Gorst:**

My apologies, Sir.

**The Bailiff:**

Those in favour of adjournment now kindly show. Those against. The States will now stand adjourned until 2.15 p.m. this afternoon.

[12:33]

**LUNCHEON ADJOURNMENT**

[14:16]

**PUBLIC BUSINESS**

**9. Draft Restriction on Smoking (Motor Vehicles) (Jersey) Regulations 201- (P.36/2015)**

**The Bailiff:**

So we now return to the Draft Restriction on Smoking (Motor Vehicles) (Jersey) Regulations, P.36/2015, lodged by the Minister for Health and Social Services. I ask the Greffier to read the citation of the draft.

**The Deputy Greffier of the States:**

Draft Restriction on Smoking (Motor Vehicles) (Jersey) Regulations 201-. The States, in pursuance of Articles 1 and 2 of the Restriction on Smoking (Jersey) Law 1973, have made the following Regulations.

**9.1 The Connétable of St. Peter (Assistant Minister for Health and Social Services - rapporteur):**

I am very pleased to bring forward these Regulations to prohibit smoking in motor vehicles when someone under the age of 18 years of age is present. This follows on from the work started in July last year when my colleague Deputy Anne Pryke, in her role as Minister for Health and Social Services, proposed changes to the Restrictions on Smoking (Jersey) Law 1973 which would allow the future development of regulations to enforce a law that would make it an offence to smoke in a motor vehicle carrying anyone under 18 years of age.

**The Bailiff:**

The Deputy of Trinity.

**The Connétable of St. Peter:**

Deputy of Trinity, apologies, Sir. This Assembly voted in favour of those changes and I am delighted to bring these Regulations to the Assembly today. I am sure we will all agree that as our young people are our Island's future, we should all aspire to create an environment where our children and young people have every opportunity to thrive in a healthy and supportive culture. Regulations protecting them from second-hand smoke in cars is a strong contribution to this

aspiration. Our culture is changing and smoking is becoming a minority activity in our society. This is largely thanks to many years of concerted strategic efforts through the tobacco strategy, together with our increasing awareness of the health harms of smoking. For example, our smoking rates are falling both in adults and teenagers. The adult smoking rate in 2014 was 19 per cent of adults compared to 22 per cent in the previous 2 years. Smoking in 14 to 15 year-olds has decreased from 35 per cent in 2002 down to just 12 per cent in 2014. Despite these successes there is still work to do. Smoking remains the biggest cause of preventable illness and premature death on our Island with tobacco killing around half of all its long-term users. Non-smokers are also at risk as exposure to second-hand smoke contributes to a range of serious and fatal diseases. Children in particular need protecting from this as they do not have a choice whether to breathe in other people's smoke or not. Our community paediatrician, Dr. Mark Jones, emphasised the importance to me of protecting our children as far as possible. He refers to babies' and children's developing bodies and organs and their susceptibility to the toxins and poisons in tobacco smoke. He and his colleagues are required to regularly treat lung conditions such as asthma in children that may have been triggered by exposure to smoke, but for some that is certainly aggravated and worsened by further continued exposure. We know that among children exposed to second-hand smoke there is a 50 to 100 per cent higher risk of acute respiratory illness such as asthma, higher incidence of ear infections and an increased likelihood of developmental disabilities and behavioural problems. Yet many children come into contact with second-hand smoke in cars. The evidence to support us in stopping this is compelling. Levels of second-hand smoke in cars can be extremely high because it is a confined area in which the smoke is circulated. For example, just one cigarette smoked in a car during a typical 30-minute journey with the windows closed leads to levels of second-hand smoke about 7 times those of the smoky bars that existed in our Island before the workplace restrictions came into force. Several studies have measured tobacco smoke pollutants in vehicles and found high levels, even in vehicles with the windows open. Given our knowledge about the damage that second-hand smoke causes to children, action to remove such harm is clearly needed. Information from our 2014 schools health survey data shows that one in 10 of year 8 and 10 students are exposed at least weekly to second-hand smoke in cars. With similar levels of exposure experienced across all ages under 18, approximately 1,800 children will be experiencing weekly exposure to the harmful effect of second-hand smoke in cars. So the evidence for prohibiting smoking in motor vehicles carrying anyone under the age of 18 is convincing. This together with support we know we have from the public supports the implementation of these Regulations. In the summer of 2013, the Public Health Directorate concluded a public consultation on protecting children from second-hand smoke. The purpose of this public consultation was to gauge public opinion and explore Islanders' views about protecting children from second-hand smoke in public places, family homes and cars carrying children less than 18 years of age. Just under 3,000 Islanders responded to that consultation. Almost 8 out of 10 said they would support a law in Jersey to stop smoking in cars carrying children. Additionally, the 2013 Jersey Annual Social Survey showed 81 per cent supporting a law, and this included a high proportion of smokers. The Regulations I am proposing here today will make it an offence to smoke in an enclosed vehicle when someone under the age of 18 years old is present or failing to prevent smoking in a private vehicle when somebody under the age of 18 is present. The Regulations describe the meaning of an enclosed vehicle. This does exempt open-top or convertible-style cars. The reason for this is because the evidence of harm from second-hand tobacco smoke is specifically from smoke in an enclosed vehicle whether or not the windows are open. The Regulations also include an exemption for any stationary vehicle that is permanently equipped to be a person's primary residence to ensure that an individual's liberty to smoke in their own home is not affected. We are proposing that the Regulations come into force 1st September 2015. Although the main aim of these Regulations is to protect children from health harms associated with exposure to second-hand smoke in motor vehicles, it will also have the added effect of taking away the normalising effect of smoking. We

know that children who see adults smoking are more likely to smoke. We believe that these Regulations will benefit children under the age of 18 years of age who are currently exposed to second-hand smoke in cars. They may have an even bigger positive impact on families that are from different communities where smoking prevalence is higher and so may also help to reduce health inequalities. By introducing these Regulations in addition to existing measures contained within the States of Jersey tobacco strategy, the Island will be protecting local children from the known harms of tobacco and taking positive steps to secure the future good health of the population. I make this proposition.

**The Bailiff:**

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

**9.1.1 Deputy P.D. McLinton of St. Saviour:**

During the debate last summer to propose the introduction of these Regulations, there were some concerns about whether these Regulations would impact on the civil liberties of an individual's right to choose to smoke in their own car. When it comes to addressing harmful health behaviour using legislation, there are often accusations of a "nanny state" and questions are asked about the Government's right to intervene with private lifestyle choices. A broad government agenda should not be interpreted in this way. If a person wishes to smoke, then that is their business if they wish to choose to inhale, among other things, polonium 210, a radioactive material which vaporises at a very low temperature. It is in cigarette smoke because the tobacco plant absorbs a lot of it naturally. Virtually all the radioactive material is breathed into the lungs of the smoker who has a choice. It emits alpha and gamma radiation which is broadly similar to X-rays. If, for example, a smoker chooses to smoke 20 a day, they are effectively choosing to expose themselves to gamma ray radiation equivalent to 300 chest X-rays a year for each and every year they choose to smoke. In combination with tar and nicotine and a cocktail of all other sorts of carcinogens, it is hardly surprising that people who choose to smoke drop dead from all sorts of cancers and related illnesses. I will give you some examples. Cancers: tongue, throat and oral, bladder, cervical, kidney, stomach, liver, leukaemia. Polonium, by the way, may sound familiar to you. It is the radioactive material that killed Alexander Litvinenko, the former K.G.B. (Komitet Gosudarstvennoy Bezopasnosti) agent. Weight for weight, it is 250,000 times as toxic as hydrogen cyanide. Marie Curie, who discovered it, almost certainly died from its effects. It is just one of the many thoroughly nasty ingredients in your common or garden cigarette that smokers choose to smoke. I could list many, many, many more but hopefully you have the gist. If adults choose to smoke, they can, which is remarkable given the toxicity of the product. We do, however, have a role in reducing the harm of smoking in ways which are proportionate and evidence based. It is entirely appropriate that we should and must do what we can to promote the health and well-being of our Island's young people. A very strong ethical case can be made for protecting children from exposure to health risks where they are unable to take action to protect themselves, where they have no choice. You might be interested to know that although locally we are bringing in these Regulations under our Smoking Law, in Scotland and the U.K. it has been brought in under children and families legislation which underlines the protection of children from harm, which is the crux of this issue. A frequent argument against interventions to reduce smoking and one that has historically been championed by the tobacco manufacturers themselves - surprise, surprise - is to present the issue of smoking solely in terms of personal choice and freedoms, but we would argue that this legislation seeks to protect personal choice and freedoms, the right of our young people not to be forced to breathe in another person's poison. Yes, the right of the individual to smoke does not extend to those around them who are involuntarily exposed to second-hand smoke in an enclosed environment such as a car, and when you consider that the effects of smoke in a car

is magnified up to 30 times even with the windows down, you can see why we believe that it is vital that we save the Island's children from this incredible level of toxic attack over which they have no choice or control. A person's right to smoke ends when it reaches somebody else's nose, someone else's mouth, someone else's throat and someone else's lungs. The case for protecting the privacy rights of adults within a car is further weakened by its disregard for the rights of the children travelling in the same vehicle. Often children have little or no voice when exposed to cigarette smoke from adults. This legislation represents their rights to breathe clean air. Using legislation is not a decision that we take lightly, but the focus of our tobacco control policies is the prevention of harm. We balance the public health benefits against the burden of intrusions into behaviours considered as private. Before we took this decision, we carefully considered the ethical issues and made sure we had clearly defined goals and that the legislation was likely to be effective in achieving those goals. In this case, there is evidence from Canada that legislative intervention will be effective in protecting children from second-hand smoke. However, experience with other interventions, like seatbelt and mobile phone use, suggests success depends on other variables, too. These include practicability and visibility of enforcement, accompanying information, media campaigns, together with the enthusiasm with which the public engages with and adopts the underlying health behaviour message behind the intervention, in this case that second-hand smoke is harmful and exposing others to it, especially children, should be avoided. We need the support of other agencies to also spread this message. Therefore, this legislation is only part of a wider package of interventions to reduce the harms from tobacco to our community. Any legislative intervention must have genuine public trust that the intervention is being carried out in the public's best interest. As you have already heard, there was wide public support for this initiative arising from the Island-wide consultation. So, to summarise, it is very important that public health interventions must have genuine public trust that an intervention is being done on behalf of the best interests of the public.

[14:30]

In the context of smoking in vehicles, this means public health organisations must clearly communicate the ethical arguments surrounding the area and why any intervention that imposes a cost on individuals is justified by wider benefits gained by the public. This is what we have done through public consultation and continue to do so through the debate here today.

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

My contribution is somewhat more basic and somewhat briefer than that of the previous speaker. As someone who was induced not to smoke by his father so as to receive a bribe when he was 21, I am a confirmed non-smoker and I very much endorse the proposition as far as it goes. That is my point. Certainly, it covers the situation where a child under 18 is with his parents. It does not cover the situation where a parent is merrily smoking away while the child is outside the car and then comes into a smoke-filled car 20 minutes after his dental appointment. I very much hope that this legislation is the forerunner of more extensive rules which will extend it to almost banning smoking completely in cars, but I do endorse the proposition.

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

In a similar manner to the previous speaker, I welcome this legislation coming to the Assembly, but as the Deputy of St. Mary said, I do not believe it goes far enough. The Assistant Minister I think gave a very compelling speech about the contradictions of those who choose to smoke even though they know it is harmful behaviour and that should not be forced on minors, which is completely understandable. He said that the right to smoke ends when it reaches the throats of others, but clearly it does not because we know that after the legislation is brought in, once children have been given the right to go on relatively short car journeys in Jersey with perhaps their smoking parents or

carers, they will get into a flat, bedsit or a living room where the parent or “responsible adult” can smoke to their heart’s content in front of that baby or that toddler or that young teenager and the legislation does not extend to that. Given the comments of the Assistant Minister and the mover of the proposition, it would seem to me logical that we need to extend it where potentially even more harm is done because it is clearly absolutely the right direction, but car journeys in Jersey are relatively short to other countries which have motorways which may extend for hours and which will also be moving in the same direction. It seems to me that there are perhaps reasons why this low-hanging fruit approach has been taken. It is perhaps the easiest part to legislate. It is fairly visible and it is difficult when we enter into the domain of what people do in the privacy of their own homes, of course. Perhaps there is a reluctance and perhaps a fear for the department to enter into that public debate, even though I believe it is the right thing to do. There is also the question of policing: how would one police the privacy of one’s home? Nonetheless, I believe the principle remains the same and that is a nettle which needs to be grasped by the Minister very quickly, I would suggest.

#### **9.1.4 Deputy A.E. Pryke of Trinity:**

I am very pleased to obviously be supporting this. As has been said, smoking kills and we all know of the evidence that sits behind it very well, not alone in the way that health promotion promotes the dangers of smoking but also the consultants in the hospital. It is quite right that we here are now approving Regulations to protect our children, which are our most important asset for the future. To pick up what Deputy Tadier said - and I have stood here many times - I would like to think that in time we will go further and become bit by bit ... I know it is bit by bit, but I would like to think that some time in the future we can be an Island free from smoking. I know that especially the cardiovascular consultant in the hospital has mentioned that and tweeted that many, many times because he sees the effects of smoking every single day, 365 days of the year, and the damage that it does to his patients and to the families. So, as you would expect, I am fully supportive behind this proposition.

#### **The Bailiff:**

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

#### **9.1.5 The Connétable of St. Peter:**

I thank every Member that spoke and I think the Deputy of St. Mary has commented on some of the issues that Members, when we had the debate last year, also wanted us to extend the rules at that particular time as well. The difficulty about banning it in the homes is it is about how we can police it and it is about an unwarranted intervention into people’s home lives. Yet we still have the issue about children being damaged where they should not be. I admire Deputy Tadier for his consistency because his speech was virtually word for word with what he said last July. What he did not go on to say today, though, he did recommend last July that Government should aim to make Jersey smoke free by 2020. I do not disagree with him because that should be our objective overall. I think what we are not trying to do here today, we are not trying to criminalise people who do smoke in cars with children in there because later on today hopefully there will be coming out a press release, or certainly by the end of this week, to launch a campaign of education for people. For me, it comes down to the 10 per cent rule: 10 per cent of your staff give you 90 per cent of your problems and 10 per cent of law breakers give you 90 per cent of your problems. The Regulations are there to catch that 10 per cent, but if the 90 per cent do adhere and learn and take notice of what we are doing in here today, then we have made a massive step forward towards where we want to be by Deputy Tadier’s recommendation of 2020. So I thank you all for speaking that have spoken in support today and I thank you for those that have not raised any queries today because it has made life a lot easier for me. Thank you very much and I ask for the appel.

**The Bailiff:**

The appel is called for. The vote is on the principles of the Restriction on Smoking (Motor Vehicles) (Jersey) Regulations. I invite Members to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 38</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator A.K.F. Green				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**[Approbation]****The Bailiff:**

Deputy of St. Ouen, does the Health and Social Security Scrutiny Panel wish to scrutinise these Regulations?

**The Deputy of St. Ouen (Chairman, Health and Social Security Scrutiny Panel):**



No, Sir.

**The Bailiff:**

Assistant Minister, do you wish to propose the Regulations *en bloc*?

**9.2 The Connétable of St. Peter:**

I think so. They come as a package of Regulations. They are quite simple, describing what a motor vehicle is with regard to the law and also defining the level of fines which would apply. I am prepared to take any questions if people have questions, but otherwise I propose them as read.

**The Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on the Regulations? Nobody wishes to speak. Those in favour of adopting the Regulations kindly show? Those against? The Regulations are adopted. Do you wish to propose the Regulations in Third Reading, Assistant Minister?

**The Connétable of St. Peter:**

Yes, please.

**The Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations ...

**Deputy J.A. Martin:**

Can we have the appel, please?

**The Bailiff:**

The appel is called for. I invite those Members who have left their seats to return to them. I ask the Greffier to open the voting.

<b>POUR: 38</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator A.K.F. Green				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				

Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

## **10. Draft Air and Sea Ports (Incorporation) (Jersey) Law 201- (P.5/2015)**

### **The Bailiff:**

We now come to the Draft Air and Sea Ports (Incorporation) (Jersey) Law lodged by the Council of Ministers. Chief Minister, I understand that you have asked the Minister for Treasury and Resources to promote this law?

### **Senator I.J. Gorst:**

That is correct, thank you.

### **The Bailiff:**

You have also asked him to promote your amendment to the law?

### **Senator I.J. Gorst:**

Indeed, thank you.

### **The Bailiff:**

Minister for Treasury and Resources, you agree to promote the Chief Minister's amendment to the law?

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

Yes.

### **The Bailiff:**

Then, Greffier, would you please read the citation of the draft?

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

Draft Air and Sea Ports (Incorporation) (Jersey) Law 201-. A Law to establish Ports of Jersey Limited and to make provision about it, to make new provision relating to port operations and the management of passenger and freight services into and out of Jersey, to enable staff, assets and liabilities to be transferred to one or more companies, to enable the Jersey Competition Regulatory Authority to license any such companies and to license the operation of lifeline services, to make further related and consequential provision about the operation and management of Jersey's airport and sea ports and harbours and about air and maritime safety and security and for connected

purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

**The Bailiff:**

Well, unless any Member objects, I shall ask the Minister for Treasury and Resources to propose the law as amended.

**10.1 Senator A.J.H. Maclean (The Minister for Treasury and Resources - rapporteur):**

This law, if adopted today, will put in place the framework for the creation of a wholly-owned, self-funding company to be called the Ports of Jersey Limited that will control and operate our vital air and sea ports. This follows the States Assembly approving P.70 in October 2012 by a majority of 42 votes to 5. P.70 agreed the principle of incorporation and called for the Minister for Economic Development to, and I quote: “Take the necessary action to prepare for incorporation, including the preparation of legislation for the Assembly’s consideration.” P.5/2015 before Members today contains the legislation-supporting documentation. This proposition is, in essence, about the long-term planning to secure the financial and operational future of our ports. To put this into context, the Harbours and Airport, now known as the Ports of Jersey, will need to invest an estimated £420 million in infrastructure just to keep them open, safe and secure as they are today for the next 25 years. This is necessary capital investment that has been independently assessed. It includes the replacement cost of critical capital-hungry infrastructure such as runways, radars, piers, cranes, link spans, to mention but a few. This capital expenditure would create a potential cash shortfall of up to £314 million over the 25-year period and would need to be funded, as in the past, from a mixture of Ports trading revenues and undoubtedly from States central reserves as it has historically. Incorporation provides an alternative to remove that risk from falling upon the public purse and is the best possible structure for the Ports’ operations to be financially self-sustainable. The incorporation model is not new. It is widely recognised globally. Indeed, Holman Fenwick Willan, H.F.W., were contracted to review incorporated governance arrangement of ports in jurisdictions such as Amsterdam, Rotterdam and Singapore. The review concluded that incorporated Ports provide improved social and economic returns by broadening the revenue base through a commercial approach to the development of assets. This proposition is, of course, much broader than just establishing a trading business required to be self-funding and operate commercially. It requires the new entity to conduct necessary essential functions for the Island that would not normally be the remit of a limited company. It also requires a scheme of effective regulation of the new company to balance the interests of customers, the wider general public and the Island economy. It also proposes the transfer of relevant infrastructure assets to the new company by freehold transfer in the case of the airport and by leasehold in the case of harbour assets. Detailed work to prepare for incorporation has been completed and the result is this proposition and legislation. Detailed documents supporting incorporation have been made public since May 2014 and informed one of the most extensive public consultations ever undertaken in support of the development of Jersey legislation. This demonstrates the depth of consideration as well as the degree of transparency in formulating the law. The Economic Affairs Scrutiny Panel has prepared comments on the proposition that have been circulated to Members. I am sure the chairman, acting chairman and members of the panel will outline their conclusions later in the debate, but I am greatly encouraged by the overall positive endorsement provided in the panel’s written comments. The business case that has been developed to support this proposition clearly indicates that the incorporation of the Ports of Jersey will strengthen and safeguard public finances and deliver benefits for Islanders and the economy. Let me highlight some examples.

[14:45]

Incorporation will deliver new cash income to the States from taxation and dividends estimated at £35 million over the period. It will see the Ports paying Parish rates. It will see repayment ... **[Laughter]**. It was the wrong Connétable who was applauding but I welcome it nevertheless. I thought it was the Connétable of St. Helier.

**The Bailiff:**

Well, it was the right chair, Minister. **[Laughter]**

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

It was the right chair, indeed it was. As I was saying, it will see the Ports paying Parish rates. It would see the repayment of the pre-1987 pension debt of £18 million. It will result in the Ports covering some substantial public service obligations totalling £49 million, and by that I mean managing and running, among others, the Coastguard as well as our historic harbours. It would meet the estimated £420 million capital investment in infrastructure. It will deliver £15 million cash surplus at the end of the period. Importantly, there will be no long-term debt as a result. But how will an incorporated Ports of Jersey pay for all this? Based on the projected growth in business volumes, again developed by specialists in the aviation and maritime sectors, if they are to remain competitive Ports of Jersey cannot generate enough revenues from landing charges or harbour dues alone, which is the current model, to meet the capital demands of the business that I have just outlined. Clearly, staying as we are and doing nothing is not an option. We simply cannot afford to take that chance. Of course, Ports could deliver efficiencies and cut operating costs, as any private sector business might do. Well, that is exactly the process that we started back in 2010 when we appointed a shadow board with extensive private sector and business expertise. They were asked to review the businesses and recommended the separately operated Harbours and Airport should be integrated into one business to drive out duplication, improve efficiency and to cut costs. By early 2012 this had been achieved and the brand “Ports of Jersey” was created. Furthermore, more than £1 million of costs was taken out of the business as a result. But this is not enough on its own as the financial modelling clearly demonstrates. Of course, the Ports could generate more revenue by increasing landing fees and harbour dues, a typical response, perhaps, of Government but a move that would increase the cost of travel for Jersey residents and render the Island less competitive for tourism and other business activity. It would also increase the input cost to our economy, the latter being code for potentially increasing the price of everything that we import. The taxpayer could fund the shortfall through general tax revenue, ultimately tax rises, but this would hamper the provision and investment in other critical public services such as health and education. I ask Members: why would we take this risk when an incorporated Ports of Jersey can be self-sustainable in the long term and meet all their funding pressures themselves, as has been independently assessed and verified? Self-sustainability through incorporation will in no small measure be delivered by the Ports being freed from what one might describe as the bureaucratic shackles of Government, allowing the business to operate in a more agile and commercial manner, able to grasp opportunities, realise and exceed growth projections, deliver higher levels of returns on assets and deliver new income streams and remain cash positive on a sustained basis. The Council of Ministers appreciates that a few people have concerns over such a significant move. Change is always difficult, but a failure to embrace positive change can prove much more problematic and costly. Let me directly address some of the more commonly raised concerns, firstly around governance. For the avoidance of any doubt, the Ports will be 100 per cent owned by the States of Jersey, so any claim that we are selling the family silver has no basis at all. The Minister for Treasury and Resources will represent the public as shareholder and the relationship between the Minister and the incorporated Ports of Jersey will be governed by a comprehensive memorandum of understanding that has been circulated to Members. The finalised memorandum of understanding was greatly improved and strengthened by the constructive input of the Economic

Affairs Scrutiny Panel. I am particularly grateful for the hard work and constructive feedback of the panel. We listened to their concerns about the M.o.U. and as a result amended the terms in a number of areas which have undoubtedly strengthened it. In reviewing this proposition, I warmly thank the Economic Affairs Scrutiny Panel, their officers and advisers for their valuable contribution in what I know has not always been easy circumstances. However, overall I believe it has been a good example of the Executive and Scrutiny working constructively to improve policy and legislation for the public good. In addition to the shareholder's role in governance, the Ports of Jersey operations will be overseen by the Director of Civil Aviation, maritime regulation administered by Economic Development, and will be subject to the Competition Law regulated by C.I.C.R.A. (Channel Islands Competition and Regulatory Authorities), who will issue the Ports with a licence to operate. Finally, there is a new requirement built into the law that was not included in the legislation for the incorporation of Jersey Post, Jersey Telecom or Andium Homes. Members will see that Article 5 of the law states that the Ports and the shareholder are required to act in a manner calculated to secure sustainable growth in the economy of Jersey. The importance of this improvement should not be underestimated as it directly addresses concerns some Members may have about fees and charges increasing after incorporation and will hopefully lead a strong alignment between the objectives of the Ports and the broader Island. Alignment will be further enhanced by the creation of a Ports Policy Group chaired by the Chief Minister and comprising the Minister for Treasury and Resources as shareholder and the Minister for Economic Development with a specific objective of ensuring that the shareholder's oversight of the Ports of Jersey is consistent with Article 5 of the law. As part of the incorporation, the States of Jersey will transfer land and property assets to the Ports of Jersey. Indeed, it is these assets that will, at least in part, allow the incorporated entity to generate additional revenue to address the predicted cash shortfall. Again, as I stated earlier, this is not selling the family silver. Rather it is the transfer of land and property to a 100 per cent States-owned company that along with the staff will be its greatest assets. Members will note that in the case for incorporation that supports the proposition, there are absolutely no plans for asset disposals and Members can be further assured that the memorandum of understanding is very clear in that assets may not be sold without the specific agreement of the shareholder. I am confident that there are sufficient safeguards in place to ensure that assets cannot be put at risk. I would now like to move on to other matters and matters concerning, in particular, staff. There will be no redundancies as a result of incorporation. No one will be asked to apply for their own job and all pay and terms and conditions will remain the same. In the current climate, this is somewhat remarkable but made possible because during the last few years a process of integration between the airport and the harbour, formerly separate trading entities, removed costs and posts, starting with senior management posts, where duplication existed. Indeed, the integration, as I have already pointed out, saved a considerable amount of money as well. The move to an incorporated body still preserves the pension rights. The Ports will be an admitted body within the States pension scheme referred to as P.E.C.R.S. (Public Employees Contributory Retirement Scheme) and all staff will remain members of P.E.C.R.S. with pension rights identical to every other States employee. This will be facilitated by addressing the pre-1987 P.E.C.R.S. pensions deficit of £18 million that will be immediately satisfied upon incorporation. The transfer of staff to the incorporated Ports of Jersey is enshrined in the Transfer of Public Sector Employees policy, referred to as T.O.P.S.E., approved by the States Employment Board. T.O.P.S.E. was also used in the transfer of staff to Andium Homes and has been developed following detailed discussions with the trade unions over the last 2½ years. In total, there have been some 35 meetings during this period between Ports and the trade unions, developing policies and approaches to staff transfer. Indeed, the Prospect Union carried out their own review of T.O.P.S.E. against T.U.P.E. (Transfer of Undertakings (Protection of Employment)) legislation in the U.K. and have confirmed that T.O.P.S.E. is at least equivalent to and in some areas such as job protection and pension rights better than U.K. T.U.P.E. legislation. Staff engagement throughout the process has

been at unprecedented levels and establishes the benchmark in Jersey for exercises such as this. There have been numerous briefing sessions on incorporation. The group chief executive who personally led the staff engagement process has held over 20 all staff and 60 smaller sessions over the past 2½ years to explain T.O.P.S.E. and to outline the case for incorporation. A recent staff survey showed that 84 per cent of staff feel fully informed about incorporation and 88 per cent feel they have had the opportunity to raise their questions about it. In summary, Jersey Airport and Jersey Harbours represent the Island’s key transport assets. They are the Island’s lifeline, a key element in the supply chain. They are the gateway through which residents and visitors travel and businesses trade. The importance of Jersey Airport and Jersey Harbours cannot be underestimated, but it is an unavoidable truth that these capital-intensive businesses face significant challenges both now and into the future. To address these challenges, a compelling case for incorporating the Ports of Jersey has been developed following the clear mandate granted by this Assembly. It shows that an incorporated Ports of Jersey can deliver a self-sustaining business that will make a contribution to States finances rather than place a continuing burden and risk on the taxpayer. It shows that by prudent but commercial development of its asset base an incorporated Ports can operate without the need for large increases in landing fees or harbour dues. It further shows that while achieving a self-sustaining business staff are protected, no jobs will be lost and terms and conditions will be preserved. What is presented to Members today is the result of many hundreds of hours of detailed work and analysis since the direction was established by this Assembly in October 2012. I believe that this is a defining moment that presents an opportunity for this States Assembly to secure the future of our strategic transport links by approving this proposition for incorporation and I therefore strongly commend it to Members. **[Approbation]**

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak on the principles? All Members in favour of adopting the principles kindly show? Those against?

**Senator I.J. Gorst:**

Could we have the appel, please?

**The Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on the principles of P.5/2015, the Draft Air and Sea Ports (Incorporation) (Jersey) Law, and I ask the Greffier to open the voting.

<b>POUR: 31</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A.J.H. Maclean		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy J.M. Maçon (S)		
Senator A.K.F. Green		Deputy S.Y. Mézec (H)		
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Hilton (H)				
Deputy of Trinity				

Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy S.J. Pinel (C)				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**The Bailiff:**

Now we come to the proposition of the individual Articles. Minister, how do you wish to take these?

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

We have an amendment in part 5, so I was suggesting taking parts 1 and 2, Articles 1 to 6, to begin with.

**The Bailiff:**

Very well.

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

If I may, I will make a few comments as I go, but I will not burden Members too much, just some initial points. Parts 1 and 2, as I have said, cover Articles 1 to 6. Part 1 of this draft law is concerned with the interpretation of words, expressions and concepts within the law. Article 2 gives the definition of port operations, including both airport and harbour operations, which is a key concept as it is used to define the scope of activities that the J.C.R.A. (Jersey Competition Regulatory Authority) may license under part 3 of the draft law. In particular, under part 2 I would mention Article 3. This establishes the company Ports of Jersey Limited. It defines Ports of Jersey Limited as a transferee company, which means that the assets owned by the public of Jersey may be transferred to it. It requires the Minister for Treasury and Resources to appoint the first chairman of the board of directors and determines the chairman's terms and conditions.

[15:00]

It also requires the Minister to approve all subsequent chairmen. In practice, the States will have an opportunity to do this when directors are brought for approval as agreed with the Scrutiny Panel. Article 6 sets out the public service obligations or P.S.O.s, which I have already referred to, which Government will require of the new company. These are functions Ports of Jersey conducted as part of Government and which Ports staff are best equipped to manage after incorporation. They include co-ordination of the Coastguard, maintenance of aids to navigation, some limited activity to support shipping legislation, and the port state control function. The maintenance of the historic harbours, which I also mentioned, falls under the P.S.O. The advantage of the P.S.O. structure is that unlike a commercial contract Ports of Jersey Limited cannot legally stop carrying out these

activities unless Government allows it to do so. That is parts 1 and 2 and the Articles. I propose those.

**The Bailiff:**

Are they seconded? **[Seconded]**

**Senator I.J. Gorst:**

They are, and I hesitate to rise but I am never really in charge of my own job so I do not want to be telling you yours, Sir. I do wonder whether Scrutiny should not have been asked if they wish to scrutinise it after the principles. I know they have done their work but I think for the sake of good order that is what is done and what is required, is it not?

**The Bailiff:**

I had wondered about that, Chief Minister, but Standing Orders says that I do not need to refer it to Scrutiny if they have already reported. So I had rather assumed that Scrutiny would not want to look at it anymore but, Connétable of St. John ...?

**The Connétable of St. John:**

It will be Deputy Brée now.

**The Bailiff:**

I did not know there was a vice-chairman, Deputy Brée, sorry.

**Deputy S.M. Bree (Vice-Chairman, Economic Affairs Scrutiny Panel):**

Thank you. No, we do not wish to scrutinise. Thank you.

**The Bailiff:**

Any more you mean? **[Laughter]** Right, they are seconded, Chief Minister, you said?

**Senator I.J. Gorst:**

Indeed, thank you.

**The Bailiff:**

Does any Member wish to speak on parts 1 and 2? All Members in favour of adopting parts 1 and 2 kindly show? Those against? The parts are adopted. Minister, do you wish to propose parts 3 and 4?

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

Yes, I would if I may. Part 3 deals with the regulation of port operations. The only Articles I think that I would make reference to would be Article 7. This provides that a licence is needed to carry out port operations unless the Government is conducting them. This is the mechanism by which the J.C.R.A. will oversee the Ports of Jersey. The other Article that I would mention would be under part 4. First of all, part 4 details the roles of the J.C.R.A. and the Minister in ensuring the safe, secure, effective and efficient provision of port operations. Just for Members' information, Article 26, the Minister for Economic Development and the J.C.R.A. have a number of duties under this Article which serves to outline their responsibilities to the Island in terms of the harbour and airport services. The Minister and the J.C.R.A. will work together to ensure that port operations are effectively provided and that the Ports of Jersey Limited functions effectively. The Minister has the overarching responsibility to ensure that customers, individuals and companies, are protected and that the services which the Island expects of the harbours and airport are provided with consideration given to the needs of the Island in the future. The J.C.R.A. will use its powers to



discharge this responsibility. In relation specifically to lifeline services, the Minister again has a duty to perform his functions so as best to ensure that lifeline services are provided efficiently, effectively and without interruption. If I may, I would propose parts 3 and 4.

**The Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on parts 3 and 4? All those in favour of adopting parts 3 and 4 kindly show? Those against? The parts are adopted. Minister, do you wish to propose part 5?

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

Yes, if I may. Part 5, Articles 30 to 41, governs the transfer of assets and staff to the Ports of Jersey Limited. Article 33 provides that on incorporation date property will be transferred to the company. The specifics of that property will appear in the Regulations which are to follow. This primarily concerns the airport and some other minor transfers of land and does not concern the commercial port or outlying harbours, which will be licensed or leased, not transferred. The conditions on which the land is passed to the Ports of Jersey Limited will be specified in the relevant regulations, of course, that will come to this Assembly in due course. Article 38 is subject to the amendment from Deputy Southern. The Article provides that staff will transfer to the new company seamlessly retaining their period of service and contractual positions. The law is clear about protecting the pensions and service rights of the employees. Article 39 provides that if a person does not wish to be transferred to the new company by giving notice they can be deemed to have resigned at the point of transfer. Article 40 requires the Ports of Jersey to inherit any collective agreements made with staff prior to their transfer. Article 40 is also affected by Deputy Southern's amendment, which I am sure we will come back to. Article 41 ensures that Ports of Jersey takes over from the States as the employer for the purposes of P.E.C.R.S. membership and that staff remain in P.E.C.R.S. with their rights unchanged. Article 41 has been dealt with as a result of the amendment from the Chief Minister and also in part will be amended subject to Deputy Southern's amendment. I propose part 5.

**The Bailiff:**

Is that seconded? **[Seconded]**

**10.5 Draft Air and Sea Ports (Incorporation) (Jersey) Law 201- (P.5/2015): second amendment (P.5/2015.Amd.(2))**

**The Bailiff:**

Very well, we now come to the amendments proposed by Deputy Southern. I ask the Greffier to read the amendment to Article 38.

**The Deputy Greffier of the States:**

(1) In paragraph (1), at the beginning of sub-paragraph (b) insert the words "subject to paragraph (4),". (2) At the end add the following paragraphs – "(4) Nothing in this Article shall be taken to derogate from or to terminate any right to redeployment (however described and whether created expressly by a contract of employment, or implied by any operation of law) enjoyed by a person immediately before the transfer date, and such a right – (a) shall not be changed; and (b) for the avoidance of doubt, may be exercised by the person at any time, within the period of 3 years beginning with the transfer date. (5) In this Article – (a) for the purposes of paragraphs (2) and (4), "contract of employment" has the meaning given by Article 1 of the Employment of States of Jersey Employees (Jersey) Law 2005; (b) for the purposes of paragraph (4), "redeployment" refers to re-employment within any administration of the States as a States' employee; and in sub-

paragraph (b), “administration of the States” and “States’ employee” have the meanings given by Articles 1 and 2 of that Law respectively.”.

**The Bailiff:**

Deputy Southern, I am assuming that you wish to propose the amendments to 38, 40 and 41 separately?

**Deputy G.P. Southern:**

I have a running order which says next to it in one speech and let us go straight through.

**The Bailiff:**

Well, that has not been shared with me. Very well.

**Deputy G.P. Southern:**

I apologise if that was ...

**The Bailiff:**

Then I will ask the Greffier to carry on reading if you wish to do it that way.

**The Deputy Greffier of the States:**

Page 49, Article 40. At the end delete the full stop and add the following words – “, and shall not be changed within the period of 3 years beginning with the transfer date.”. Page 49, Article 41. At the end add the following paragraph – “(3) Where this Article applies, the terms, rights and liabilities mentioned in sub-paragraph (2)(b) shall not be changed within the period of 3 years beginning with the transfer date.”.

**10.5.1 Deputy G.P. Southern:**

Just to confirm that while I want to do one speech and take in all 3 amendments, we can vote on each individual amendment separately. That is the way they have structured it, as I see it. Okay, that is good. In the first place, I want to say what I am not going to do. I will start with amendment 3 on Article 41 to say having read the comments of the Council of Ministers I wish to withdraw this particular amendment. As it says in their comments: “As drafted, the amendment will cause P.O.J.L. (Ports of Jersey Limited) members to miss out on certain changes. For example, following tax changes last year, the intention is to amend P.E.C.R.S. regulations to allow those retiring to commute a greater amount of their pensions.” That was not my intention and that is one reason for withdrawing this particular amendment, number 3. But more importantly, it goes on: “The assumption is that Deputy Southern believes there is some possibility that P.O.J.L. will withdraw from P.E.C.R.S. This would require the permission of the shareholder. The Council of Ministers offers a categorical assurance that P.O.J.L. will not be permitted to do so for a period of 3 years” and that is what I intended. I did not realise at the time that that was already in there. That categorical assurance reassures me that what I thought might happen is not going to happen. So I wish to withdraw amendment 3.

**The Bailiff:**

Thank you. So you will be addressing us on Articles 38 and 40 then.

**Deputy G.P. Southern:**

Indeed. The first thing to note is that at present employees who do not wish to transfer to the new entity will be deemed to have resigned. Basically, it is like it or lump it, take it or leave it. You are either joining P.O.J.L. or you are not, in which case you have resigned, are deemed to have resigned. Resignation from a post is always a difficult thing when it comes to talking to Social

Security about whether you are entitled to any benefits, and resignation is always a difficult process. Members will not be surprised to find that my concern here is with the employees of the States of Jersey Port Authority and, in particular, despite the extensive consultation process which was comprehensive and did go into enormous detail, the reservations that were still being expressed by Prospect and by Unite to protect their members following transfer. This was quite recently. This was as a result of a meeting with the Scrutiny Panel where these reservations were expressed. They revolve around the use of T.O.P.S.E. and, in particular, the fact that T.O.P.S.E. is not statutory. T.U.P.E. in the U.K. is statutory. T.O.P.S.E. in Jersey is not, and that gives the unions concern about whether in the goodness of time the protection is there. The position of the Prospect negotiator is that while there will be no redundancies as a direct result of incorporation, there could be a reduction in posts at any time due to business, technology or process change. In such a case, in the absence of any statutory protection Prospect seeks to extend the scope for redeployment elsewhere in the public sector for a 3-year period and the amendment to Article 38 extends this protection. So the intention is that if terms and conditions were to change substantially in the first 3 years so that employees, having made the decision to commit, suddenly realise that their terms and conditions were not particularly favourable, that there had been a change and they were to be made redundant, that they could seek redeployment elsewhere in the state sector, as they have now before this choice is presented to them. That sort of protection is what this amendment seeks to put in place. It is interesting to note that the Council of Ministers finds that to be a very difficult proposition. They say in their comments: "Should questions of redundancies arise in practice, the amendment would seem to force the States Employment Board into a position of dealing with demands for redeployment from employees in an organisation which is no longer part of the States of Jersey potentially at the same time as necessary efficiencies are being made in the public service. Apart from the practical problems of trying to push external staff [they are now external staff] into a shrinking organisation, it is not clear at this time whether redeployment as it currently exists can be fulfilled within the public service." Interesting to note that the process of change, part of which is about redeployment, they are saying cannot be necessarily seen through: "... can be fulfilled within the public service. The amendment, therefore, appears to provide for P.O.J.L. staff to be given legal rights which cannot be guaranteed for States of Jersey staff." Indeed, that is exactly what it does, but it seeks to protect the position that people have now as States employees as they transfer should they be made redundant in the first 3 years.

[15:15]

They could seek redeployment elsewhere in the state sector. This comes back to this absence of statutory protection and the fact that, once again, here we have a body where we are reliant upon a memorandum of understanding as to how that body will behave. We have seen that in particular for Jersey Telecom workers recently and with the Gigabit employees in particular that the memorandum of understanding that says that Jersey Telecom will be a good employer was woefully broken in the case of J.T. (Jersey Telecom). The worry is that one year, 18 months, 2 years into a new relationship these employers may face similar harsh decisions being made by the new incorporated body, Ports of Jersey. At worst case, I imagine a situation where the management says: "We have decided to change our shift patterns. We have decided to change our terms of employment and that you might [like the telecoms workers:] be placed on zero-hours contracts." I am not saying it is going to happen, I am saying it could happen, in which case you would want some continued protection in there. As we have seen, memoranda of understanding often get ignored. It seems that the Minister for Treasury and Resources is reviewing memoranda and relationships with all these incorporated bodies to make sure that he can enforce better control over what is going on. Now, I do not know, and there was concern expressed by the Scrutiny body about the looseness of the memorandum of understanding in this particular case, that the strength of that relationship is sufficient. Secondly, the other amendment is to, effectively, protect terms and

conditions for a period of 3 years, and again, this refers back to the lack of statutory protection. So let us agree a period in which change will not be forced on people. In their comments, the Economic Affairs Scrutiny Panel says the following to the principle of what I am proposing: “However, following discussion at a public hearing on 22nd April 2015 [so quite recently] the Group Chief Executive Officer agreed to offer staff transferring to Ports of Jersey Limited a one-year guarantee of no detriment to employment terms and conditions, if the panel requested it. The panel considers that if Ports of Jersey are confident of their ability to deliver the financial returns on which the plans are based, then they should be comfortable with offering this element of temporary security to reassure staff making the journey with them. The staff unions have been informed although, at the time of writing, the panel has had no response to the offer.” So the principle, and certainly a one-year moratorium on detriment to terms and conditions seems to be perfectly acceptable. As they say here: “The panel notes Deputy Southern’s amendment to the proposition lodged on 12th May, which calls for a 3-year window of opportunity for Ports staff to be employed in the public sector and to have their terms and conditions protected.” So it is the final bit, I believe, of protection that needs to be in place so that the employees can go into this new incorporated body confident that their terms and conditions will be protected. Certainly, in principle, there is no reason why it should not happen and the business model would suggest that, if they are correct in their business model, this should not be a problem. As Mr. King, the Prospect representative says in his submission to the Scrutiny Panel: “Well, because what it does is give some credence to not necessarily a 3-year period, it is the fact that the employer is confident enough in its economic model that it knows that it is not going to have to do anything drastic outside the normal day-to-day issues of business within that 3-year period.” So it is giving some confidence, from what I have read, and I have not had access to all the details of the economic modelling, that this is something like a 25-year plan. So if there is no certainty about the first 3 years, how can we be certain about the next 22 years after that? If this is modelled correctly, it should be fairly easy for the employer just to say: ‘We can guarantee your minimum terms for at least 3 years’.’” If the model is right, that should not be a problem and I believe the States should have the confidence that the model is right and that, therefore, people can be given this guarantee, 3 years’ protection, 3 years’ no detriment to their terms and conditions, without disturbing necessarily any business model that ensues. With that, I propose the 2 amendments remaining.

#### **The Bailiff:**

Are the amendments seconded? **[Seconded]** Does any Member wish to speak on the amendments?  
Minister for Treasury and Resources.

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

Members will have seen the comments submitted by the Council of Ministers to these amendments, which identify some issues with its effects. I think it is therefore best if I address the intention of the amendments and the outcome separately. The intention, as Deputy Southern has indicated, is to limit the actions that the Ports of Jersey Limited can take in respect of its staff for 3 years after the date of incorporation. Unlike the previous incorporations, the Ports of Jersey has undertaken a process of restructuring and consolidation while still within the public sector. The merger between Jersey Harbours and Jersey Airport carried out under the current management team has increased the efficiency of both operations and brought the Ports to a point where they are operating with the correct number of staff in the correct operational structure. This means that there is no need or intention for the Ports of Jersey to undertake any further restructuring at this time. In this regard, it is markedly different to the previous incorporations which have carried their structure through incorporation and then restructured afterwards, in the cases of Jersey Telecom and Jersey Post. This is reflected in the financial plan for the incorporated Ports, which does not assume either any reduction in staff numbers or any change in overall remuneration from the current public service

arrangements in place. I am not aware of any intention on the part of the Ports of Jersey to change its incentive structure for staff, but that should be open to the organisation if it wishes to do so. If the Assembly approves this law, and the regulations that will follow, it is going to be a company. While it will be wholly-owned by the States and accountable to government, it will be expected to act competitively and commercially where it does not hold a monopoly. We cannot simultaneously expect it to behave in this way and force it to retain a pay and incentive structure that we in government have recognised is outdated and that we are currently working to revise under the Workforce Modernisation Programme. The vast majority of the working population in Jersey works for a company. This state of affairs should not cause, therefore, undue concern. While there may be a perception that public servants have greater security of employment, there is also a quite accurate perception that outside of the States it is easier to negotiate with an employer over pay and conditions as an individual and to have one's work recognised by incentives, including performance-related pay. Changing the incentive structure should therefore not be seen as a threat but as an opportunity for both staff and the business. Ports of Jersey Limited will not be changing its pension arrangements in the foreseeable future, and certainly not in the next 3 years; considerable investment is being made in paying off the pre-1987 debt so the company can remain within P.E.C.R.S., as an admitted body. This investment will allow the Ports of Jersey staff to contribute to and draw from the same pot as States of Jersey employees, with the same benefits. This is a core element of the plans, and all future staff costings have been developed on that basis. I now turn to the specifics raised by Deputy Southern. Members will see from the comments, it is not clear to the Council of Ministers it quite meets its stated objectives. In terms of redeployment, it creates a very odd position. I should say, before I continue, that there is currently no intention for Ports of Jersey of undertaking a redundancy process, as I have already mentioned, and I will repeat that the financial plans have been based on no redundancies taking place. Nevertheless, in the case of hypothetical staff made redundant, this amendment seeks to improve their lot by allowing a redeployment process back into the public service. I am not sure that it succeeds. It requires the States Employment Board, the organisation that employs these staff, but would by this point no longer be doing so, to manage a process to reintegrate staff back into itself. Just because this requirement is created, it does not mean that the States again becomes the employer. As Jersey Employment Law points squarely to the employer in these circumstances, it is uncertain, at best, that the States Employment Board would be responsible for any failure of the process. It is more likely that the Ports of Jersey would be legally responsible for matters outside of its control. I do not mean to impugn the States Employment Board, I am sure it would carry out these duties diligently, but I am not sure that this works as intended, or is, indeed, feasible. In addition, we must face the difficult truth that the public service cannot continue to grow indefinitely. Real discipline and restraint are necessary over the next few years to meet the economic challenges that we face. This means that the Ports of Jersey staff would be redeploying, probably through a system based on goodwill alone, back into an organisation that is shrinking in real terms. I do not see how there is a realistic likelihood of this being a successful process. The lock on collective agreements probably does what it seeks to do but, as I have explained, I do not think that what it seeks to do is as desirable for staff concerned as Deputy Southern does. Ports of Jersey Limited is going to take over all existing collective agreements and will have no greater capacity to unilaterally change collective agreements than the States Employment Board would have. What this achieves is to stop employees talking to their boss about a raise. The changes to the pension arrangements do not seem to do anything unless Ports of Jersey abandons the P.E.C.R.S. scheme in the next 3 years. There is no intention of doing that, it has not been considered and, as a shareholder, I can tell you that it is not going to happen without my permission, which I would not give. Lastly, I must thank Deputy Southern and the Prospect Union for their endorsement of the Andium Homes staff transfer. To quote Prospect's recent submission on staff transfer to the Scrutiny Panel, from which this amendment emerges, and I quote: "I would say, if you are looking for something to base a success

story on, maybe look at Andium Homes.” I am happy to say that this staff transfer is based closely on that success. Notwithstanding those kind words, I urge Members to reject this amendment.

**The Bailiff:**

Does any other Member wish to speak? Then I propose that Deputy Southern should reply.

**10.5.3 Deputy G.P. Southern:**

It is one of those days, Sir; things rush ahead. I thank the Minister for Treasury and Resources for his comments, but I found them somewhat confusing. What he said was that there is neither need nor intention to restructure or to make redundant any further staff. We have already done that reorganisation and, to my thinking, that says: “Well, if you have already done it, you can safely and confidently put the 3-year guarantee in.”

[15:30]

We are not going to do it now because we have already done it. It seems to me the logical extension of what the Minister for Treasury and Resources was saying was that you put 3 years in, you say: “There, right.” You can feel confident about transferring that you will be untouched; you will have this no-detriment lock-in for 3 years and you can confidently come into this company, and we are confident too that we can deliver it without any major change in the first 3 years. It seems to me that the lock-in collective agreement is not about the inability to go to your boss and say: “I want a rise” it is about protecting what people have and saying: “Look, we are this confident that we can deliver this, that we will lock that for 3 years.” I do not see a problem with that and I would urge Members to vote for this amendment. Shall I propose the first one?

**The Bailiff:**

Do you call for the appel?

**Deputy G.P. Southern:**

I call for the appel, Sir.

**The Bailiff:**

The appel is called for. The first amendment is in relation to Article 38. I invite Members to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 6</b>	<b>CONTRE: 29</b>	<b>ABSTAIN:</b>
Connétable of St. Saviour	Senator P.F. Routier	
Deputy G.P. Southern (H)	Senator A.J.H. Maclean	
Deputy M. Tadier (B)	Senator I.J. Gorst	
Deputy S.Y. Mézec (H)	Senator L.J. Farnham	
Deputy R. Labey (H)	Senator A.K.F. Green	
Deputy T.A. McDonald (S)	Connétable of St. Helier	
	Connétable of St. Lawrence	
	Connétable of St. Ouen	
	Connétable of St. Brelade	
	Connétable of St. Martin	
	Connétable of Grouville	
	Connétable of St. John	
	Connétable of Trinity	
	Deputy J.A. Martin (H)	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	

	Deputy E.J. Noel (L)		
	Deputy of St. John		
	Deputy J.M. Maçon (S)		
	Deputy S.J. Pinel (C)		
	Deputy of St. Peter		
	Deputy A.D. Lewis (H)		
	Deputy of St. Ouen		
	Deputy S.M. Bree (C)		
	Deputy M.J. Norton (B)		
	Deputy of St. Mary		
	Deputy G.J. Truscott (B)		
	Deputy P.D. McLinton (S)		

**The Bailiff:**

We now come to the amendment proposed to Article 40. If the Greffier has reset the system, then I ask the Greffier to open the voting.

<b>POUR: 7</b>	<b>CONTRE: 28</b>	<b>ABSTAIN: 0</b>
Connétable of St. Saviour	Senator P.F. Routier	
Deputy G.P. Southern (H)	Senator A.J.H. Maclean	
Deputy of Trinity	Senator I.J. Gorst	
Deputy M. Tadier (B)	Senator L.J. Farnham	
Deputy S.Y. Mézec (H)	Senator A.K.F. Green	
Deputy R. Labey (H)	Connétable of St. Helier	
Deputy T.A. McDonald (S)	Connétable of St. Peter	
	Connétable of St. Lawrence	
	Connétable of St. Ouen	
	Connétable of St. Brelade	
	Connétable of St. Martin	
	Connétable of Grouville	
	Connétable of St. John	
	Connétable of Trinity	
	Deputy J.A. Martin (H)	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy E.J. Noel (L)	
	Deputy of St. John	
	Deputy J.M. Maçon (S)	
	Deputy of St. Peter	
	Deputy A.D. Lewis (H)	
	Deputy of St. Ouen	
	Deputy S.M. Bree (C)	
	Deputy M.J. Norton (B)	
	Deputy of St. Mary	
	Deputy G.J. Truscott (B)	
	Deputy P.D. McLinton (S)	

**10.6 Draft Air and Sea Ports (Incorporation) (Jersey) Law 201- (P.5/2015) - resumption**

**The Bailiff:**

I surmise, Deputy, you are the one who could not make up her mind. We now return to the debate on part 5, Articles 30 to 41. Does any Member wish to speak? Then would those Members in favour of adopting part 5 kindly show? Those against? Part 5 is adopted. Minister?

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

Sir, if I may, I will take parts 6, 7 and the schedule, so that is Articles 42 to 55 and the schedule 1 to 14. Just, if I may, make a comment on part 5: simply that this part prepares but does not activate a parallel licensing regime in respect of lifeline services connecting Jersey with the rest of the world through its air and sea ports. Activation of this regime would require further legislation to designate the service's lifeline. There is currently no intention to do so. This regime was considered important as it will allow the Island to retain strategic control over these lifeline routes should it need to do in the future. I thought that was worth mentioning. I do not wish to make any other further comments. If Members have any questions then I am more than happy to take them. So that is parts 6, 7 and the schedule, as listed.

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak on parts 6, 7 or the schedule? Deputy Southern.

**10.7.1 Deputy G.P. Southern:**

Only that I fail to see in parts 6, 7 and 8 any mention of the memorandum of understanding and the detail of that. Is that to come later is the question I would ask the Minister for Treasury and Resources.

**The Bailiff:**

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

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

No, to Deputy Southern. The memorandum of understanding is not included as part of the legislation. It was forwarded to Members for information but, as I mentioned and alluded to in my earlier comments, we worked at some length with the Economic Affairs Scrutiny Panel in a very constructive way. I have to say that the panel had a somewhat different view to us on a number of areas, and we amended the memorandum of understanding almost exclusively in support of what the Economic Affairs Panel were suggesting. On reflection, I believe that the document we have is probably the strongest memorandum of understanding that exists. As the Deputy himself has pointed out, we are looking at M.o.U.s for all the entities that we have responsibility for, and I think lessons can be learned as a result from this particular one.

**Deputy G.P. Southern:**

I thank the Minister for that information and apologise for being so remiss.

**The Bailiff:**

The appel is called for in relation to parts 6, 7 and the schedule. I invite Members to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 29</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A.J.H. Maclean		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy J.M. Maçon (S)		
Senator A.K.F. Green		Deputy S.Y. Mézec (H)		
Connétable of St. Helier				



Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy S.J. Pinel (C)				
Deputy of St. Peter				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**The Bailiff:**

Do you propose the law in Third Reading, Minister?

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

Yes, Sir.

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak in the Third Reading? Yes, Connétable of Grouville.

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

It was quite a big subject to scrutinise for my panel; we went on for about 5 months, I think, but I would like to register my thanks to Deputy Brée for taking over for the last month. I think it was a very good process. I am very grateful to the C.E.O. (chief executive officer) of Ports for his openness and frankness with us, and also for the Minister working with us on the M.o.U.s. The governance of all these utilities is very important and I hope that the proper resources are put so that they are properly monitored. **[Approbation]**

**10.8.2 Deputy S.M. Brée:**

I would just like to say thank you very much to the Connétable of Grouville, not only for his words of thanks but for all the advice, guidance and help that he certainly has given me as a new Member of this Assembly, and I think to the panel as a whole, during his term as chairman. I greatly appreciate everything he has done for us. Thank you. **[Approbation]**

**The Bailiff:**

I call on the Minister for Treasury and Resources to reply.

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

I just wanted at this point to say a very few words, if I may, of thanks in particular. A considerable amount of work has gone into bringing us to this particular point for Members to have had the legislation before them and to incorporate the Ports. I am absolutely certain it is the right decision to have taken for the long-term future, and I would like to mention in particular the considerable work within the department in the States Economic Development, with the Treasury Department, the Law Officers, law draftsmen, conveyancers, Ports of Jersey. I have mentioned it once, but the Economic Affairs Scrutiny Panel did work fabulously well with the department in every respect, so I would like to thank both the current panel, but I would also like to mention the former panel because, of course, this covers 2 political terms. So the Deputy of St. Martin, who was the chairman previously, also did a sterling job in dealing in the early stages with this important matter. So I would just like to pass my thanks to all those for an incredibly hard and well-worked job, and I am delighted that we have eventually got there. Thank you. **[Approbation]**

#### The Bailiff:

Those in favour of adopting the law in Third Reading can we have ... the appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 31</b>		<b>CONTRE: 4</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A.J.H. Maclean		Deputy M. Tadier (B)		
Senator I.J. Gorst		Deputy J.M. Maçon (S)		
Senator L.J. Farnham		Deputy S.Y. Mézec (H)		
Senator A.K.F. Green				
Connétable of St. Helier				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy S.J. Pinel (C)				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

## **11. Draft Aircraft Registration and Air Navigation (Miscellaneous Provisions) (Jersey) Law 201- (P.38/2015)**

### **The Bailiff:**

We now come to the Draft Aircraft Registration and Air Navigation (Miscellaneous Provisions) (Jersey) Law 201-, P.38, lodged by the Minister for Economic Development, and I ask the Greffier to read the citation of the draft.

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

Draft Aircraft Registration and Air Navigation (Miscellaneous Provisions) (Jersey) Law 201-. A Law to amend the Aircraft Registration (Jersey) Law 2014 and the Air Navigation (Jersey) Law 2014. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

#### **11.1 Senator L.J. Farnham (The Minister for Economic Development):**

Before I talk through the particular Articles of the draft law, it is worth explaining why I wish to introduce these provisions. The draft law is the result of further consultation on the Aircraft Registration (Jersey) Law 2014, in advance of the launch of the Jersey Aircraft Registry. This further consultation has occurred due to the Government of Jersey being encouraged to consider having ratification of the Cape Town Convention extended to Jersey. The United Kingdom is in the process of ratifying the Cape Town Convention and has asked the Crown Dependencies to confirm their position on this matter. For Members' information, the Cape Town Convention, or the Cape Town Treaty as it is known, aims to create a single harmonised international legal framework for the creation and registration of international interests against large high-value global mobile objects, such as aircraft or aircraft engines. In addition, having reviewed the proposed scheme of charges for the Jersey Aircraft Registry, it was noted that there was no provision within the Aircraft Registration Law for flexibility in terms of introducing charges without having to amend the Aircraft Registration Law. Finally, there is a miscellaneous amendment to the Air Navigation (Jersey) Law 2014 as a result of the extension of the United Nations Convention on Transnational Organised Crime, known as the Palermo Convention. On that note, I propose the principles.

### **The Bailiff:**

Are the principles seconded? **[Seconded]** Does any other Member wish to speak on the principles? Will all those in favour of adopting the principles kindly show? Those against? The principles are adopted. Deputy Brée, does your panel wish to scrutinise this legislation?

#### **Deputy S.M. Brée (Vice-Chairman, Economic Affairs Scrutiny Panel):**

No, Sir, we do not.

### **The Bailiff:**

Do you propose the Articles *en bloc*?

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

If I may, Sir. I am not sure if Members want me to run through them briefly, or I can propose *en bloc* and explain?

### **The Bailiff:**

The 2 are not mutually inconsistent so you can propose them *en bloc* and, at the same time, tell us what they are all about.

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

The amendments made by Article 1 to the Aircraft Registration Law amends both Articles 1 and 29 and repeals Article 30, and are specifically made after consultation with the financial services industry regarding the registration of aircraft on the Jersey Aircraft Registry that wish to be registered in Jersey with foreign law mortgages. These amendments intend to put the position beyond doubt that the recognition and enforcement of an aircraft mortgage or aircraft engine mortgage can occur, regardless of whether the aircraft mortgage or aircraft engine mortgage is created under Jersey law or under foreign law. In making these amendments, significant consultations occurred with the financial services industry, the Financial Services Unit of the Chief Minister's Department and the Law Officers' Department and the Viscount. Importantly, the Viscount has confirmed that he is satisfied that the Aircraft Registration Law, as amended by the draft law, will allow for the recognition and enforcement of foreign law interests that are registered on the Jersey Aircraft Registry. Article 1 of the draft law amends the Aircraft Registration Law to give a mortgagee the option to exercise powers of enforcement in respect of a mortgage on aircraft or an aircraft engine mortgage by leasing aircraft or aircraft engines. Consideration of this amendment occurred through discussions over ratification of the Cape Town Convention, and it was felt that this optionality was advantageous to those considering using Jersey as a jurisdiction, which provides potential creditors with optionality and flexibility. Article 1 of the draft law also amends the Aircraft Registration Law to allow the Minister, by power of an Order, to make provisions for fees in addition to any fees prescribed in the Aircraft Registration Law. Article 1 of the draft law also amends the Aircraft Registration Law by repealing Article 52 of paragraph 3 of that law. This has been done to ensure consistency in relation to the powers of the Viscount across legislation dealing with secured lending, and further to consultation with the Viscount. Article 2 of the draft law makes an amendment which was required due to the recent extension to Jersey of the Palermo Convention. At the time the convention was extended, Jersey did not have an active aircraft registry.

[15:45]

The convention requires that there is a power to provide the courts in Jersey with the jurisdiction to deal with an offence committed by a person while on board an aircraft registered in Jersey, and at the time the offence is committed the aircraft is outside Jersey; or, an offence committed by a person while on board an aircraft registered in a country other than Jersey and that person is a British citizen ordinarily resident in Jersey and is not a national of the country in which the aircraft is registered. Article 2 of the draft law also makes these amendments by inserting a new Article, Article 173A, into the Air Navigation Law. Sir, I am pleased, therefore, to commend the draft law, and amendments contained within, *en bloc* to the States.

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak on the Articles? Will those Members in favour of adopting the Articles kindly show? Those against? The Articles are adopted. Do you propose the law in Third Reading, Minister?

**Senator L.J. Farnham:**

Yes, Sir.

**The Bailiff:**

Does any Member wish to speak? Those in favour of adopting the law in Third Reading, kindly show? The appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 29</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				

Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

**The Bailiff:**

Members should have had distributed to them, and I just give notice of the Draft E.U. Legislation (Civil Aviation Insurance) (Jersey) Regulations P.61, the Draft Air Navigation (Investigation of Air Accidents and Incidents on Jersey Registered Aircraft) (Jersey) Regulations P.62, and the Draft Aircraft Registration (Births, Deaths and Missing Persons) (Jersey) Regulations P.63, have all been lodged, the first 2 by the Minister for External Relations and the last one by the Minister for Economic Development.

**12. Draft Discrimination (Sex and Related Characteristics) (Jersey) Regulations 201- (P.40/2015)**

**The Bailiff:**

We now come to the Draft Discrimination (Sex and Related Characteristics) (Jersey) Regulations 201-, P.40, lodged by the Minister for Social Security, and I ask the Greffier to read the citation of the draft.

**The Deputy Greffier of the States:**

Draft Discrimination (Sex and Related Characteristics) (Jersey) Regulations 201-. The States, in pursuance of Article 1(2) (5) and (47) of the Discrimination (Jersey) Law 2013, have made the following Regulations.

**The Bailiff:**

Minister, do you wish to propose the principles?

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

A year ago, this Assembly took an important step forward and passed Jersey’s first Discrimination Law, which outlawed race discrimination. It was always clear that this was just the first step and that we would need to extend the right to other groups who may be disadvantaged. Today, we can take this important second step by extending the law to cover discrimination based on sex, sexual orientation, gender reassignment and pregnancy and maternity. The draft Regulations are the result of a lengthy and widespread consultation. It is important that the law commands the support of the community and also avoids placing unfair burdens on businesses and other organisations. I believe that the Regulations achieve both of these aims. When we consulted on the Regulations, there was overwhelming public support: trade unions, associations, business representatives and members of the public all agreed that it was right to extend our Discrimination Law in these areas. There will always be concerns about the detail of any new law, which is why we have worked hard to get the balance right between the need to protect individuals from unjustified ill treatment, while limiting the burden we place on businesses, both large and small. The Regulations anticipate and provide for a wide range of unlikely scenarios and circumstances, but we should remember that, for the most part, not discriminating against someone is simply a matter of common sense. Employers, for example, can and should hire the best person for the job and deal with employees based on the way in which they do their work, not on any particular characteristic. My priority is to make sure that the new law is appropriate for businesses of all sizes. There are no bureaucratic hoops for employers to jump through, no extra paperwork and no red tape. That does not mean that the law creates no new burdens, we just have to strike the right balance. Some employers may be concerned that they will no longer be allowed to refuse to employ someone who is pregnant or who they think may become pregnant in the future, but I make no apology; we cannot exclude women from the workplace simply because they have young children. **[Approbation]** We need to take full advantage of the skills of all the people in Jersey. These Regulations provide a framework of protection that any law has to be interpreted by the courts and tribunals. I look forward to debating the details of the provisions, but I ask Members to be aware that only the Tribunal can make a ruling on specific cases and scenarios. We have to be concerned with the principles of the law rather than advising on hypothetical situations. This is an important measure for Jersey; it will help us to meet our international obligations, in particular, C.E.D.A.W. (the Convention on the Elimination of all forms of Discrimination against Women) and it will also demonstrate that we are a modern and forward-looking society. I thank those Members who attended the briefings and I hope the Regulations will draw as much support in this Chamber as they do in the Island as a whole. I propose the principles.

**The Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show. **[Interruption]** The appel is called for. I invite Members to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 33</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 1</b>
Senator P.F. Routier				Connétable of St. John
Senator A.J.H. Maclean				
Senator I.J. Gorst				

Senator L.J. Farnham				
Senator A.K.F. Green				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

**The Bailiff:**

The Deputy of St. Ouen, does your panel wish to scrutinise these Regulations?

**The Deputy of St. Ouen (Chairman, Health and Social Security Scrutiny Panel):**

No, Sir.

**The Bailiff:**

Thank you. Then, Minister, I think you wish to propose Regulations 1 and 2?

**12.2 Deputy S.J. Pinel:**

Yes, please, Sir. Regulation 1 provides that the Discrimination Law will be amended by these Regulations. Regulation 2 adds the protected characteristics to the existing interpretation section in the law. I propose Regulations 1 and 2.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak? Those Members in favour of adopting the Regulations, kindly show. Those against? Regulations 1 and 2 are adopted. Do you wish to propose Regulation 3?

**12.3 Deputy S.J. Pinel:**

Yes, thank you, Sir. Regulation 3. The role of the Discrimination Law is not to address all social injustice or promote the ideals of pressure groups. The media interest in these amendments has been significant but the reports have indicated that businesses and mothers do not currently experience difficulties and there appears to be no problem to solve. Deputy Doublet's report even describes this as a non-issue. Regulation 3 also inserts some new paragraphs into Article 6 of the Discrimination Law to extend the circumstances that will be treated as direct discrimination. There is less favourable treatment because of a particular characteristic and there is no defence. Circumstances that would be included are: less favourable treatment of people in a civil partnership or married people and less favourable treatment on the grounds of pregnancy and maternity such as because of maternity leave or pregnancy-related illness. Going back to where I started, may I take the opportunity at this stage to say that I accept both the amendments of Deputies Vallois and Doublet?

#### **12.4 Draft Discrimination (Sex and Related Characteristics) (Jersey) Regulations 201-(P.40/2015): amendment (P.40/2015 Amd.)**

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

Very well, we now come to the amendment of Deputy Doublet and I ask the Greffier to read the amendment.

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

Regulation 3. Immediately before the paragraphs added to Article 6, insert "(3) In relation to the protected characteristic of sex, for the purposes of Part 5, direct discrimination includes treating a woman less favourably because she is breastfeeding a child under the age of 24 months." Renumber the subsequent inserted paragraphs.

##### **12.4.1 Deputy L.M.C. Doublet:**

I will try to be brief. Just to, first of all, clarify for Members and for the public really that this law and this amendment is not to regulate whether breastfeeding in public is legal or not because it is already legal and acceptable to do so in Jersey but what it will do is set out the level of protection from unfair treatment. So this amendment is about the level of protection and how far we should go with it. So, as it stands - and I thank the Minister for Social Security for including this in the Regulations - women will be protected for 26 weeks after childbirth if they want to breastfeed in public and the characteristic here is maternity; so to recognise the fact that women may be particularly vulnerable at this time. This, I believe, is from experts' opinion that exclusive breastfeeding is recommended for the first 26 weeks of a child's life. However, when I saw this, knowing what I do about early years and child development, my thought was: could we extend it? Because there is further expert recommendations from the World Health Organisation that says breastfeeding up to at least 2 years and beyond is recommended even while the child has been introduced to solid foods. So that was really the first reason why I picked the 2-year timeframe but also, as I started researching, and I have done a lot of research on this, we voted unanimously on supporting the 1,001 Days commitment which is up to the first 2 years of a child's life, and there are so many health benefits for mother and baby that you can see with extended breastfeeding. I did speak to lots of different groups, some of them mentioned in my report, and I just wanted to clarify it says in my report the National Childcare Trust. It was the National Childbirth Trust that have supported this. I want to thank all of those groups: the Jersey Child Care Trust, the Community Relations Trust, the Breastfeeding Support Group and the National Childbirth Trust for their support and help in doing my research on this. Also, we do have a Breastfeeding Working Group in Jersey who have developed their own policy, I believe, under the Health Department. So that policy says that we should be promoting breastfeeding for at least the first 2 years, so there is real robust evidence for this 2 years of protection. At this point in my research, I did have some



help from the *J.E.P.* Parenting Page who did a poll and the poll was so overwhelmingly in support of being tolerant of women breastfeeding in public I started to think: “Well perhaps there should not be an age limit on this.” I am very thankful to Deputy Vallois for adding her amendment to my amendment and I do hope that Members will vote in favour of both of these so that we can have unlimited protection for women breastfeeding their children to whichever age they choose. So, I am a little confused about the order of things now.

**The Bailiff:**

You have just proposed your amendment. Have you finished proposing?

**Deputy L.M.C. Doublet:**

Yes. Well I hope Members will support both of the amendments, please. So my amendment as amended by the Deputy of St. John. Can I just point out as well that on the financial and manpower implications, this will save us money because there would be less confusion? There will be even less confusion with the Deputy of St. John’s amendment to my amendment accepted because we will not be getting any confusion from business owners over what is acceptable. It will just be very straightforward so it should save some money as well.

**The Bailiff:**

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

#### **12.5 Draft Discrimination (Sex and Related Characteristics) (Jersey) Regulations 201-(P.40/2015): amendment (P.40/2015 Amd.) - amendment (P.40/2015 (Amd.Amd.))**

**The Bailiff:**

We now come to the amendment to the amendment lodged by the Deputy of St. John and I ask the Greffier to read the amendment.

**The Deputy Greffier of the States:**

Page 2. In the inserted paragraph (3), delete the words “under the age of 24 months”.

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

I am not going to be long. Everything that I need to have said with regards to my amendment, considering it is very short and very simple in terms of removing “under the age of 24 months” I have pretty much laid out in the report. I will just specifically refer to what is known as the Equality Act in the U.K. is the reason why I am putting this amendment to Deputy Doublet’s amendment, but I had discussions with her before and I felt it appropriate to bring this amendment. I hope Members feel the same way as I do about not having an age limit on this particular area of the Sex Discrimination Law and I hope that I will receive full support from the Assembly.

**The Bailiff:**

Is the amendment seconded? [**Seconded**] Does any Member wish to speak on the amendment? Minister.

**12.5.2 Deputy S.J. Pinel:**

Just to reiterate a bit of what Deputy Doublet mentioned in her opening remarks. The protection we have already included in the Regulations does not require breastfeeding to stop at any age, nor does it require a service provider to prevent or refuse to serve a woman breastfeeding an older child. After 26 weeks, continued breastfeeding is a matter of parental choice and a mother has other feeding options so the need for additional protection is not so great.

[16:00]

In fact, the latest statistics show that only 1 per cent of mothers in the U.K. are still breastfeeding at 26 weeks and so our proposal would protect the vast majority of mothers for the entire time they choose to breastfeed. For these reasons I am confident that Regulations as drafted provide an appropriate level of protection. In my view, it is not the role of discrimination law to promote the ideals of pressure groups about extended periods of breastfeeding, however, I am not strongly opposed to providing a longer period of protection and I will vote in favour of the amendment.

**The Bailiff:**

Does any other Member wish to speak on the amendment to the amendment? Do you wish to reply?

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

I would just like to say I am grateful to the Minister and her department for accepting this amendment to the amendment. I propose the amendment and ask Members to support it.

**The Bailiff:**

The appel is called for. The vote is on the amendment by the Deputy of St. John to the amendment of Deputy Doublet. I invite Members to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 37</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Senator Z.A. Cameron				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				

Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

## **12.6 Draft Discrimination (Sex and Related Characteristics) (Jersey) Regulations 201-(P.40/2015): amendment (P.40/2015 Amd.) - as amended**

### **The Bailiff:**

We now return to the amendment of Deputy Doublet as amended. Does any Member wish to speak? All those in favour of adopting the amendment, kindly show. Those against? The amendment is adopted.

## **12.7 Draft Discrimination (Sex and Related Characteristics) (Jersey) Regulations 201-(P.40/2015) - resumption - as amended**

### **The Bailiff:**

So we now come back to Regulation 3 as proposed by the Minister for Social Security but now amended in accordance with the 2 amendments lodged. Does any Member wish to speak? All those in favour of adopting Regulation 3, kindly show. Those against? The Regulation is adopted. Do you wish to propose Regulations 4 to 6, Minister?

### **12.7.1 Deputy S.J. Pinel:**

Regulation 4 amends the definition of indirect discrimination so that the protection that the law provides against indirect discrimination is extended to sex, sexual orientation and gender reassignment. In considering whether an act is indirect discrimination, what matters is whether the treatment is a proportionate means of achieving a legitimate aim and the tribunal will have to take into account all the circumstances of the case. Regulation 5 amends the existing definition of clubs to meet the original intention. Guests of clubs will also be protected and the law will apply only to clubs that have 25 or more members and where membership of the club is regulated by rules and based on a selection process. Regulation 6 extends the existing harassment provision to sexual harassment. It is also amended to remove the requirement for unwanted conduct to be directed towards a subject. I propose Regulations 4, 5 and 6.

### **The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on Regulations 4 to 6? Deputy Martin.

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

Yes, I just want slightly a bit more clarification on Article 25 as amended. The law of the clubs, as the Minister just described it quite briefly, the way I read it, if this is to be law it still discriminates under 5(5): “(a) that has at least 25 members; and (b) admission to membership of which is regulated by the club’s rules and involves a process of selection.” Now can the Minister just clarify to me ... because I did ask the adviser at the presentation and his answer was the clubs think they are okay under the law, but I do not think they will be okay. The way the Minister just described it there still, to me, will be a certain amount of discrimination for certain clubs. It is by that “selection” line that is really worrying me. Thank you.

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

I have got a question about Article 5 in gender reassignment. The Minister may be aware that, I think, the States have previously passed a carve-out for the Church of England so that they do not have to perform a marriage for somebody if they believe that person has been subject to gender reassignment. That is what the previous States had voted for; I did not, incidentally. Can the Minister explain whether or not that area will be revisited or will be affected, given the fact that we have now got a sex component of the discrimination legislation coming forward, and what her views are perhaps more generally on that; whether people who have undergone gender reassignment should be subject to this continued discrimination from the Church of England?

**The Bailiff:**

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

**12.7.4 Deputy S.J. Pinel:**

I thank Deputy Martin for her question. Perhaps I can clarify the club situation. The law applies in general to clubs and associations with 25 members or more and many of the clubs that we are familiar with are in fact services being provided to the public rather than genuine membership-based organisations. For example, a golf club is likely to be a club and a service. A gym with a subscription is probably a service. Whether a particular club comes within the definition is something that will have to be decided for itself and act accordingly. In answer to Deputy Tadier, there is no movement at the moment. Transgender is something new in this law and, to avoid discrimination, transgender people should be treated as their recognised gender for all purposes. This applies to the use of facilities and services, retirement age, job requirements, but there is nothing in this particularly to associate with religion.

**The Bailiff:**

Very well, all Members in favour of adopting Regulations 4 to 6, kindly show. Those against? The Regulations are adopted. Minister, you wish to propose Regulations 7 to 8?

**12.8 Deputy S.J. Pinel:**

Regulation 7 sets out the 4 new protected characteristics: sex, sexual orientation, gender reassignment and pregnancy and maternity. Regulation 8 provides all of the exceptions that will be inserted into Schedule 2 of the Discrimination Law. Appropriate exceptions are made for situations where treatments based on a protected characteristic is either justified or it occurs in circumstances where the law should not interfere. The Regulations extend some of the existing exceptions for race to the new characteristics and they also introduce a number of new exceptions that are specific to one or more of the new characteristics. It is reassuring that there have been no amendments to the exceptions and so I will not go into detail on all 20 of these but obviously Members will have the opportunity to raise questions. The 10 general exceptions apply in the following areas: national security, positive action, charities, clubs, pre-selection by an agency, selection for domestic employment, genuine occupational requirements, vocational training, provision of care in a carer's home and disposal of premises. The 10 exceptions that relate to one or more of the new characteristics are single-sex schools, single-sex services, segregation in religious services, recruitment to role in an organised religion, finance and insurance, communal accommodation, sport and competitions, health and safety risks during pregnancy and maternity, recruiting to limited-term contracts during pregnancy and maternity, and maternity leave pay. I propose Regulations 7 and 8.

**The Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak on Regulations 7 and 8? All Members in favour of adopting Regulations 7 and 8, kindly show. Those against? The Regulations are adopted. Do you wish to propose Regulations 9 and 10, Minister?

### **12.9 Deputy S.J. Pinel:**

Regulation 9 would repeal Article 15 of the Gender Recognition (Jersey) Law 2010 on the basis that an appropriate exception would be included instead in the Discrimination Law, schedule 2, paragraph 21. Regulation 10 provides for the Regulations to come into force on 1st September 2015 which is the same day the family-friendly rights will come into force under the Employment Law. I propose Regulations 9 and 10.

#### **The Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak? Those in favour of adopting Regulations 9 and 10, kindly show. Those against? The Regulations are adopted. Do you wish to propose the Regulations in Third Reading?

### **12.10 Deputy S.J. Pinel:**

Yes, please, Sir.

#### **The Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? Yes, Senator Routier.

#### **12.10.1 Senator P.F. Routier:**

Really, I just wanted to thank the Minister for the efforts she went to to ensure that Members had the opportunity to come to briefing sessions regarding this legislation. It is vitally important legislation which we are approving today but I think that, as we have gone through today, we have been quite amazed that we have managed to get business done quite quickly. But I think it just shows the benefit of attending the briefings which are put on by Ministers to help us to understand what we are approving. It might seem as if things are going through on the nod but there have been a lot of meetings beforehand before we get to make the decision. So thank you to the Minister for the briefings that we have had.

#### **12.10.2 Deputy J.M. Maçon:**

Again, in a similar vein, although we are getting through this legislation quite quickly, I hope that that would be seen as support from this Assembly and how long overdue this particular piece of legislation is. [**Approbation**] Also just to say that for the groups in society that this will bring protection for it is very much welcomed. I hope this Assembly will support it in giving the protections to these groups and that we are able to move forward and the other aspects which are to come forward in regards to age and disability. Thank you.

#### **12.10.3 The Deputy of St. Ouen:**

I would like to thank the Minister and the staff of her department for making the presentation to the Health and Social Services Security Panel, together with the very knowledgeable expert engaged by the Minister who was able to help us. We were entirely satisfied that the Minister had engaged in a very full consultation with interested groups and we could see that there had been a great deal of input and thought behind these Regulations. Thank you.

#### **The Bailiff:**

Does any other Member wish to speak? Do you wish to reply, Minister?

#### **12.10.4 Deputy S.J. Pinel:**

I thank Senator Routier for his very kind words. It has been an extremely long and complex time of consultation and briefings and no stone has been unturned in our efforts to comply with recommendations by members of the public, interested stakeholders and certainly the Scrutiny Panel. I thank Deputy Maçon and look forward to going onwards and upwards with age and

disability discrimination, and the chairman of the Scrutiny Panel, the Deputy of St. Ouen. I said I am particularly grateful to the stakeholders who participated in our consultations and in helping make sure the new Regulations are sensible and workable. In addition, I would like to acknowledge the tireless work over the past year of Kate Morel and Sue Duhamel of the Social Security Department and Darren Newman, a consultant in employment law, and also the invaluable input of Vic Tanner Davy. This has provided Jersey with a long-awaited balance and commonsensical law. I would also like to thank the members of the Scrutiny Panel for the constructive suggestions they have made and which helped us in clarifying and improving the Regulations. I call for the appel.

**The Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the Draft Discrimination (Sex and Related Characteristics) (Jersey) Regulations in Third Reading and I ask the Greffier to open the voting.

<b>POUR: 37</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 1</b>
Senator P.F. Routier		Connétable of St. John
Senator A.J.H. Maclean		
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator A.K.F. Green		
Senator Z.A. Cameron		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Trinity		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy M. Tadier (B)		
Deputy of St. John		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy S.Y. Mézec (H)		
Deputy A.D. Lewis (H)		
Deputy of St. Ouen		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Bree (C)		
Deputy M.J. Norton (B)		
Deputy T.A. McDonald (S)		
Deputy of St. Mary		

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

If I may, could I just raise a couple of points which will be of relevance to Members? The first is in relation to P.42 which is coming up very shortly on the Order Paper: the Public Finances Law. There is an amendment, and having had constructive discussions with the Corporate Services Scrutiny Panel, we have agreed to defer until the next sitting so that we can amend our amendment. I would just like to mention to Members that that will be deferred with the agreement of the Corporate Services Scrutiny Panel. The other point I wanted to mention, I made in comments this morning quite lengthy discussions around the Jersey International Finance Centre and N.D.A.s. I mentioned McKinsey and the fact that some information had leaked into the public domain. I just wanted to make it absolutely clear, because there was some sensitivity that I might have been referring to the former Economic Affairs Scrutiny Panel, that that was not the case at all. I was not and I wish to put that on record that that is not the case. Thank you.

[16:15]

**13. Draft Employment (Amendment of Law) (Jersey) Regulations 201- (P.41/2015)**

**The Bailiff:**

Very well, we come to the Draft Employment (Amendment of Law) (Jersey) Regulations - P.41/2015 - lodged by the Minister for Social Security and I ask the Greffier to read the citation of the draft.

**The Deputy Greffier of the States:**

Draft Employment (Amendment of Law) (Jersey) Regulations 201-. The States, in pursuance of Article 104(3B) of the Employment (Jersey) Law 2003, have made the following Regulations.

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

It appears I am almost in competition with Senator Maclean today. Currently, an employee must work or be contracted to work for at least 8 hours each week to be entitled to 3 of the Employment Law rights. These Regulations would amend the Employment Law so the rights to written terms of employment and the rights to claim unfair dismissal are extended to those who are employed for less than 8 hours a week. The Regulations would also provide that a week in which an employee is employed for less than 8 hours a week counts in computing the minimum period of notice that must be given on termination of employment. These 3 employment rights will then depend only on whether the person is an employee or not as defined by the Employment Law. We have always intended that this threshold would be removed from the Employment Law when protection against sex discrimination is introduced because women are more likely than men to work part-time. Removing the threshold is also more consistent with our forthcoming family-friendly policies such as the right to request flexible working. As requested during the recent consultation on sex discrimination, J.A.C.S. (Jersey Advisory and Conciliation Service) has provided guidance on this change for employers and employees. Having just approved the Sex Discrimination Regulations, I hope that Members will agree to this related Employment Law change. I propose the principles.

**The Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show. Those against? The principles are adopted. Perhaps you would like to propose them *en bloc*, Minister?

**Deputy S.J. Pinel:**

Yes, please, Sir.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on Regulations 1 or 2? Those in favour of adopting the Regulations, kindly show. Those against? The Regulations are adopted. Do you wish to propose them in Third Reading?

**Deputy S.J. Pinel:**

Yes, please, Sir, and may I call for the appel?

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? Then the appel has been called for. I invite Members to return to their seats. The vote is on whether to adopt the Employment (Amendment of Law) (Jersey) Regulations in Third Reading and I ask the Greffier to open the voting.

<b>POUR: 40</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Senator Z.A. Cameron				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				



Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				

**The Bailiff:**

I am going to ask the Deputy Greffier to take the Chair for the purposes of the debate on P.43.

**14. Draft Criminal Procedure (Miscellaneous Amendments) (Jersey) Law 201- (P.43/2015)**

**The Deputy Greffier of the States (in the Chair):**

The next item is the Draft Criminal Procedure (Miscellaneous Amendments) (Jersey) Law 201-, P.43/2015, lodged in the name of the Chief Minister and I ask the Greffier to read the citation.

**The Assistant Greffier of the States:**

Draft Criminal Procedure (Miscellaneous Amendments) (Jersey) Law 201-. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

This short amending law has been prepared by the Legislation Advisory Panel and amends the 1864 Criminal Procedure Law, the Magistrate’s Court (Miscellaneous Provisions) (Jersey) Law 1949 and the 1853 law which established the court now known as the Magistrate’s Court. The amending law has 2 purposes: firstly, it clarifies the ability of both the Royal Court and the Magistrate’s Court to hear evidence by live television link and, secondly, it removes legislative constraints on the time and the place at which the Magistrate’s Court may sit. I maintain the principles.

**The Deputy Greffier of the States (in the Chair):**

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? No? Well I call on the Chief Minister to reply.

**Senator I.J. Gorst:**

I maintain the principles.

**The Deputy Greffier of the States (in the Chair):**

Very well, if Members are in favour of the principles, would they kindly show? Those against? The principles are adopted. The Chairman of the Corporate Services Scrutiny Panel, do you wish to ...

**Deputy J.A.N. Le Fondré (Chairman, Corporate Services Scrutiny Panel):**

No, Ma’am.

**The Deputy Greffier of the States (in the Chair):**

No, okay. How do you wish to propose the Articles, Chief Minister?

**14.2 Senator I.J. Gorst:**

*En bloc*, if I may. I will briefly speak to them in general rather than Article by Article but I will endeavour to answer any questions that may arise. With regard to the evidence by live television link, the amendment means that an accused would not need to be in prison or otherwise in detention

for the Royal Court or the Magistrate's Court to have the discretion to direct the accused be treated as being present at criminal proceedings by live television link. It also gives the Royal Court and the Magistrate's Court the discretion, without the consent of the accused, to direct that the accused be treated as present in court at a hearing before the start of a trial by appearing by a live television link, provided the court has heard representations from the parties. In summary, therefore, this will preserve the position that at trial a television link could only be used with the consent of the accused. While providing him preliminary hearings before trial the court has a discretion to allow the use of live television link after hearing the representations of the parties. With regard to the second change, the current position is that the Magistrate's Court may only sit at 10.00 a.m. in the morning in a place designated by this Assembly. These changes remove those constraints and allow the Magistrate's Court to sit at all times and places as necessary. This provides flexibility which would reflect the modern-day reality of the business of the Magistrate's Court. I maintain the Articles.

**The Deputy Greffier of the States (in the Chair):**

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

**14.2.1 Deputy M. Tadier:**

Can I just ask the Chief Minister, is it proposed at any point that the Magistrate's Court could be held in the States Assembly? Is that possible under what is being proposed here and is it likely to happen? Perhaps if I finish that maybe so it is understood fully. I know that this building and this part of the Assembly is on occasion used for other purposes. It is used for court purposes. Personally, I am uneasy about that fact. I know that in Guernsey they have an even worse situation where they have to share their entire building with the Royal Court. It seems to me that, without wanting to be too precious about the limited facilities that States Members have, that we should be able to access this part of the building as and when we need. We have drawers, we have a necessity to come in here from time to time, and it seems to me that courts should not need to use this part of the building, and it perhaps ties-in more so also with the separation of the Legislature, both physically as a building and ideologically.

**The Deputy Greffier of the States (in the Chair):**

Does any other Member wish to speak? No? Well then I call upon the Chief Minister to reply.

**14.2.2 Senator I.J. Gorst:**

Of course this change means that the Magistrate's Court can sit in a building which has not been previously prescribed by this Assembly, as is the current situation. I think the issue that the Deputy raises about whether any court, be it the Royal Court proceedings or, in due course, the Magistrate's Court proceedings, should use this Assembly, and that is a wholly different matter. It is one I am prepared to take up if the Deputy so wishes. I personally see no problem with it but I would like to understand more why the Deputy does, because it is a building. The most important thing is the separation of the functions of the arms of government rather than necessarily the buildings in which they function.

**The Deputy Greffier of the States (in the Chair):**

Do you wish for the appel or ...?

**Senator I.J. Gorst:**

Why not, Ma'am?

**The Deputy Greffier of the States (in the Chair):**

The appel has been asked for. Members are invited to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 41</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator A.J.H. Maclean				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator A.K.F. Green				
Senator Z.A. Cameron				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Connétable of St. John				
Connétable of Trinity				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy of St. John				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy S.Y. Mézec (H)				
Deputy A.D. Lewis (H)				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Bree (C)				
Deputy M.J. Norton (B)				
Deputy T.A. McDonald (S)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy P.D. McLinton (S)				

**The Bailiff:**

Do you wish to propose the matter in Third Reading?

**Senator I.J. Gorst:**

If I may, thank you.

**The Deputy Greffier of the States (in the Chair):**

Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? I call upon the Chief Minister to reply.

**Senator I.J. Gorst:**

I maintain the Articles.

**The Deputy Greffier of the States (in the Chair):**

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

**The Bailiff:**

Now, in the light of the fact that we cannot debate P.47 until tomorrow that would seem to suggest it stands over until the next meeting, Chief Minister.

**Senator I.J. Gorst:**

Indeed. I was just going to propose the same, Sir.

**The Bailiff:**

Very well, then, Chairman, I ask you to address us on arrangement of public business for the next meeting.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**15. Connétable L. Norman of St. Clement (Chairman, Privileges and Procedures Committee):**

Yes, I recall at the last sitting I was roundly mocked for suggesting that this sitting would only last one day. **[Laughter]** So I stand before the Assembly very smugly. **[Laughter]** The arrangements for public business will be as per the Supplementary Order Paper. There are just 4 items for the sitting on 16th June and I suggest the 2 Commission re-appointments be the last items as they have to be held in camera. I would suggest that the business on 16th June should last no more than one day. **[Laughter]**

**The Bailiff:**

Very well, nothing for the Chairman? No? Then the States now stand adjourned until 9.30 a.m. on 16th June.

**ADJOURNMENT**

[16:27]