

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 17th JULY 2013

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[9:30]

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

PUBLIC BUSINESS - resumption

1. Draft Social Housing (Transfer) (Jersey) Law 201- (P.63/2013) - resumption

The Bailiff:

So we return then to the Order Paper and we were debating the principles of Projet 63, Draft Social Housing (Transfer) (Jersey) Law, lodged by the Minister for Housing. Senator Ozouf.

1.1 Senator P.F.C. Ozouf:

If I may just return to some of the principles behind this proposition, there is a great deal of work to be done in relation to the detail of the next stages of the setting up of the housing company, and this should be regarded as a step, but not a final step, in that arrangement. What my understanding is of the proposition of the Minister for Housing before Members is that this sets up effectively the law which sets up the future arrangements, or facilitates the future arrangements of how the company is to be operated, and particularly how the transfer is to be made. I cannot remember which Member raised the question of stamp duty. The Treasury is always in a difficult position in relation to stamp duty because we have the ability, as I understand it, to request the Judicial Greffe not to impose a stamp duty arrangement, but we rarely - if ever - do it. It puts both the Judicial Greffe and the Treasury in a difficult position and so it was decided to introduce a provision for the avoidance of any doubt - I think it was Deputy Young that raised the question - that on the transfer of the stock of the 4,200 units which are envisaged to be transferred, there would be no stamp duty payable. That seems to me entirely sensible, not to effectively incur a cost in terms of stamp duty. It would be effectively jam-jar accounting, so the law says, for the avoidance of any doubt, that no stamp duty is going to be paid on the transfer. The actual transfer of the properties will not be by a normal conveyance in the way that perhaps we understand it, because the actual transfer of properties will be by the Regulations that will come subsequently. Just as other companies that are set up and have been set up by the States, although this is somewhat different... the Assembly has previously set up in the same way companies such as J.T. (Jersey Telecom), Jersey Post, S.o.J.D.C. (States of Jersey Development Company). This is a different form of the company; it is a company limited by guarantee and therefore has a guarantor member. The law sets out the similar arrangements that the Treasury will be responsible to be, from what I understand it, is the equivalent structure of a company limited by guarantee and the shareholding function. But again, all of the details of the appointment of the board and the memorandums and articles of association will be worked on and will come back to the Assembly for approval. So in essence, we are setting up an enabling law. We have to do this in order to get to the next stage. This is primary law, but the law gives a great deal of regulatory ability or regulation-making ability in order to firstly structure the company itself, a memorandum of articles of association; secondly, the actual transfer of the properties themselves. One Member - again, I cannot remember which Member - raised this: it was the onward sale requirements. I can imagine that of course there will be onward sale restrictions. The company will not be entitled to sell any of the social rented units, because it will be States controlled, and just in any other way, there will be a memorandum of understanding between the company and the States which will set out a 'no surprises' policy. There will need to be a business plan that will need to be approved and it will be inconceivable that the company would be selling property that it would have. But again, I can imagine that in Regulations and in the transfer of those properties, there would be a requirement not for any onward sale to any third party and that any disposal of property would in fact need to either be approved, either under Standing Order 168 or they would need to come back the States. I say those things because many Members, while approving and enthusiastically approving the setting up of a stand-alone entity

will, I am sure, have a recollection of some of the difficulties in Members' minds about when the Jersey Homes Trust or trust bodies were set up. Trust bodies are not owned by the States, they are a trust, and Members have been concerned, I think, in transferring stock to something that was not 100 per cent States owned. Indeed, in the overall housing transformation work that the Minister for Housing - and indeed, his predecessors - have ably worked on, the decision was made that the new housing company or the new housing organisation would not be a trust, it would be controlled and owned by the States. So we are not going to be in a position where we are going to have some additional hurdles to jump in order, for example, to direct this entity to use surplus property or surplus assets. Members will be aware that there is the Jersey Homes Trust, which has been enormously successful in many ways. At the same time, there has been a difficulty in directing the Jersey Homes Trust, for example, to use surplus cash requirements that it has been building up as a result of the low-interest environment. This is a much more tightly controlled entity, but I say again that the rules of this entity are going to be set out in Regulations. I am extremely happy with this proposal. The Minister for Housing is moving on his absolutely clear and tight timetable to deliver this new entity, to deliver the expression of the view of the States that we are going to move to this new housing body. It needs to have an underpinning law. There is a lot more detail to be worked on. That will be worked on by the Housing Department and it will be scrutinised by, no doubt, the associated Housing panel, but Treasury will also be involved, as always. There is now going to be a segregation of duties, a separation of duties between regulation, between oversight of housing policy and between the delivery. This is where my own department will be involved in the working out and making sure that the delivery unit has the appropriate governance, has the appropriate structure and the appropriate financial arrangements put in place. I am very happy to support the Minister for Housing's proposal.

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

It is appropriate that I follow the Minister for Treasury and Resources. I do struggle with these things. There has been a tendency in the Assembly of late for the Minister for Treasury and Resources to stand up and he is very reluctant to get involved in micromanagement issues. He has been pushed into justifying stamp increases in the Post Office - not yet the position of post boxes - but no doubt he will become an expert on that. The general view that the Minister for Treasury and Resources is putting across is that while he is the sole shareholder on some of these bodies and he may well be under 23 in this regard, he is very reluctant to exercise those powers and he feels, it seems, boxed-in by Members who wish him to micromanage. But what I am struggling with, there is micromanagement, which I think this Assembly tries far too much to undertake and it leads into all sorts of cul de sacs, and there is setting the general policy by this Assembly, which is then given to the housing body, for example, or to J.E.C. (Jersey Electricity Company) and putting in place mechanisms to ensure that that body is following the policies of this Assembly. There is no doubt that now a grey area has developed and I would like assurances. I think we thought in the rush of emotion, which was engendered by Deputy Green when he was promoting the main policy in a passionate and enthusiastic way, that maybe the retention of the Minister for Housing would provide us with this guarantee. What I would like him to make clear is who makes housing policy, what is the involvement of this Assembly, and will we lead to situations where we have an apparently reluctant Minister for Treasury and Resources saying: "I may be the sole shareholder, but I do not wish to interfere"?

[9:45]

That leads to all sorts of interesting possibilities, because no interference is often a policy and it leads to certain perverse consequences. So I would like some very concrete assurances from the Minister for Housing that we are not entering once more into one of these grey areas where the

Minister for Treasury and Resources, by default, is ending up with an enormous amount of power and influence which he is apparently reluctant to exercise. Thank you.

The Bailiff:

Does any other Member wish to speak on the principles? Very well, then I invite the Minister to reply.

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

I thank all Members that have spoken and particularly thank the Minister for Treasury and Resources for clarifying a few points. Perhaps starting with Deputy Hérissier first: who is going to set the policy? Clearly the policy eventually will be set by the board, but the board will be regulated by the regulator that we agreed in P.33 to appoint. So that is work to be done and that is detail. It is not intended that the Minister for Treasury and Resources or any other Minister will micromanage. The board will manage, working to the memorandums and articles of association and within the Regulations that have been set, so I hope that gives some assurance to the Deputy. There is work to be done yet, because all we are doing today is setting up the framework by which the company will be set up and then the Regulations have to come back. Specifically to pick up on Senator Ferguson's point that she asked me last night, when will they see the memorandum of association and the articles, and that should be in September and October of this year. So that is work in progress. Just picking up on some of the other points - in no order, they are in the order that I picked them up last night and this morning - there was some concern about the pension deficit and much concern seemed to be around this, and because that was covered in our full business case, if you remember that, it was a very comprehensive case, from memory, something like 130 pages and scrutinised by a number of financial experts, not just our own financial expert, who I might say is really regarded in the U.K. (United Kingdom) as one that is top of the tree, but also Scrutiny's financial expert, who I am sure is up there somewhere as well, approved it as well. So the risk in terms of the pension deficit has been recognised, has been allowed for and is fully covered in the business plan. The purchase of the pension debt, just to remind Members, in the business plan was £2.135 million. We have done our homework; that is what I am trying to say to Members. Dealing with I think it was Senator Breckon that raised it initially and then Deputy Martin raised it as well about balloting States tenants. Of course that was part of the 2002-2006 housing strategy plan, and it related to the transfer of properties with sitting tenants to new owners. There are 2 arguments here and I am prepared to be guided by the S.G. (Solicitor General). The first one is I am advised that that policy only applied within the life of that strategic plan, and the second one is that the tenants' ultimate landlord has not changed. The States is the owner of the company limited by guarantee. The Minister for Treasury and Resources mentioned the selling of some properties and we do intend to realign our stock and sell some properties as we build new, but they are always sold on the basis of the sitting tenant buys them under usually a deferred payment system or we sell them as vacant possession. The whole emphasis of the ballot system was when the tenants' landlord was going to change. I would argue - and I am sure others might want to check, but I am sure my facts are correct - I am advised that the owner of the company being the States, the landlord has not changed.

Deputy J.A. Martin of St. Helier:

Perhaps I would like advice then off the S.G. because it was my amendment, it was in this House... and I have just heard the Minister say it has run out of date. If I had of known that under all these other policies I could have added in an amendment ... because I think it is just a fail-safe for the sitting tenants and any onward sale to or transfer to a trust. It was quite accepted, so if it is not now a policy or it was not passed ... well, it was passed in this House and I am very surprised. I had started my speech last night and I only asked for the adjournment so the Minister for Housing could

check this with the S.G. I had not quite finished my speech, but I am quite happy, but I really would overnight have liked an absolute answer. To me, the answer that I am timed-out in 2005 because the policy ran out I do not think is good enough.

The Bailiff:

First, may I apologise, Deputy, if I did not let you resume your speech and I shall put that right by letting you continue it at a later stage, if necessary. But on the point you have just raised, the Greffier has very kindly looked up the propositions and I think has circulated you and the Minister with his view, which I entirely share, namely that what was approved was the Housing Committee's policy for 2002 to 2006 and your amendment amended that policy for that period. So for better or for worse, it has run out.

Deputy A.K.F. Green:

I am grateful for that, Sir, but I would also argue that the landlord, the States of Jersey, has not changed, because the States of Jersey own the company. But I am very grateful for your clarification. I think it was Deputy Reed had some comments. I am just trying to have a look at these now. Yes, he was worried, I think, if I remember rightly, about the risks to the company and I could distribute this to Members if they wish, but I might remind Members that on page 116 of the full business case - which we spent 2.5 days debating, by the way, about 6 weeks ago - we lay out all the risks and clearly allocate where the risks lie, we identify them all. Some of those risks sit with the States and continue to sit with the States, and some of those risks sit with the company and there are a few that are shared. But there is a very comprehensive business plan and I can assure the Deputy of St. Ouen that we have done our homework in regard to the risks and I am very comfortable that this company, limited by guarantee, will be able to not only operate effectively and efficiently, but will be able to deliver the homes that I am going to require them to deliver. That is what is at the bottom of all this, homes for our tenants, homes for tenants that are waiting on the waiting list at the moment. I can forward this on to Members if they want, page 116 of the risk allocation. I hope I have covered all the points that Members have asked, but I will sit down and see.

The Bailiff:

Very well. Sorry, Deputy.

Deputy G.P. Southern of St. Helier:

There was a question I posed about the return to Treasury of £1.5 billion over a 30-year period and the safety of the company in the light of that.

Deputy A.K.F. Green:

My apologies to Deputy Southern on that one. He is quite right, he did ask me that question, and of course that has not changed from the 2½ day debate that we had, a lot of that spent on this. The return of the contribution, whatever you want to call it, the payment to the Treasury has been capped and will now only go up by inflation, so we have reduced it. It is fully allowed for within the business plan, so nothing has changed from the P.33 business plan which Members spent 2½ days debating.

The Bailiff:

[Aside] So then we come to the vote. Are you asking for the appel? Yes, the appel is called for then in relation to the principles of Projet 63. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 40		CONTRE: 4		ABSTAIN: 1
Senator P.F. Routier		Connétable of St. John		Deputy R.C. Duhamel (S)
Senator P.F.C. Ozouf		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy M.R. Higgins (H)		
Senator S.C. Ferguson		Deputy M. Tadier (B)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Connétable of Trinity				
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				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Bailiff:

Very well. Deputy of St. Peter, do you wish this matter to be referred to your Scrutiny Panel?

Deputy K.L. Moore of St. Peter (Chairman, Health, Social Security and Housing Scrutiny Panel):

No, thank you, Sir. We have already provided comment.

The Bailiff:

Then how do you wish to proceed, Minister, in respect of the Articles?

1.2 Deputy A.K.F. Green:

I am in the hands of Members, really. We can do them *en bloc* or I can run through each one. It depends how long Members wish to be here, Sir.

The Bailiff:

What I suggest is that you propose them *en bloc* and take any questions.

Deputy A.K.F. Green:

Okay. In that case, I thank Members that have contributed so far and propose the Articles *en bloc*.

The Bailiff:

Are the Articles seconded? **[Seconded]** Does any Member wish to speak on any of the individual Articles? Deputy Le Hérissier.

1.2.1 Deputy R.G. Le Hérissier:

I would like to revert to 23 and I would like the Minister, in order that I can get more clarification, under 23 when it talks of the role of the Minister for Treasury and Resources, it says: “In exercising those powers, he or she shall act in the interest of the States.” I wonder if the Minister could define how the Minister for Treasury and Resources will deduce what are the interests of the States in those circumstances?

1.2.2 Senator P.F.C. Ozouf:

Perhaps I could assist, as I envisage that ultimately these things will be a matter for the Minister for Treasury and Resources to answer ultimately, although probably it will not be in force for the duration of this period of time. Deputy Le Hérissier I think is one of those regular questioners of the incorporated entities. He likes, on the one hand, to say that States Members in this Assembly should be very much involved with policy, but he is one of those Members who is very comfortable also in getting into the detail, and as usual, when you are sitting on the fence or you are either side of it, you cannot have your cake and eat it, I would say to Deputy Le Hérissier. But for the avoidance of doubt, there will be effectively a memorandum of understanding that will be set out. There will be arts., there will be the particulars of the entity that will be brought forward for the States and indeed, I would say and I would repeat the words of the Minister for Housing, this entity... many of the questions that I am asked about J.T. and Jersey Post, and, as we explored on Monday afternoon with Senator Ferguson in relation to her questions about routers within J.T. and monopoly, those are issues for the regulator. Indeed, it is going to be for the regulator to set standards and policies and for the company to be held to account in order to deliver it. A board of directors of 51 this Assembly is not of the existing entities; a management and a membership of any of these companies this is not, and we must come to terms with the fact that we set policy, we agree policy. We then put people to run organisations and the job of the Treasury, and ultimately this Assembly to the Minister for Treasury and Resources, is to hold with various different levels, Minister and board, to account for implementing those policies. We must get away from a world in which we descend into the weeds. I think the Deputy understands very well what that tension is and we are going to depoliticise operational matters, but focus on the big things that we should, which is policy.

Deputy R.G. Le Hérissier:

On a point of clarification, the Minister never said the circumstances in which he would intervene, which is what I was talking about.

Senator P.F.C. Ozouf:

When policy is not being properly adhered to and when there is a governance issue within that entity, but the way that the Treasury does that is by agreeing a business plan, is by holding regular meetings with the entity to hold them to account for their business plan, and there is a catch-all, which is a 'no surprises' policy. I do not expect to be surprised by any action of any of the States-owned entities without them informing the Treasury. Indeed, we have a team within the Treasury, not a large team, but a team of 2 or 3 people, that looks after these issues and when there is a surprise - that means a decision that is not within policy, something dramatic that has happened, a big cost overrun, something like that - then our guidance is appropriately taken.

[10:00]

It might be that it would be helpful for us to have at one of the meetings that we do have with own entities - perhaps it would be helpful to come to terms with some of the decision-making that we have - for us to do a briefing to States Members on what the oversight arrangements are, the holding to account and indeed the memorandum of understanding. I can see some members of the P.A.C. (Public Accounts Committee) nodding. It might be helpful that we have one of those in the not too distant future.

1.2.3 Deputy G.C.L. Baudains of St. Clement:

Building on the same issues which Deputy Le Hérisier has raised, because I too have come across problems with dealing with these entities which we have put at arm's length, because they are problems which arise and, as he has correctly said, the Minister for Treasury and Resources does not feel as though he should be delving down into that level, so we find that we have nowhere to go. One of the things I recall recently was the suggestion that Jersey Telecom were going to stop accepting cheques. Now, I thought that was inconvenient to the public, but the Minister for Treasury and Resources said it was for the board and not for him. So basically, as Members of Assembly, I find that we are unable to take up issues on behalf of our constituents. I wonder if the Minister for Housing, when he sums up on these Articles, could clarify for me, if we take an example of a constituent that might contact me with a problem with a property, perhaps he cannot get the department to repair a window or he has got neighbours which are a nightmare and he wants to move, to whom would I go in future? Would it be to the board, to the Minister for Housing, or to the Minister for Treasury and Resources?

1.2.4 Deputy J.H. Young of St. Brelade:

On the same theme as Deputy Le Hérisier, accepting that this is an enabling law, for an enabling law handing over powers of £0.5 billion of assets, I have to say I find it extraordinarily thin, particularly Article 2, which talks about the nature of the company. Now, what we seem to be in a position of is the Minister for Treasury and Resources has given us a whole host of assurances about the safeguards, but none of those are in the law. I do have a problem with that, that we are just asked to rubberstamp a law which is thin. I know it is going to be said it is in the Regulations, but it seems to be simple that if we are establishing a company where the assets will not be able to be transferred out of it, that those assets are inalienable, that to me should be in the law. Now, I am also puzzled about the role of the Minister for Treasury and Resources. Only a short while ago, when we approved the housing strategy, we retained the Minister for Housing and I would have liked to have thought there was some role for the Minister for Housing in this. I am really puzzled as to why we are concentrating the powers on the Minister for Treasury and Resources when we have said that we need a Minister to the housing. We have got an excellent Scrutiny report, but the experts appointed were housing experts, and I was very troubled when I read the appendix, because we only had this yesterday, and apologies that I have not had a chance to talk to the Scrutiny Panel about it, but the advisers did say: "Unfortunately our knowledge of Jersey law does not extend to whether this is an issue, but it may be worth the Scrutiny Panel whether considering charity should

be considered.” So here we have a draft law where our experts are not competent, and say so, in Jersey law. That really troubles me. So for me, I have really great difficulty in just carrying away, rubberstamp this. Ideally I would like to have seen those issues looked at further by the Corporate Services Scrutiny Panel, but I fully understand the reasons, they are fully committed, and I would have hoped ... really, it is very disappointing we do not see the memorandum and articles of the company and all these questions being answered, so I am really troubled by Article 2 and I think I should probably regrettably have to record my dissent by voting against that Article, unless there is any way ... I just do not see these things ... the law as we have got is just far too thin and it is an enabling law, but I think the safeguards that should be built into the law are not the Regulations, because Regulations are easily changed. The degree of scrutiny on Regulations cannot be fully effective in the Assembly for all the reasons we know about law scrutiny. So I think the law is the proper place to put fundamental safeguards and I do not see them.

1.2.5 Senator A. Breckon:

I just want to join the party, as it were, on the concerns that have been expressed by other Members, following on from Deputy Young and Deputy Le Hérissier and Deputy Baudains, and the question I ask is who would answer questions on housing for this company in the house, because as Deputy Le Hérissier has touched on, if it is to do with the shareholder, then it the Minister for Treasury and Resources and what he says is: “This is micromanagement. It is not my problem. We have got a board and we have got a nominee.” In Article 2 it talks about the nominee of the Minister for Treasury and Resources on the board. Is that person accountable to this House, to the Minister for Treasury and Resources or is it the Minister for Housing? That is why I think Members generally favoured retaining the Minister for Housing, so that he would be answerable to this House, not us to be told: “Well, it is none of your business.” The reason I say that is housing is an emotive issue and it has been something that has applied the time and effort of Members over many years about all sorts of issues, from standard of properties to allocation, to all sorts of things. So as Deputy Baudains pointed out, if Members do need to raise issues on behalf of would-be tenants or existing tenants or people willing to buy, then Members of this House need to have some comfort that they can go somewhere where they will not be told: “Well, it is none of your business any more” because that does not satisfy the people who are perhaps in distress. Then we are failing them, because where do they go if they have been already to the organisation, the housing whatever it is, and not got an answer? Where is the system that deals with it at another level? Members, as they know, can ask questions in this House and then the question about the question is who do you address it to? Is it the Minister for Housing or is the Minister for Treasury and Resources who has the nominee on the board? For me this is not clear and it would really worry me, bearing in mind that it is an emotive issue, if you come to the Minister for Treasury and Resources and he says: “Well, it is not my business. We have a board there. You will have to go back to them” because that is not satisfactory if people are not adequately housed or waiting for housing for whatever reason and they go around this circle, then we are failing people for convenience and we need to move on, but it needs to be a better organisation. The idea of tasking these 3 as an organisation so that they would have opportunities and be able to do things without the shackles of the public sector system and finance, but having said that, there needs to be the checks and balances. I, like Deputy Young, share the concern that if it is going to be through the Minister for Treasury and Resources and then we are told: “Well, we have a board here. It is none of your business. They are dealing with it” and if it is an individual it is not necessarily a policy thing, you just say: “Well, that is the answer we have given to these particular people.” That, in this day and age, is not quite good enough. For that reason, I have some reservations in this, so my support is qualified.

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

I am hoping the Minister will help me with Article 8 of the Regulations. I have always had concerns about were the States to suddenly sort of privatise its companies and the effect on employees. Very often they are transferred on the same terms and conditions, but within a very short space of time, they are eroded, and in fact, very soon, within a matter of years, they have disappeared almost completely. In particular, I am interested in (d) and (e) and I am still puzzling over 8(e), where it says: "Any collective agreement made by or on behalf of the States with the represented body recognised by and on behalf of the States be an agreement that is expressed to have effect in respect of employment of persons by the company who are not immediately before the transfer date employees of the States." Can someone please explain that in English, and the rights of these people going forward and to make sure that their rights will not be eroded very, very quickly by the new board?

1.2.7 Deputy M. Tadier of St. Brelade:

The role of an individual States Member is of course varied, but I would ask States Members rhetorically - and I expect I know what answer I would get - how much time they spend dealing with issues, which are not strictly related to parliamentary nitty-gritty, that is to say to do with social security issues, to do with housing issues and to do with issues which elsewhere may be dealt with by the various ombudsmen which are available but do not exist in Jersey. Certainly I know that once this sitting is finished I will be trying to find some time to speak with the Minister for Housing, which he has already agreed, about 3 ongoing cases which I hope to be able to resolve to some satisfaction, mutual satisfaction, simply because I have got recourse to the Minister. I can talk to him and say: "We have got an issue here with this individual who has been on the waiting list for quite a while. She cannot afford the premises she is living in. She is put in a difficult situation with social, *et cetera*, and something needs to be done because she is in acute financial circumstances." A political judgment can be made as to where she lies on the scale of necessity and similarly with other cases that are ongoing. That is probably not going to be able to happen now any more than it can happen if there is an issue with the phones or a problem with somebody's electricity bill. It is just that is the way that it works. If someone's electricity bill is too expensive, that is tough luck. If somebody's housing is not being provided for them, that is tough luck. That is just the way the new company structure works and it is arm's length. It would be wrong for us to get involved politically so we have to be fully aware of the route that we have gone down on this. The other point relating to 2(4) is that, it may be the cynic in me, but this just smacks of more empire-building. Why is it that after yesterday we have not learnt of the dangers of centralising more and more power and having less and less control as an Assembly, less and less political accountability and recourse for our constituents who are going to be affected by these changes if we do not get it right. That is why I share the same concerns that have been raised by other individuals. It goes back to the whole point that it does not really matter how you deliver housing, whether you do it via a company, which is an arm's length company which is completely private, or a trust, or whether it is States-owned, it is: is the housing there in the first place? Do we have a desire to provide affordable housing? Do we wish to continue this crazy scenario of subsidising private landlords? What happens nowadays, when the lists are too long, people are given advice both from Social Security and from Housing, and I am sure they do not like giving this advice out: "Well, have you thought of renting in the private sector?" But the money given by Social Security, which is capped, whether it be for one, 2 or 3 bedrooms is not sufficient to pay those rents and they have got to find money elsewhere while the landlords, quite understandably, are rubbing their hands because they are thinking: "This is great, this gravy train. We do not have to worry about keeping our rents low because we know the State is always going to be the backstop for that." Are those issues being addressed by this? They are not being addressed anywhere as far as I can see. We have no plan to address the fundamental issue of why we are giving taxpayers' money ... money, in fact, which people who themselves cannot afford housing, who are having to pay very

inflated rents, are having to pay for other people to be able to pay their landlords for inflated rents. The whole thing does not make sense and until we address those issues we really are fiddling. So certainly on those issues beware of what we are voting for and I would like to see some radical changes put forward to address the housing shortage and the very expensive rental houses that people are facing in the private and even now in the States sector.

1.2.8 Senator I.J. Gorst:

If I could just briefly. Deputy Tadier raises a number of very good points but not necessarily related to the Articles before us. As the Minister for Housing said yesterday, there is shortly to be a new draft Housing Plan, chapter on Housing, and that will enable the development of new houses and on some of those sites there will be new construction techniques and new models of ownership.

[10:15]

So hopefully when he sees that he will be satisfied. He says across the Assembly, an old man. I am not sure he is quite as old as I am yet and he is right to indicate that we have been waiting, that work has taken time but we hope to be in a position to put that out to consultation by the end of this week. A number of other Members have asked: "Well, where will the role of representation by Members be when it comes to specific operational issues that their constituents might raise?" They will be rightly, and should rightly, be raised with the new company. If they do not get satisfaction there, I have no reason to doubt that they will not get anything other than satisfaction; they would raise it at board level. If it is a policy issue with regard to housing policy then of course that will be raised with the new, I hesitate to use that word, but with the new Minister for Housing. I hope that the Minister for Housing, as is, will be the old Minister for Housing very shortly and during the summer recess he will reinvent himself as the new Minister for Housing sitting in my department heading up the Strategic Housing Unit. So if there are policy issues, which often do underlie specific operational issues, the operational issue has to be dealt with. That, rightly, will be dealt with by the new company. Policy issues will be taken forward and considered and implemented by the new Minister for Housing through the Strategic Housing Unit. That will be a great step forward because currently the Minister for Housing has a little bit of a conflict because this Assembly sees him as driving housing policy, but that strictly has not been his remit. He has been the provider of social housing so there has been this conflict. That conflict is being removed and Members will quite clearly be able to take policy issues to the new Minister for Housing and he will then be free from providing the housing but be able to develop policy appropriately. Of course the regulator, as well, will deal with Regulation. That will need to come to the Assembly and be approved in due course. That will then give this Assembly the ability to amend and change and influence that Regulation and how it is implemented as well, and of course the Minister for Treasury and Resources, as we seem to have fixated on a little bit this morning, will have the shareholder role, which is not uncommon for that department. They have a strength and ability to manage that and that is about ensuring there is sound governance, ensuring that the resources are spent appropriately and that there is the appropriate accountability in the running of that company. So when you take the different facets of what is being proposed you will see that it is a great improvement and it will give clarity on the very issues that many Members have concerns about this morning. Therefore, I hope that Members will support these Articles.

The Bailiff:

Does any other Member wish to speak on the Articles? Very well, then I invite the Minister to reply.

1.2.9 Deputy A.K.F. Green:

I will pick them up not necessarily in the order they were spoken in but as they come to mind, so to speak. I think Members flatter me sometimes when they say that they can bring a problem to me

and I solve it. The quickest way of solving a problem is to take it to the appropriate officer in the department to be honest because that is where I always refer it and that officer deals with it. So the quickest way to get any operational issues resolved is to take it to the appropriate officer, but of course there is always a time when you would want to go elsewhere because you did not get the satisfaction you want. That happens from time to time. I think the Members have forgotten our board of 6 is made up of 2 tenant representatives, which is going to - I think - help. My new role as the new Minister for Housing, which I am apparently going to change into during the recess, is really to carry out the role I think I always should have had and that is of housing policy. That will be also setting up the Strategic Housing Unit within the Chief Minister's Department and the Strategic Housing Unit will have much more of a role than we have ever seen in co-ordinating housing policy. One of the strange things I have found as Minister for Housing is that some policy sits within Health, some policy sits within Planning, some policy currently sits within Population and very little policy sits within Housing other than the social side of things. So the S.H.U. (Strategic Housing Unit) will be a great improvement and of course Members agreed to that as part of P.34. Picking up on other points... so some people are concerned about this nominee on the board from the Minister for Treasury and Resources. It is that. It is a nominee that the Minister for Treasury and Resources nominates to ensure that he is absolutely happy with the governance of the organisation. Interestingly enough, with a different hat on, I was looking at governance of organisations last night. So it is appropriate that the Minister for Treasury and Resources ensures that the assets that the company is running is overlooked properly and has good governance but the Minister for Treasury and Resource's role is to nominate the one member of the board. Remember that I will be selecting the chairman and the other 3 members of the board and then there will be a selection process for the 2 States tenant representatives. Picking up on other things, I know Deputy Higgins is passionate about looking after staff and employees but he does not have the monopoly on that passion and that is why we have these very clear Articles in there including the one about the admitted status to the Pension Scheme. We have had excellent consultation. Without blowing our own trumpet the trade union representatives have said that the consultation with the staff and with them has been exemplary. I was pleased to hear that when they made that comment. I was absolutely adamant that staff do transfer with protection for their existing conditions of employment and had there been no agreement for them to remain in the Pension Scheme under the admitted body status we would not have even got as far as debating P.33, so the staff is being looked after. We have excellent dialogue directly with the staff and with their representatives and that is on record. Just trying to pick up on other things, Deputy Tadier and, I think, the Chief Minister covered it, the best thing we can do in terms of affordable housing; yes, we need to look at construction. It is slightly out of what we are doing today but we need to look at construction techniques and the draft new Housing chapter arrived in my email box yesterday or maybe early hours of this morning. So we are moving ahead on that and the Minister for Planning and Environment and myself and others will be working very hard to look at different methods of construction to make homes cheaper. The best thing we can do in terms of rental homes is to increase supply. Once we increase supply the price will have to go down apart from solving some of our social problems as well, so work with myself and Minister for Planning and Environment. When that draft chapter comes back for debate, pass those sites. Let us get moving on building. Let us get our families housed and our construction industry working. It really is a double whammy. I think I have probably covered most of the points raised apart from, I think it was Deputy Young who was concerned ... I think, he may not have used these words, but in essence he was concerned about the quality of the legal advice saying that the Scrutiny Panel's legal advisers said that they did not know much about Jersey law. Well, the people that drafted this know a lot about Jersey law, they are our Law Officers. So I am very comfortable with the work that they have done. This is setting just the bones of the structure of the organisation which will come back with proper regulation. That is what I promised to do in the P.33 debate, to take more time looking

at the 2 types of regulations, the regulation that goes around the company and the regulation in terms of the standard of housing. So I am very comfortable with this. This sets a structure. We will follow that up with regulation, and I know there will be a full and thorough debate on that and that is only right. So I think I have covered all the points although I see Deputy Baudains' light on. I will sit down.

The Bailiff:

I think there are 3 lights on, I am afraid, Minister.

Deputy G.C.L. Baudains:

Well, hopefully the Minister will stand up again in a moment. I did ask him if, well not if but when a States Member gets a call from a resident with housing problems in future will he go to the Minister for Treasury and Resources, Minister for Housing or the board? I take it from what the Minister just said that the States Member will now have to go to the board and presumably if he does not get satisfaction he will then have to tell the constituent: "I am sorry there is nothing more I can do."

Deputy A.K.F. Green:

If it is an operational matter then I would go first to the people running the organisation and then to the board. If it is a policy matter I would hold the Minister to account in the States.

Deputy J.H. Young:

Clarification, Sir, if I may request it? The Minister referred in his reply to the debate about the constitution of the board of 6 members, a chairman and 3 members and so on. Could the Minister direct us to the Article in the law that sets that out please?

Deputy A.K.F. Green:

That will follow in September but I have been open and transparent, that was fully explained in P.33, my full business plan. We had 2½ days of debate on it. It is in there. This will come back in detail in September.

Deputy M.R. Higgins:

I was pleased to hear what the Minister said about the good talks that he has been having with the employees' representatives. He also said that the Regulations were clear. Well, I am sorry, they are as clear as mud to me, certainly Article 8(e). I would like the Minister to explain, if he would, Articles 8(d) and (e) and if he cannot do it clearly if we can ask the Solicitor General to do it for us please.

The Bailiff:

I think you can ask Article 8(e), Deputy because you asked that previously. Article 8(d) would be a new matter which we cannot really allow you to do after the Minister has replied, so Article 8(e).

Deputy M.R. Higgins:

Article 8(e) is the one that concerns me most. Article (d), I think, is straightforward. I think it is straightforward. Article 8(e) has me slightly puzzled.

The Bailiff:

Article 8(e) is the only one I think you can properly ask about because you asked about it earlier. Minister, are you happy to deal with it?

Deputy A.K.F. Green:

I would rather have the advice of the S.G. (Solicitor General) to be honest because I think that is where we will end up anyway.

The Bailiff:

Well, Solicitor General, can you deal with Article 8(e)?

Mr. H. Sharp Q.C., H.M. Solicitor General:

Yes. I break Article 8(e) down as follows. The States may enter into a collective agreement; that agreement may apply to company employees. Even if the company employee, before the transfer date, was not a States employee the collective agreement still applies to that employee.

Deputy M.R. Higgins:

That is fine. That is what I had hoped it would say. Thank you.

The Bailiff:

Very well. Then all Members in favour of adopting all the Articles, that is Articles 1 ...

Deputy R.G. Le Hérisier:

It is possible to take 2(3) separately?

The Bailiff:

Yes, of course. Any matter may be taken separately. So, first of all then we will vote on Article 1. Is the appel called for in relation to Article 1? Yes, the appel is called for in relation to Article 1. The Greffier will now open the voting in respect of Article 1.

POUR: 42		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				

Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Bailiff:

Now there is a request to take Article 2 separately, is that right?

Deputy J.H. Young:

Yes. The whole of Article 2.

The Bailiff:

Very well, then the matter now before the Assembly is Article 2 and the Greffier will open the voting.

POUR: 33		CONTRE: 11		ABSTAIN: 0
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Connétable of St. Lawrence		
Senator S.C. Ferguson		Connétable of St. John		
Senator A.J.H. Maclean		Deputy R.G. Le Hérisier (S)		
Senator B.I. Le Marquand		Deputy G.P. Southern (H)		
Senator F.du H. Le Gresley		Deputy S. Pitman (H)		
Senator I.J. Gorst		Deputy M. Tadier (B)		
Senator L.J. Farnham		Deputy T.M. Pitman (H)		
Connétable of St. Helier		Deputy M.R. Higgins (H)		
Connétable of Trinity		Deputy G.C.L. Baudains (C)		
Connétable of St. Clement		Deputy J.H. Young (B)		
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

[10:30]

The Bailiff:

Is there any other Article which any Member wishes to take separately? No. In which case then we take Articles 3 to 12 inclusive and the Greffier will open the voting.

POUR: 40		CONTRE: 3		ABSTAIN: 0
Senator P.F. Routier		Connétable of St. John		
Senator P.F.C. Ozouf		Deputy M. Tadier (B)		
Senator A. Breckon		Deputy G.C.L. Baudains (C)		
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				

Deputy R.J. Rondel (H)				
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The Bailiff:

Do you propose the Bill in Third Reading, Minister?

1.3 Deputy A.K.F. Green:

Before doing that can I just not only thank Members for their interest today but also thank the officers for the very hard work because we were on a very tight timetable to see this through so that we can get these houses in place for people.

The Bailiff:

Is the Bill seconded in Third Reading? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading ... the appel is called for in relation to the Bill in Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 38		CONTRE: 4		ABSTAIN: 0
Senator P.F. Routier		Connétable of St. John		
Senator P.F.C. Ozouf		Deputy M. Tadier (B)		
Senator A. Breckon		Deputy M.R. Higgins (H)		
Senator S.C. Ferguson		Deputy G.C.L. Baudains (C)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				

Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

2. Historic buildings in Pitt Street and Dumaresq Street: request to Minister for Planning and Environment (P.60/2103)

The Bailiff:

Now, we were, I think, at this stage going to come back to Projet 60 lodged by the Connétable of St. Helier. There was some indication originally that the Victoria Cottage matter should follow on from the Housing debate but ...

Deputy A.K.F. Green:

I am quite happy to take our turn.

The Bailiff:

Afterwards. Very well. In which case then we will return to Projet 60, Historic Buildings in Pitt Street and Dumaresq Street, request to Minister for Planning and Environment lodged by the Connétable of St. Helier and the Greffier will read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Planning and Environment, (a) not to allow the demolition of 4 to 6 Pitt Street and 6 to 8 Dumaresq Street due to the importance of these building to St. Helier's historic core; (b) to take steps to ensure that the owners of the buildings protect them against further deterioration; and (c) to work with interested parties to secure the repair and restoration of the buildings.

Deputy R.C. Duhamel:

On the basis that there is an active and live application I do not think it is right that I should be party to this debate and I would expect the other members of my Application Panel to follow suit.

The Bailiff:

Very well. Thank you.

Connétable P.J. Rondel of St. John:

Could I declare an interest as a shareholder of the Co-op, probably like a lot of others? **[Laughter]**

Connétable J.LeS. Gallichan of Trinity:

Do you accept the panel just leave or do you want us to name ourselves? I am obviously on the Planning Applications Panel.

The Bailiff:

No. I think there is no harm in the panel staying but I think what the Minister is making clear is he does not expect the panel to contribute in any way because they may have to consider this.

Senator P.F.C. Ozouf:

May I just ask a question? Having been previously in the position, effectively, of overseeing planning functions as Planning President, there have been a number of precedents in the past where matters have been brought to the Assembly and the States have requested the former committee and now the Minister to do something. I find it quite strange the Minister and Planning Panel members are able to contribute to a debate, and indeed argue against the States making a decision overall or

deal with policy issues without straying into the particulars of the application. That is certainly the situation of numerous debates from the 2002 Island Plan and just simply not having the Minister here is quite strange when he has been asked to do something. You can constrain yourself by not revealing what you think about the application and dealing with the policy matters I would have thought. I think it is a strange state of affairs, which I would have been exercising those functions almost in a different way, would have been criticised previously on. There were many debates on matters directing and asking or attempting to ask a former committee and I see no difference in this. Of course that is a matter for you to guide the Minister and the panel and the members themselves.

The Bailiff:

I certainly was not indicating they had to withdraw. I do not see any need for that at all. They are here to listen to Member's views. If they participate it would have to be in some very limited way and this is a very specific proposition, and therefore I would imagine most of them would find it better not to contribute to this particular debate because it is a very specific one about a specific application but they certainly can stay. It is a matter ultimately for them. If they participate and show any preconceived views, no doubt objection will be made then to them standing on the Applications Panel but I certainly see no need for anyone to withdraw.

Deputy J.M. Maçon of St. Saviour:

Thank you for the guidance. However, I view that as this is a live application, which is currently going to be considered by the Applications Panel, as far as I am concerned in that situation members of the Planning Applications Panel have withdrawn from the debate and I will be withdrawing because if I have to vote on this, as far as I am concerned, that gives some sort of indication.

The Bailiff:

No. I think what I was indicating, Deputy, is that you do not have to withdraw. Of course you would be likely to abstain when the time came to vote. It is a matter entirely for you.

Deputy J.M. Maçon:

Well, I will withdraw because as far as I am concerned I do not think I should be sitting in on this proposition. Thank you.

The Bailiff:

Have you got other points of order then?

Deputy S. Power of St. Brelade:

I think, if I might be allowed to say, I would feel more comfortable, as Chairman of the panel, if I did not listen to the debate and withdraw completely.

The Bailiff:

Well, as I say, it is a matter for individual members.

Deputy G.C.L. Baudains:

As a member of the P.A.P. (Planning Applications Panel) I shall be withdrawing from the debate. I do not think it is appropriate that I take part.

Deputy J.H. Young:

It may be helpful that I wish to have the advice of the Solicitor General on this point because I do recall that following up Senator Ozouf's point that the law, as it stands, does allow the Minister to take into account the States views on any matter although he is not obliged to do so. I think that is

important in this debate that that point is cleared up. So it might be helpful if the Solicitor General...

The Bailiff:

I am not sure you need the Solicitor General. I think that is clearly the position, yes. In other words the Minister must still reach his own decision having regard to proper planning considerations but he can take into account, to the extent he thinks appropriate, any views expressed by this Assembly.

Deputy R.G. Le Hérissier:

Similarly I will not take part in the debate but while I have the will to live I will stay in the Assembly. [Laughter]

The Bailiff:

That is if we ever get on to the debate, Deputy.

Deputy R.G. Bryans of St. Helier:

Equally, as a member of the Planning Applications Panel, I want to hear. I think I can listen without bias so I will abstain from the actual vote but I will listen. Thank you.

Senator L.J. Farnham:

I do test your patience slightly but I am still slightly confused because this is only a request. How can the Minister or the planning political process consider a request or not without having listened to the reason why that request was made? Just an observation.

The Bailiff:

That is a question to pose to the Minister not to the Chair, I think.

Senator L.J. Farnham:

I hear he is outside in the sunshine.

The Bailiff:

That is a matter for the Minister. All members of the Planning Applications Panel and the Minister were free to stay. Very well, I invite, then, the Connétable to make his proposition to such Members of the Assembly as are left.

Connétable A.S. Crowcroft of St. Helier:

Is it going to be read?

The Bailiff:

I beg your pardon. Has it not been read? It has been read, has it not? Yes. I think it has been read already. Is it not? Did you read it, Greffier?

The Greffier of the States:

I did read it.

The Bailiff:

Yes, the Greffier recalls reading it.

2.1 The Connétable of St. Helier:

I am very sorry, I missed that. Thank you to those Members who have remained in the Chamber. I hope we stay quorate. This is an exceptional thing for me to do. I was on the Planning Committee

for, I think, 7 years so I appreciate the difficulties that members of the current Planning Applications Panel and indeed the Minister have when the States and a States Member seems to be interfering in their procedure. However, I think it is an exceptional case and, as I say, I do not bring it lightly. It is, of course, a request. It is not a direction to the Minister and the request is just for my own benefit almost, although other Members heard it, for him not to allow the demolition of 4 to 6 Pitt Street and 6 to 8 Dumaresq Street due to the importance of these buildings to St. Helier's historic core. To ensure, in part (b) that the owners of the buildings, I might have put the stewards of the buildings because I believe that anyone who owns a building of this sort is a steward of it for the future, protects them against further deterioration and, (c) to work with interested parties to secure the repair and restoration of the buildings. Anyone who has stood in the al fresco area of the Post Horn or on the pavement outside the Post Horn Pub and looked down towards these buildings will be struck by the fact that they make the end of the vista. They are, of course, a group of buildings. Many years ago now a great deal of effort was put into restoring the early part of Hue Street which leads up to the Post Horn Pub. Of course the rest of it could not be restored because we knocked it down in the 1970s in the name of slum clearance. As I refer to in my report, any Members who do not know what that looked like, or are too young to remember it, are advised to look at the 2 books by André Ferrari, which are sadly out of print but are available in the library. They are books that I find almost too moving to read and to look through because they show the scale of devastation that St. Helier suffered in the post-war years. Ironically we were not bombed but we did a pretty good job in destroying our built heritage in the post-war years. I recommend Planning members look at that because you then appreciate how this part of St. Helier, which is very much the only part left that dates from the 18th century, is worth protecting. I also refer in my report to what can be done. Some people look at these properties and they feel that they are too far gone. The Minister has mentioned to me that they are full of pigeon droppings. I know the Minister has a particular thing about pigeons. While I accept that there is a lot of work to be done, these buildings do have much of their interiors intact and that, of course, means that we do not go down the façadism route that has happened in other properties in town where we have literally just kept the front. These properties could be restored, and should be restored, and put back to use. That is effectively the message I am trying to get across today. I refer in the first paragraph of my report to a recent visit to Rennes. I referred to that because I really was struck by the fact that not only has the city of Rennes got so much of its medieval character but that as you pass a building site in the town centre, any work that is being carried out by the construction industry will have a large sign on it explaining what is being done. They even say how much it is costing, which always amuses me in France that you can see how much the job is going to cost. Then they have a logo underneath which roughly translated means: "Rennes takes pride in its architectural heritage." Every little piece of the building in Rennes that can be restored is restored. Of course the tourists who flock to these towns, towns like Rennes and Dinan they appreciate that. That is part of what makes a visit to Rennes so special, and to Dinan. We are never going to have a historic core like these French towns. Certainly we have the chance in certain parts of St. Helier to provide it. If we lose that part of the group that I have referred to we will just be left with a couple of buildings in New Street, which have been sensitively restored and nothing else. It is also a matter that I have been involved with. Almost the first decision that the Roads Committees took when I took office in 2001 was to allow unloading in Pitt Street. Pitt Street is the dark and gloomy street that runs down the side of the site. It has got lots of bicycle racks in it which are normally empty. I am sure it could be improved and certainly the current applicant wants to improve it. I do not think it will ever be a sun-kissed street full of al fresco however. I took a controversial decision and I permitted unloading in that street. The St. Helier Roads Committee was passionately against allowing that but we do not always agree on these matters. When I seek their advice sometimes I have to look at a bigger picture. That prevented the current plan, which, 12 years ago, involved punching a hole through the gable roughly where the famous "His Master's Voice" mural is rapidly fading.

[10:45]

Unloading in Pitt Street meant they did not need to do that, they could unload through a side door in Pitt Street and that is what they have continued to do to this day. It works very well. It proved to me that you do not need to knock the buildings down, you just have to be a bit sanguine about the fact that for a couple of hours a day, normally fairly early in the morning, the supermarket will unload in that street. This is something that certainly, so long as I am Constable, I am prepared to see happen. It means, as I say, that there is no need to knock down the buildings. The current application involves, I think it has changed recently of course, but it still involves knocking out the middle buildings and of course part of the reason for that is to put in an underground car park which is not for shoppers.

The Bailiff:

I am sorry I think we are about to go inquare. It is all right.

The Connétable of St. Helier:

It is not for shoppers. It is largely going to be used by executives using the office development, which is part of the scheme. I personally feel that the heritage of these buildings with which I started my speech is more important than putting in an underground car park for commuters. I am now going to refer to the Island Plan. In fact the purpose of this debate, more than anything else, even if I end up withdrawing the proposition or even if the debate is lost, the real purpose of this debate is to remind Planning members, either the ones who have stayed in to listen or the ones who will consult Hansard afterwards, of what the Island Plan says about our built heritage because given some of the responses that I have certainly heard informally, they do not seem to remember it even though we only approved the Island Plan relatively recently, the States of Jersey Island Plan 2011. There are several passages in the Plan which relate to heritage and I am just going to make a few quotations, if I may, from it. Early on when the Strategic Policy framework is approved by the States, as in the Island Plan, it talks on page 16: "That the focus of the strategy upon the town should not be viewed as a threat to its inherent character and quality but as an opportunity to develop new land uses, buildings and facilities at the same time as regenerating its historic fabric and investing in its public realm and infrastructure." So right at the beginning of the Island Plan really regeneration of historic fabric, that phrase is very important because I have heard it being used by some commentators as if it is an "either/or" and certainly the applicant appears to see it as an "either/or". "We can either knock this down and regenerate the area or we can be left with these old buildings." They are missing the point because regeneration is about putting old buildings into new uses. Section 2.32 of the Island Plan says the following: "The historic environment of Jersey is all pervasive in the countryside and in particular in the urban environment. It cannot in practice be preserved unchanged. Conservation and sustainable economic growth are complementary objectives and should not generally be seen as being in opposition to one another." So I suppose someone anxious to demolish would seize upon the second part of that sentence and say: "Oh, that is all right we can still knock them down." The Island Plan goes on: "In return, economic prosperity can secure the continued vitality and the continued use and maintenance of historic buildings provided that there is a sufficiently realistic and imaginative approach to their alteration and change of use to reflect the needs of a rapidly changing world." Well, Members may well have seen the National Trust's approach to this just as they showed what could be done with 16 New Street, which is now a wonderfully restored building and one which was in a terrible state. I visited it when it had no floors and was really fit only for the demolition and it is now a wonderful building. National Trust has put up some very imaginative schemes showing exactly how this group of buildings could look if it was redeveloped. Section 2.33 of the Island Plan says the following: "There should be a general presumption in favour of the preservation of the character and integrity of protected areas, buildings and sites except where a convincing case can be made for

alteration or demolition. While the protection of a building or site should not be seen as a bar to all future changes the starting point [I repeat that: the starting point] for the exercise of control is a requirement to have regard to the desirability of preserving the building.” It goes on further down the paragraph: “This reflects the great importance to society of protecting the historic built environment from unnecessary demolition and from unsuitable and insensitive alteration and should be the prime consideration for all those considering works to protected buildings and sites.” Now, if the applicant and if, indeed, the architect had read those paragraphs in the Island Plan I do not know how they could have come up with a scheme which first of all involved just knocking it all down and then which involves: “Well, okay we will knock down the middle buildings.” The Island Plan has not finished, it continues in section 3. It has a whole section called “historic environment”. Section 3.1 begins: “An historic environment of the Island is a finite resource and an irreplaceable asset. Once lost; the areas, buildings and sites of which it is made cannot be replaced and they can be robbed of their particular interest as surely by unsuitable alteration as by outright demolition or excavation.” Section 3.2 continues the theme. “The physical survival of our past is to be valued and protected for its own sake as a central part of our cultural heritage and our sense of Island identity. They are an irreplaceable record which contributes through formal education and in many other ways to our understanding of both the present and the past. Their presence adds to the quality of our lives by enhancing the familiar and cherished local scene and sustaining the sense of local distinctiveness which is so important an aspect of the character and appearance of our Island. The historic environment is also of immense importance for leisure, tourism and the economy.” I am not going to read the next 2 paragraphs, 3.3 and 3.4, they are quite long but they continue the call for everyone involved in Planning to respect the importance of the historic environment. I think the reference at the end of that phrase, though, to the economy is very important because some ... I was taken to task at a meeting I attended at Chamber when they said: “Well, I should be supporting the demolition so that the applicant can get on with the work.” Of course I do recognise the need for the construction industry to have projects like this to get their teeth into, although that is probably an unfortunate image to use. The construction industry is desperate for work and that, indeed, was one of the factors I was aware of when we debated the new police station. However, the construction industry will, of course, also benefit from the works to regenerate and restore these buildings. There is no question about it and, indeed, to build whatever building that goes on the site. The majority of the site, of course, is currently used by the supermarket so that is not entirely a fair argument. The construction industry, as I say, will benefit. A more important economic argument is as follows, it has been demonstrated absolutely clearly by local experts in this area but also by U.K. experts, the National Trust, the eminent Marcus Binney, who writes for the *Times* about architecture. There are many studies which show that to regenerate these buildings will make more money for the owners than to knock them down. No question. It will cost less but they will make more money. They will generate more revenue. There is a clear link between the revenue that is generated by restored old buildings and that is common sense. I mentioned Rennes and Dinan but if you can imagine coming to this part of St. Helier and finding those properties sensitively restored with things going on in the shops ... somebody said they bought their first record, I noticed in the media, you can imagine that people will want to come here because it will be different. It will not be the kind of slab-sided steel and glass and concrete structures that are springing up. This will be what it used to look like and it will become a really important part of St. Helier for visitors and for shoppers. As it says later on in the Island Plan, at 4.24: “In the U.K. and elsewhere it has been accepted that the conservation of historic buildings makes good cultural and economic sense and it is an essential element in successful regeneration.” The Island Plan goes on. I am not going to give Members any more. I would refer Members to 4.12 and later sections in the Island Plan but I hope I have demonstrated that the Island Plan starts from the position that these buildings are worth saving. They are worth restoring and any scheme for this site should really start there. So the question is asked, and it was asked recently in the

J.E.P. (Jersey Evening Post) by the gentleman I referred to earlier who wrote the books about the destruction of this very area and the question is asked how has it come about? I am going to quote from a letter and the writer of the letter is and I quote: “Baffled as to how the Co-op came to the decision to try for demolition when all preceding efforts and negotiations had been based on the policy of restoring the listed buildings. It appears most of us had been led to believe that the ongoing plans would lead to full refurbishment of this fragment of the old town. How and when did this switchback in policy occur and who was behind it? At a previous public planning meeting a representative of the applicant made the astonishing claim that the Planning Department had encouraged them to pursue a plan that involved demolition of 2 of the older buildings and the construction of an office block that completely overwhelmed the remaining historic structures. I am amazed that the media did not follow up this claim. This needs to be fully investigated and perhaps Scrutiny should take it up.” Later in the letter the writer says: “The public needs to believe that the planning policies are exactly that, policies. They need to know they are not some flimsy layer to be shifted faster than Salome’s veils”, and more erudite Members of the Assembly will know what that means. **[Laughter]** It basically means very quickly, I think. The writer concludes: “The public need to have faith in planning policy. Many more cases like the ones above and there will be a very good argument for abolishing our expensive planning process in its entirety, instead simply decide all planning applications in public by the toss of a coin”, not exactly satisfactory but at least easy enough for us all to understand and in some cases possibly fairer. There are concerns, I think, in Members’ minds about this, what has been going on here. The Minister, I refer to this at the end of my report, I do not know that we have had a report on my proposition or a response to my proposition, I have not seen one although he did email me to suggest it was a bad idea and he said that it might well open up claims for compensation. I myself, and I have thought long and hard about this, cannot see how this debate, reminding the planning members, the department and the applicant of what the Island Plan says can open up claims for compensation. People who buy a historic building must understand that they have a responsibility to keep it in good order. They are stewards of our heritage and I may be wrong. Lawyers may tell me I am wrong but I cannot see that the Minister is justified in saying that we are opening up claims for compensation by having this debate and by reminding him and his panel of what they have agreed in the Island Plan. He then says the correct procedure is for the application to be determined, and then, if you wish, to bring a motion to the Assembly for purchase assistance, *et cetera*, the process followed with Plémont. As I point out in my report the reference to Plémont is ironic in my view given the Minister’s decision to vote against the purchase of the site to secure environmental benefits for Jersey. Of course by making the decision it immediately put a price tag on that job. I, in my last paragraph, again being urged not to bring this proposition but to wait and let the panel make their decision, have said: “Given the rather unpredictable nature of planning decisions [and of course the writer of the letter in the media referred to that] and the importance of saving 4 to 6 Pitt Street and 6 to 8 Dumaresq Street, this is not a risk I am prepared to take.” I simply believe that the importance of this group of buildings for the reasons I have said at the outset is too great for it to be decided by a Planning Applications Panel who quite honestly I do not always know where they are coming from and I do not know that they are fully conversant with the policies that this Assembly has approved. That is the reason why I have brought this proposition today and I hope the Members will support me and that a request will go back to Planning to say: “If demolition is involved then they should think again”, and I make the proposition.

The Bailiff:

Is the proposition seconded? **[Seconded]** The Deputy of St. Martin.

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

I am not a great fan of trying to influence planning policy on the hoof in this Assembly. In my view the Island Plan should be specific and robust enough about saving our heritage that this type of proposition never needs to get as far as a debate. In my view this issue should have been decided months ago.

[11:00]

Having said that I am now not going to pass up the opportunity to put forward my own view on how we should resolve the situation. If I might, I would like to indulge Members' imagination and take them back for a few moments to St. Helier in the mid-18th century when there were no houses beyond what is now the area of the Town Hall next to York Street and Old Street. The land from there to Gallows Hill, or Westmount as we now know it, was at that time called Les Mielles and was nothing more than sand dunes such as we have in St. Ouens Bay today. On the north of King Street was a single row of houses behind which was seen nothing more than gardens and fields, and the limit of the town to the east was Snow Hill. On the southern edge of town was Broad Street where there were only one or 2 houses on the site where the Post Office sits today. This part of town was protected from the sea and the accumulation of sand dunes by what was called the La Muraille de la Ville constructed as an Act of the States *pour la saufté et le repos de la Ville St. Helier*. This sea wall extended from Charing Cross to the present entrance to Bond Street which in those days, of course, did not exist. In these times a high spring tide washed up as far as the walls of the town church. In those days Brook Street opposite Voisins was aptly named for it had an open brook running through it. This brook followed into Broad Street and on to Charing Cross and York Street before turning into Seale Street and eventually finding its way into the sea. York Street was at that time named Rue de la Planque Billot because a bridge had been constructed over the brook opposite a house owned by one Monsieur Billot. These were the days of La Rue de Hue (Hue Street); La Vielle Chemin (Old Street); and of course Dumaresq Street. Where Neuf Rue or New Street really was a new street, where New Cut was a cul-de-sac called Le Coin-és-Cochon because pigs and donkeys were tethered there while their owners transacted their business in the market place, which of course we now know as the Royal Square. These times were the real start of the development of our town. This is our history and our heritage, and in my view what little we have left must not be lost. We recognise the importance of the site when we saved Hue Street. Surely we are not going to now let adjacent buildings that are just important be lost for ever. I accept that there is a cost to keeping these historic buildings but it is one that we should cope with by working with the developers and not against them. For every square foot saved the Co-op could be allowed to add an additional square foot of office space in their new building and to achieve that we could allow the new building to go up in height another floor, maybe 2. What is the problem with going higher? I really cannot see why there has been a height restriction placed on this important redevelopment. Not 80 yards away in front of the Post Horn we have 2 very high blocks of flats. Less than 150 yards we have Cyril Le Marquand House and not much further than that we have a brand new office development in Ann Street. With the enormous pressures on building space surely the answer is to go higher. In my view it is time we did away with the myth that height is a problem. In any case by stepping back the additional floors the people at ground level will never know the difference and no light will be lost. There we have it. This planning stuff is quite simple really. Heritage saved, iconic new office block agreed, a win-win situation. If someone wants to draw up some plans over the weekend I am happy to stamp them on Monday and maybe we could start work by the end of August. **[Approbation]** I will be supporting the proposition.

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

I have a degree of sympathy for the Constable of St. Helier on a few areas but first of all in that how few Members there are in this Assembly at this moment and nearly becoming inquorate a short

time ago. Furthermore as Senator Farnham had said a little time ago, and I know you have ruled on it, Sir, I am not sure how the Minister is going to get this back, probably through the media when he reads ... shall I stop?

The Bailiff:

Yes, we are one short, I think. Yes. Very well, we are now quorate. Yes, carry on, Connétable.

The Connétable of St. Martin:

Thank you. I hope this debate is not wasting the time of the Assembly and I certainly hope the Constable of St. Helier does not withdraw his proposition as he indicated he might do at one stage in his speech. I have sympathy for the Constable of St. Helier and also for the company involved in the application because I can see both sides of the story and both are attempting to achieve something. Things unfortunately that seem some way apart even with the concessions that have been made by the company put forward as an alternative option at the eleventh hour. We now know from an email that was circulated to Members yesterday that the Planning Applications Panel will not be sitting and deciding on it next week. It is going to be further delayed. We have seen our battles, battles on differing views on a number of fronts. We have the Constable of St. Helier who has the interest in heritage, in this instance the heritage of the town of St. Helier. I can just about remember the small shops in the area when I was a young lad. An antique shop, I think there was a butcher's, a second hand shop, a shop called Le Mart which was in Union Street, I think, and others around that area of Old Street and Pitt Street. I was not born in St. Martin, not born and bred. I lived in St. Helier for nearly 40 years of my life. The demolition of many of the properties for development has seen the area change - not in my view to the better - and further development will see the area turn into just that. What I see is just another developed area of your standard off-the-drawing-board building. However attractive the architects have tried to make it look it will be steel, glass façades and the like. The Connétable's Roads Committee however saw the problem with a different hat on, the parking and unloading problems associated with the business in the area. They probably wanted to tidy up that street and lorries were allowed into that street to unload. Pitt Street - and the Constable alluded to that during his speech - is really quite unpleasant, one of the worst in St. Helier and I think he would wish to see it tidied up and cleaned as soon as possible. Both the Connétable and the Roads Committee have important but differing views and although I know the Constable will want to see that street cleaned and washed and made attractive as he has attempted to do in other streets in town, in French Lane as an example, and hopefully in time Rue de Funchal. Moving onto the condition of the building, many might argue that it is too late and the buildings now are only worth knocking down are the counter argument as the Constable said is 16 New Street which was in a pretty sorry state. I too visited it before they started the refurbishment and now it is a very attractive part of New Street, delightful refurbishment and a new tourist attraction in the centre of St. Helier. Like the refurbishment of other shops, the small houses and pub opposite the site in New Street have been transformed into an attractive row of historic buildings and yet now they might end up having to look at the back of another large building. The compromise offered in changing the plans and saving 2 of the buildings, this is merely maybe that 2 will be saved but 4 will still be lost in that part of town and even those 2 will just be hidden behind a large development. Another difficulty I had today identified in the proposition were the comments reported to have been made by the Minister for Planning and Environment that this is not an issue for the States while a live planning application is being determined and that it might open up claims for compensation. This is a bit of a chicken and egg scenario and our experience of the Plémont debate at the end of 2012, I am not sure if that means we wait until the Planning Application Panel make their decision. That decision then goes to the Minister to decide and if he approves the development then we ask the Constable of St. Helier to come back with a proposition as did the Chief Minister last December with the Plémont debate after the development had been

approved. I think the Constable of St. Helier should be applauded for seeking to bring this into the public domain at an early point and to seek the views of the Members today. The Constable of St. Helier also recently asked whether some States Members had forgotten what they approved in the Island Plan and only 2 weeks ago Deputy Young successfully brought a proposition to review many parts of the 2-year-old Island Plan. I raised fears during that debate that it had appeared that the Island Plan, the Plan that was so thoroughly debated by the previous States Assembly, needed change already or review, but we will now see various reviews undertaken as a result of the Deputy's successful proposition. It is no wonder however that the public, the various groups and professional bodies and the like, even some of us, wonder where we are going with that Plan. I would also like to make mention of the comments that have been made by the Minister for Treasury and Resources. Unlike some of my colleagues I very much welcome those comments as it highlights further areas on which I was unaware and maybe someone has some answers. We the public sold to the company seeking to do the development at a lower value because of certain restrictions on that site yet those restrictions were not placed in wording of any sort of contract. I am not sure why the deed of sale could not contain specific terms about those limits. Whenever I have been involved in deeds of contract be they on my own regarding a few house moves that I have made or whether they have been with Parish affairs as a Procureur and now as the Connétable of the Parish, there have always been specific terms regarding some aspect of the deal and the subsequent deed presented to me as the buyer what I can do, what I cannot do, and things to that effect. On the other hand you have the Minister for Planning and Environment telling the Constable of St. Helier that his proposal might open up claims for compensation and we are told that we sold it seemingly unable to place any conditions on that of our own. Maybe the Minister for Treasury and Resources or Assistant Minister will make reference if they speak during the debate, and I think the Minister for Treasury and Resources will be, but I think it is important that we are made aware as to why we sold the land at a lower value because of restrictions that appear to no longer apply. I hope the public today do not think this debate today and the Constable of St. Helier's proposition is about saving a wall in Dumaresq Street with a faded picture of a dog called Nipper. There is another important debate, a far more important debate about our heritage, the heritage of the lanes and streets and roads around the town of St. Helier. There are 2 irritating things that are often said in life, many times in this Assembly. We are where we are but I am not going to say that one today, although I have just said it, but I have said it some time during my term; and the other one, the quote that quite often comes when somebody will stand up in this Assembly and say: "When I was in Australia or when I was in Canada or when I was in Madeira, they had this wonderful system of doing, *et cetera*", and many times I have heard that said. I am not going to say today that I have seen a lovely patio square in Slovakia filled with geraniums and people sitting out and would it not be nice in a certain part of town. In saying that however, I want to speak about redevelopment in another beautiful city. I know the city of Bath very well as my daughter went to University there and now lives there with her husband and family, and I have visited it many, many times. Accepting that it is a very historic city, but when we first went to it it seemed to be a city of 2 halves, the historic area to the north with the lanes and the old shops and museums and the like and tourists everywhere. In the lower southern end of the main street you entered a different city just by crossing the road, one that consisted of new high street, faceless, characterless large shops the usual high street chains and they were dreadful. Over recent years that city has seen a change. It has demolished many of those faceless stores and replaced them with a purpose built complex of very attractive buildings, still in keeping but they are further away from the small part of the city yet complimenting the nearby lanes and historic buildings of Bath. The type of development the Constable is talking about today would not even be alongside but instead of demolish old buildings and change the face of Dumaresq Street. Finally as I said at the beginning, I have to say I have sympathy for the company concerned in this proposed development. However I have sympathy for the St. Helier Roads Committee, for the Minister for Planning and

Environment and sympathy for the Constable of St. Helier, whether it is his town or his small city, and I applaud him for bringing this proposition forward to gauge the views of the Members today and I will be supporting that proposition.

2.1.3 Senator P.F.C. Ozouf:

I do not know whether or not any other Members after a difficult debate in the States yesterday were unable to sleep and might have turned on BBC1 T.V. (television) at about 11.30 p.m.

[11:15]

It might have been midnight last night, because I am not a late night owl at all but I was quite struck by a programme that was about Lord Richard Rogers - he is a Labour Peer - and his work with the former Mayor of London, Ken Livingstone, on the urban regeneration of London. I was extremely struck by seeing some of Lord Rogers' plans, for example by restoring Trafalgar Square and taking out the roads around Trafalgar Square and restoring the balance of the integrity of the gallery and the piazza in terms of almost restoring it to what it was originally envisaged 150 or however many years ago. I thought of our own Mayor of our town. I thought of the Constable of St. Helier and I thought about the debate today. I do not think that the Connétable of St. Helier can be regarded as an individual who wants the town cast in aspic, that he does not want any change. I believe like many Members of this Assembly that he believes in a modern St. Helier. He is not afraid of, I think, modern architecture of bold design, of new design, of exciting urban regeneration but there are some areas of St. Helier which he believes must absolutely be protected with a very high degree of protection. Being the Minister for Planning and Environment and indeed being a Planning member and a President of Planning is a difficult role but it is a role that is possible to discharge. It is possible to get decisions made but you have to be, in discharging those responsibilities, consistent; you have to be transparent; and you have to be fair. You cannot airbrush-out previous policies. I want to compliment the Deputy of St. Martin and the Connétable, though particularly the Deputy, on his speech. I have been criticised for writing the open letter to Planning and so I want to say on record that I wrote that open letter after consulting Ministers, and I am grateful for the Chief Minister's comments and his support. I did consult other Ministers but I made that decision, that quite bold decision, to write an open letter because I thought that the Planning Applications Panel were on the cusp of making a dreadful mistake. I thought that they were going to make a decision to effectively demolish those buildings on Hue Street and I feel very strongly about that. There are some areas of St. Helier that can be and should be developed, as I have said, but there are other areas which it is incomprehensible, we cannot believe that we would allow demolitions of those buildings and indeed the Foot buildings and around the buildings adjacent. There has been almost, I think, 2 decades of decisions, of requirements in order to keep those buildings. I do not understand, and I wish the Minister was here in this Assembly to explain. He did not have to leave this Assembly and he did not have to simply move outside. He should be here in the Assembly, not commenting on the particulars of the application, but he should be here defending his department and defending his decisions and explaining the reasons how he has been involved or not involved in the decisions of this building and he is not. **[Approbation]** I would be castigated if I simply walked out of this Assembly and say: "I am unaccountable. I am not going to listen to what States Members have to say." We are in the unfortunate and the uncomfortable position that we are not a committee of 51 and indeed all this Assembly can do... and again perhaps we will be criticised in wasting time and we are indeed ventilating this morning, and I am certainly ventilating on something that might not be listened to at all, but it is our nuclear option. It is our nuclear option ultimately to bring sometimes matters before this Assembly and express a view. I do not understand, and I am not, I think, the only Member of this Assembly who wants to understand why it is that the Co-op made a decision to put forward a decision to demolish this building. I want answers to the reason why that happened. I do not believe that they made a

decision to airbrush-out 2 decades of decisions, 2 decades of precedent of other sites in town adjacent to these buildings in French Lane, where I will not in any way bring you into the debate, Sir, but I know the Royal Court ultimately upheld decisions of a previous committee, and I can see a former member of our committee nodding in agreement, where we ultimately had to go to the Royal Court and defend a decision to keep a building in French Lane from demolition. How is it that the Co-op made a decision to airbrush-out 2 decades of decision making? I want to know the answer to that. I do not understand and I cannot believe that that decision was made without some sort of invitation, some sort of nod or wink or some sort of communication with Planning in some regard. I am sorry if that is trespassing into dangerous ground but I simply cannot understand it. What happened? What happened that made the Co-op think that it was possible to demolish these buildings? I want to know the answer to that and I wish the Minister were here to answer that question. Ultimately that question is going to have to be answered and it is going to have to be answered honestly and truthfully and in public. I am not going to go on because I think that Members are aware of my views. I have written an open letter. I believe that a decision needs to be made. I believe that a decision can be made respecting the past but finding a way forward for effectively development of the rest of the site. My intervention certainly was on 2 grounds: first of all having been involved in giving guidance to the applicant in a previous role a number of years ago, guidance that simply cannot be airbrushed-out. I also draw Members' attention to the fact that the gap site was sold on the basis that that development would happen and buildings would be preserved. Why does that matter, because if that building or the adjacent buildings were to be demolished then that gap site would be worth a lot more money. We were bound by the planning considerations. If the gap site were to be a gap site on an open piece of land with the ability to put a taller building and a modern building, it would have a greater value. This Assembly I believe instructed it might have been the former Planning Committee, it might have been the Treasury Department that the former Assistant Minister, Connétable of St. Peter, was involved in, but I know that we compromised on value and I think it was my job to make sure that that was known by the Planning Applications Panel. Not the only reason for the Planning decision but certainly it was a relevant factor. I would go further to say that the Treasury also sold the car park next to Romerils, and that has planning guidance which assumes that those buildings are going to be maintained. That the integrity of the height along Hue Street and Dumaresq Street, even though you can have a slightly higher building on the Co-op site at the end of King Street, the integrity of the Post Horn and all the work that was done by Save Jersey's Heritage was going to be involved, and if indeed we are to simply turn over that requirement then again we would have had a higher price for that site next to Romerils because higher buildings would have been permitted. One would have allowed higher. I am afraid financial decisions are absolutely relevant to this case. I think there are issues with the applicant about the way that they have perhaps dealt with this issue but certainly they are entitled to a fair, consistent and timely decision-making process. I do not understand why the previous application which seemed to me to have at least the elements of a compromise was not withdrawn. I do not understand. We could probably be on site now or we could be seeing diggers on site and we could be seeing people at work and being people kept in jobs now if a compromise at that stage would have happened. There was a plan to keep these existing buildings and redevelop the rest of the site but that was mysteriously withdrawn and then an application was made to redevelop it. The applicant, I do not think, has been probably well served. I think we need to understand why. What I would urge Members, we cannot direct the Minister for Planning and Environment but we can express a view. I think we need to express a strong view. The only thing I would say to the Connétable of St. Helier's proposition is I would agree all parts of it but I wish there was a part (d) which said: "And to instruct the Minister for Planning and Environment to get on with it and to make a quick decision" so we can get on, use the cash that is sitting in the Co-op bank account, redevelop the existing site if they can and preserve these historic buildings. That is,

to use the Chief Minister's words, a win-win-win and we should be already winning on this site. We should not be having this debate and we should not be delaying matters. **[Approbation]**

2.1.4 Deputy J.M. Le Bailly of St. Mary:

Once again, vital work with much needed employment has been lost, been stalled, adding hundreds of thousands of pounds to a much needed project. There is nothing special or fantastic about the Pitt Street or Dumaresq Street buildings. They could, if wished, be totally rebuilt on the site, having the same aesthetic appearance inside and out only to a better standard to include all the quirky features that they have at present. These buildings are only a pile of old bricks and woodwormed timbers arranged in a conventional way. How many examples of these buildings does the Island need in an original condition? I say that they could be rebuilt because, as a builder, it is far more efficient and economical to start with a clean site rather than work around a building that could easily become a pile of old bricks in the process. We should not be interfering in private enterprise to the extent that it jeopardises progress or causes sometimes unnecessary financial burden to a point that the project then becomes unviable and then possibly shelved to the detriment of the owner, the building industry and, indeed, loss of revenue to the Island compounded by Social Security payments to people who would be otherwise employed. That is the point; the whole project could be shelved. What does that achieve? Nothing apart from being left with the same pile of old bricks. We should be more concerned with building for people who are desperate for modest homes. If it is not already clear, I shall not be supporting the proposition.

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

I start by saying that I am quite surprised with the comments of the Minister for Treasury and Resources. He seems to ask and want answers to quite a number of questions, in particular, about the Co-op's plans and, indeed, some of the thinking behind the view of the Minister for Planning and Environment. Yet I ask, has he asked them because surely that is the role of any States Member who wishes to do so. It is also quite surprising that earlier on in another debate, the Minister for Treasury and Resources took great pains to remind us all that our role is to focus on policy and not get involved in the minutiae of implementing that policy and yet here we go. We have a Minister for Treasury and Resources that, when it suits, it seems, wants to get down and dirty and determined and take over the responsibilities that we have conferred on a Minister for Planning and Environment and a Planning Applications Panel. I would absolutely agree with the Constable of St. Helier when he says, and he points to the Island Plan and the policies contained within it, and I fully expect that the Minister for Planning and Environment, the Planning Applications Panel and, indeed, his department, will take account of all those policies and planning guidance and everything else besides when they determine this application which, we have been told, is live.

[11:30]

So it is all very well the Minister for Treasury and Resources or anybody else criticising the Minister for Planning and Environment for not answering questions but he still has to make the decision so how can you question a decision which is yet to be made? To suggest or infer that the Planning Department or anybody else would and has influenced the Co-op in revising their plans, I would say to that person, first of all: "Where is the proof?" and if he has not got or they have not got the proof, then they need to withdraw that because I think that it does have a significant bearing and influence on those people that are trying their very best to implement this Assembly's policies, regardless of whether, in this case, it is the Minister for Planning and Environment and his department or, indeed, any other department. I absolutely congratulate the National Trust for Jersey for coming forward and trying to offer, and make a generous offer, should I say, to secure these buildings. But when the Constable sums up and he points to and other people point to

inconsistencies with regards to planning decisions, I ask the Constable to stand in front of us when he sums up and tell us how consistent he has been with regard to preserving the natural heritage and historic buildings within St. Helier because it is my recollection, and I could be wrong and he can put me straight at the end, that there have been occasions, quite recently, where the Constable has supported demolition of historic buildings to allow for the further development and improvement of the Parish. I understand it is an objective view but I ask, if the Constable has a policy to preserve the town, then how can he be selective and also, at the same time, criticise a Minister for Planning and Environment based on that same premise?

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

In rising, I am almost thinking about not supporting the Constable of St. Helier in this proposition, not because I do not agree with him but I think it is inappropriate that he should try and influence a Planning Applications Panel decision. But in many ways he should be doing so, perhaps by a different route, because there are some stories to be told behind the scenes of this application. First of all, just look at what would happen if the Co-op did redevelop that site. They would need to relocate the supermarket. They would need to do a significant amount of spending, fiscal stimulus and account economy to relocate the businesses that are currently there and then put more money back into the economy by rebuilding that property on site. But the real question - and I am going to go over the Deputy of St. Ouen partly and also the Minister for Treasury and Resources partly - behind the scenes is why did the Co-op come forward with this application as they have done? Now, I have been told in confidence by more than one Member of the Co-op's Management Committee, the Board of Directors, that they did receive planning advice on this matter. They believe they know who gave them that planning advice and I believe the Minister for Planning and Environment himself also knows who gave them that advice. I will say no more on that and I will support the Constable because I think that needs to be brought to light.

The Deputy of St. Ouen:

As a point of information, can the Constable confirm and provide evidence of what he has just said because, again, it seems that he is making suggestions and impugning an individual or a department that is unable to defend themselves.

The Bailiff:

Well, if I may say so, this particular aspect seems irrelevant to the proposition of the Connétable in any event.

2.1.7 Senator A.J.H. Maclean:

It is my view that the detail of this proposition is not something that should be really being debated by this House, I will come back to that in a moment, other than to say it is, after all, the Island Plan that sets the policy and to get into this type of detail is not something that I think is a good position to be in. Having said that, we are having a debate which is like many of the debates we have, spreading far and wide, and I would like to just make a few comments because I think the proposer, the Connétable of St. Helier, has brought up a very interesting point here in the wider context of what he is seeking to do with this proposition. I was looking recently at a report into the social impacts of heritage-led regeneration and there is a lot there to be said for ensuring that we get the balance in this regard right. I would like, if I may, just to read briefly from the executive summary what that report concluded. It said: "Regenerating historic buildings can reinforce a sense of community, make an important contribution to the local economy, and act as a catalyst for improvements to the wider area." This is the important bit: "They should not, however, be retained as artefacts, relics of a bygone age. New uses should be allowed in the buildings and sensitive

adaptations facilitated when the re-use of a historic building is no longer relevant or viable.” I think certainly that that captures exactly the approach that should be taken when considering these matters but, and I hasten to emphasise this, this is very much an issue that Planning and the Planning Department themselves should be determining. The Connétable also raised the point about the value, and this is clearly going to be an interest of mine, to the economy of historic and cultural issues, and he is right. From a tourism point of view, it is important. People want to come somewhere where there is strong historic and cultural links. We can see that and there are many reasons that that element of our tourism offering is promoted greatly and to a very much successful element of that particular proposition. We should also recall, and be very aware, that the areas in which we are seeking to do business now more broadly, in Asia in particular, culture is really important. People want to come here for a strong culture, a strong history and heritage which we can see with our fortifications that much of the Island has to offer so we should never underestimate the importance of that element and retaining and developing it. Moving briefly on to the application. From an economic perspective, as Members would expect, I am a supporter of the development of this site and, indeed, I did attend the original application to show support. It is interesting that that particular application was one which sought an extra floor on the development and also the retaining of the historic buildings to which the Connétable is referring. I thought that was, I am not sure if eloquent is the right way of putting it, but it certainly was a solution which I thought was reasonable. I do not think we should be necessarily too hung-up on an extra floor or 2, providing the quality of design is appropriate and if that facilitates, which it would have done, I understood, from an economic point of view the viability of the redevelopment, then it does become a scenario which could very reasonably be described as a win-win scenario. I think it is a disappointment that that has not been progressed and for some reason, as has been mentioned by others, the Co-op have come back with a proposal to demolish the historic buildings. I think there is an answer in there somewhere and I hope that those that need to consider and determine it and those that are putting forward the proposition can come up with it. I would like to just return to my opening comments about the fact that this is not the type of proposition I believe that should come before this Assembly. It is a good debate to have in many respects for many of the reasons that I have alluded to with regard to culture and history and the importance to the economy and so on, but getting involved in planning matters and the detail of planning matters is not something that this Assembly should be doing unless, of course, we want to find ourselves having propositions of this nature appearing before us every week. Do we want to be an extended Planning Applications Panel? I do not think that is good use or appropriate for this Assembly to be considering that course of action. So, in that regard, I think it is a bad proposition. In fact, I would have perhaps said to the Connétable if he had brought a proposition forward because he is concerned more broadly, he might, for example, have asked the Minister for Planning and Environment to ensure that the processes are appropriate in the Planning Department if he is concerned about those areas, the processes with regard to efficiency, effective determination of applications, timely determination of applications, consistent applications, the whole process mechanism. He may well, if he was concerned, have asked for that to be considered. He might also have said: “Well, are economic considerations given equal billing to social, environmental and perhaps heritage matters as part of the planning process?” There are other economies that are very much refocusing their planning process and ensuring that economic considerations are put on at least an equal billing with the other very important environmental and social issues when determining planning applications, particularly in this economic climate where the construction industry is suffering, jobs are an issue, and the support of businesses is clearly important. It certainly should not be given prominence above and beyond the important other matters but balance is something that is very, very important in my view. I would have said that depoliticising the planning process is something that we should be seeking to do more than anything else. I think we have looked ... we were debating earlier today about housing and separating-out. There was a debate about policy and operation and,

indeed, this Assembly sets the policy quite rightly through the Island Plan as what we expect to be delivered by the Planning Department. The operation of that is another matter altogether and I think depoliticising decisions with regard to planning would be a step in the right direction. For the reasons that I have stated, although the debate, I believe, is a good debate to have and I thank the Connétable for bringing this proposition forward, I would find it very difficult on a matter of principle to vote either way. I hope that he might consider withdrawing it. I think the message will have been sent and Members have had the opportunity to make points that they feel are relevant but I really think it is a bad precedent to be setting, to be having a debate and voting on a proposition containing the detail that this one does about a particular planning application.

2.1.8 The Connétable of St. John:

I suppose I go back further than a lot of Members in this House but I remember Foot's and buying my records at Foot's, and then it became a Hoover repair service centre to whatever it is today, a derelict building. That was one end of the street and the other end at the time was the hamburger shop run by David Dole. That was back in the 1950s and 1960s. What really gets me about this, back in the 1960s there was a plan called the Barrett Plan, the very first plan for the Island. In fact, when I stood in 1975 for Senator, that was a red document - a red book - hardbound and at that time it had been in the public domain for probably 6, 7, 8, maybe even 10 years and it had never ever been debated. It is like many of the things we do in this Chamber, but things were equally as bad then as they are today, probably worse today than then where things happen and then they get rehashed. Within that Barrett Plan, if I recall correctly, that particular street, Dumaresq Street, went through and that was going to be all demolished for a road that was going to be servicing the area, a much larger road than is there at the moment. In 1975, we saw Hue Street being developed or 1974 or thereabouts in the mid-1970s, and we saw up as far as the Post Horn which has been demolished and built into a pub now and it is known as the Post Horn and all the flats in the area. I was a Centenier at the time in those days in the 1970s and I saw all this going on and I thought: "Well, this is good. We have got a plan we can work to" but it never came to fruition because we finished up with umpteen applications to Planning. I do not know how many there have been over those many years for these old buildings, which have been standing empty, many of them for 2 decades and longer, with various applications going in or advice being sought from the Planning Department. Time and time again, they get one lot of advice from one group of people who are there this year. Next year we will have another general election. There will be another group of people sitting on the committee or the Ministry of the day, as it is today, making new decisions. There has been no real continuity. Officers change and this rolls-on and rolls-on and rolls-on. I am not surprised that the Co-op are doing things the way they are at the moment because I am just thinking of other areas, the North of Town Masterplan. I recall the big fire north of town back in the early 1970s which took out the Le Masurier Brewery or Wine Lodge area and everything else.

[11:45]

In fact, I assisted the firemen at the time holding the fire hoses because they were so short of officers on that particular night of that big fire and we are still waiting, nearly 40 years on, or over 40 years, for something to happen and the North of Town Masterplan has been backwards and forwards in different guises by the various developers and the owners of these properties and yet nothing happens. It is this Chamber here that is creating the problem, States Members. We need somebody to make some real decisions and I am expecting a lot of our Minister for Planning and Environment but when he has to work with 9 other Ministers who are trying to cajole him, in particular the Minister for Treasury and Resources who wants everything in the hands of his department, everything has to go through him and we are seeing it ... we have seen it already this morning on earlier debates that the Minister for Treasury and Resources, everything gets funnelled in that direction. I am thinking of the housing debate we had earlier. There is too much

interference. The Planning Department should be left to get on with their job. Yes, I would like to think we could keep the outside of those buildings in Dumaresq Street there, the back end, the Foot building, *et cetera*, but not if it is going to cause more and more delays because that is all we are doing; 50-odd years will have happened before we see that part of town regenerated and this here today, the Constable is creating more delays because the Planning Applications Panel have got decisions to make. Let them go and do their job. Let us keep our noses out of the things that the Planning Officers and Minister for Planning and Environment has to do. I am sure he is listening. He is probably in the quiet room downstairs with the radio on listening to all the comments of all these 51 planners that we have in this Chamber, but really it is time for this Island to move on when it comes to planning issues. We see nonsense. We have heard of underground bypasses. We are hearing about all sorts of things going on in the Waterfront with the ... the Minister for Treasury and Resources has got his fingers in every pie and this is another one. We heard him this morning telling us how we should be doing things, how things were done when he was the Minister for Planning and Environment or, sorry, Planning President. Let the Minister get on with doing his job with his Planning Applications Panel and keep our noses out of it.

2.1.9 Deputy J.H. Young:

It is difficult to follow the Constable with ... I think the debate is a useful one. This is not a good forum for planning discussions on particular schemes, it never has been, but I think it is useful to use it to reinforce our policies and I think I agree with much of what Senator Maclean said. We have an Island Plan and the Island Plan recognises the importance of our heritage. In the 1960s and so on in post-war conditions, we know very well that there was not the recognition of the importance of heritage generally anywhere. Recovery from the Second World War, destruction of buildings which were left derelict in many cases, poor housing conditions and so on, led to massive clearances and redevelopment. But I think it is now recognised that a mixture of old and new buildings within an urban fabric really adds value to a place and it brings soul and character which has got economic value and value to the community. So certainly I would like to reassure the Constable of St. Martin. I did not bring the Island Plan review proposition to review this area, I did not. It was areas where there were a number of changes and this is, I believe, an area where our current policy is right. The difficulty is how we go about putting these into place in practice. We know, for example, just look around us. We have got, I think, an excellent example of a marriage of old and new in Wesley Street with the new Dandara scheme. I have no axe to grind with Dandara but I think reading in the paper the other night how people have really bought into that scheme and at the fire-damaged building and that magnificent façade in that street where I used to work in offices is now acting as a magnet for urban regeneration and residential development in that area, and that is an example of things going well. Elsewhere, St. Pancras Station: I remember it as a boy and, of course, now it has been brought up to incredible international standards and the quality of that building is unaffected. Euston Arch is now going back. Taken down in the 1960s, Boris Johnson is putting it back. So these are examples where the mix of old and new is important. Now, it is right that our planning processes are not working well. I can understand the frustration of the Co-op and I certainly agree with the Constable of St. John. There is evidence of contradictory changing advice that developers do not know where they are. Developers need certainty when they bring forward schemes because of the amount of fees being charged, the money at risk is very high and if things shift around and around, then this really is a big turnoff in terms of investment and we need to sort that out, and the Minister for Planning and Environment knows very well that that is something I expect him to do. We have got a lack of also narrow thinking there, not just inconsistency. There is no Masterplan for this area. There really should be. I have time and again moaned about the fact that the Island Plan is long on words but there are no actions to deliver it. So looking at the actual proposition itself, is there a case for removing the policy presumption of retention of those buildings? I do not believe there is. The Co-op have been

aware since they have owned the building of the restrictions upon them. It would be a different matter if those restrictions - which do happen to some owners - are plonked on them late in the day. They have had help with the transfer of land from the States opposite Hectors. The Co-op itself has a very good green and heritage reputation and I think that is something that they should not set aside lightly. I think also to have that policy presumption removed now would be a kick in the teeth for those who have worked to conserve parts of that area, the Hue Street cottages, New Street and so on, being 2 examples. There is absolutely no risk of compensation being incurred in my view as a result of the States debate or decision on this proposition. The Minister for Planning and Environment is legally entitled to listen to it, ignore it, and take it into account or not. What he cannot do is substitute the States decision for his own, that would be a problem, but the wording of the proposition is quite plain. It is to make a request to him, a request that re-emphasises, in my view, the current policies. Now, the planning system, as Senator Maclean told us, has got to balance all these issues and we are not a heritage community and commercial interests, and maybe I think the balance will need looking at in terms of individual applications and we have not helped him to do this. In the U.K. we have the availability of E.U. (European Union) grants, lottery money and so on that can be pumped into heritage schemes to help achieve the marriage of old and new where it is financially difficult to do so. The Minister for Planning and Environment has some tools to help him do it and I do not know about the details of this application. I am not familiar with it and I do not understand why he is not looking at planning agreements on other Co-op sites. That is why we have got planning agreements, to allow cross-fertilisation from one site to another to provide incentives and benefits to enable difficult sites to be developed, and the Co-op obviously, as a landowner, have got opportunities elsewhere to do things and that is the sort of thing that should be done, creative opportunities and can be built into a local Masterplan. Then I also had a quick look. I was thinking: "Well, tax incentives." I had a look at the G.S.T. (Goods and Services Tax) zero-rating rules and, of course, there are some exemptions there for residential buildings which takes zero-rating but why could we not look at extending some of this for where people are doing heritage-type projects and they need some encouragement and support to help them do it? So I think we are getting kind of stuck in inflexibility and, you know, I am really disappointed we have not got the Minister for Planning and Environment and the Planning Applications Panel here. You know, this is why we appoint them, to make these decisions for us, and they should listen to what our views are. We do not expect them to go away and implement the fine detail. We must not micromanage but it is right that this House sets the policy and direction. As I say, I think the Constable's proposition basically re-emphasises those policies. They are right and I think we can approve this and support the principle of looking after our heritage, albeit in a more flexible modern conditions way, so I support the proposition.

2.1.10 Deputy J.P.G. Baker of St. Helier:

I will be brief and I may irritate further the Deputy of St. Ouen, I am not sure. It is a shame, or perhaps worse than that; it is inexcusable that we have arrived at this position and others that have spoken, I think, have had similar views.

The Bailiff:

Deputy, I do think if you are going to irritate the Deputy of St. Ouen by referring to what may or may not have been said between the Co-op and Planning Officers, it does not seem to me to be material to the Constable's proposition.

Deputy J.P.G. Baker:

Okay, I will put a slightly different slant on it and the irritation that may or may not happen.
[Laughter]

The Bailiff:

Very well. You are going to irritate in some other way then, are you?

Deputy J.P.G. Baker:

I shall attempt to, Sir, yes. **[Laughter]** The developer has gone to great lengths to submit revised plans and models to appease the apparent whims of the Minister for Planning and Environment and these conflicting ideas and designs have been driven in the main by the disjointed advice that has come from the department. This is not acceptable and it appears a rather amateur approach to the important matter of planning in St. Helier. On balance, I too would applaud the Connétable for highlighting this matter although, as I said, it should not have reached the Assembly. This is the potentially irritating bit. It is my understanding that the application to demolish these buildings was made because of advice given by the Minister himself and those Members that are here and are sitting through this debate should support the Connétable but perhaps, more importantly, is the Minister for Planning and Environment fit to hold his office, given his chameleon-like approach to this important matter?

2.1.11 Deputy J.A. Hilton of St. Helier:

Just very briefly, in the same vein as the previous speaker, Deputy Baker, I support the Constable of St. Helier in bringing this forward. I think it is really important that Members get a chance to express what they are feeling about the whole thing. I am absolutely totally frustrated at the way the Co-op have been treated over this application and if, indeed, some of the things that we have heard here this morning are correct, and that the Minister for Planning and Environment has given advice to the applicant which encouraged the Co-op to bring forward an application to demolish historic buildings in St. Helier, I think that is disgusting and outrageous and I believe, if that is correct, I know that there are rules laid down for the Minister for Planning and Environment and the Planning Applications Panel, there is a Code of Conduct, and it is there to protect those people. If that Code of Conduct has been breached by either the Minister for Planning and Environment or the Planning Applications Panel, then heads should roll on this. It is unfair that the Co-op should be penalised any further but I support absolutely the preservation of the buildings in Pitt Street and I will be supporting the proposition brought by the Constable of St. Helier.

2.1.12 Deputy M.R. Higgins:

I was not going to speak in this debate because I must admit I am unsure. I oscillate between saving the buildings and then demolishing them. What I am concerned about though is that a number of comments have been made in this debate and have been made in other debates. There is an undercurrent. I know there is plotting to remove the Minister for Planning and Environment. We have been well aware of it for quite some time. If people have got problems with the Minister for Planning and Environment, get it out in the open. Do not come up with all these little comments left, right and centre trying to undermine him. We know the people who are being put forward to take his place. People should be aware that there is a bigger argument than just Pitt Street going on here. There is a lot of plotting going on and I do not think that we should be using propositions like this to feed the frenzy of certain people. I do have problems with the Planning Department. I do think that some of the officers and some of the things they have been up to ... that is why I have been critical of the department. That is why, for example, I have been gathering evidence, I have been going to the Attorney General about allegations of lying in court and so on and the way that they have treated people in the past. We must deal with these issues but they are not necessarily the Minister. Now, if there is a case for the Minister to answer, let us hear it. If the department is not functioning let us reform it, but you cannot blame the Minister for everything that the department does. He cannot even fire his civil servants. If you remember, most Ministers have to go through the States Employment Board. They are the ones who employ the civil servants and unless we put teeth to some of these bodies, we are not going to get any reform in the States. So I

really do not know how I am going to vote on this particular one but what I do say is let us cut out all this character assassination, all the intrigue. It is very Machiavellian. If there are grounds for doing so, bring your proposition. If not, keep quiet.

[12:00]

The Bailiff:

Does any other Member wish to speak? Then I invite the Connétable to reply.

2.1.13 The Connétable of St. Helier:

I am pleased that we closed it there because it was beginning to go off at a bit of a tangent and if I could just deal with the last few interventions first. I do not agree with Deputy Higgins that the performance of the Minister for Planning and Environment is a bigger argument than the fate of these buildings. I think that the fate of these buildings is a far more important matter and it is the purpose of my proposition. If I could just touch on a few of the speeches, I am very grateful to the Deputy of St. Martin for an excellent ... well, an excellent approach to Planning in his closing remarks but also for a really enjoyable and informative history lesson about the development of town and I look forward to studying that again in Hansard, and equally to his Constable for his contribution. He mentioned the Hectors site, as we call it. We call it that because I did once try to get the Assembly to agree to preserve the Hectors site as important open space and I lost that debate and, of course, the site was then sold to the applicant and it was interesting to hear from Senator Ozouf about the terms on which that sale was made and equally to hear that the car park opposite the Post Horn, which has been sold, that also assumes the restoration of these historic buildings. He said, and I agree with him, that he felt that Planning was on the cusp of making a terrible mistake in giving permission. That is certainly the intelligence that I had received. That is why I felt I had to bring this matter to the States because it seemed to me that if permission was given, then there really would be problems in my trying to save these buildings. There is always then, of course, the threat of the Royal Court and I was on Planning long enough to know that once permission is given, then you enter into a very different area when you try to get things changed. The Deputy of St. Mary I think, in the only intervention to say such a thing, described this as a pile of old bricks and woodwormed timbers and I wrote down: "Oh, dear" and: "Read the Island Plan" I mean, because it is all there. The Deputy of St. Ouen ... well, several Members I think used this debate to have a go at the Minister for Treasury and Resources and he was not the only one. The Deputy of St. John did the same thing. He did ask me a specific question ... sorry, the Constable of St. John. He did ask me a specific question of when I had encouraged the demolition of historic buildings. The only one I can think of is the one that was at the end of Colomberie which has now been replaced by what I believe is a superb corner site which has really helped regenerate Colomberie, and that was a real balance because there were local people petitioning me and the Roads Committee to preserve these rat-infested buildings at the end of Colomberie. It was a balance but the proposals that we saw, the scheme which has now been built, has really been a catalyst for the regeneration of Colomberie and, you know, I hold my hand up. There are occasions when I, with or without the support of the Roads Committee, have had to say: "Well, this particular historic structure can go because what is being proposed is worthwhile." However, this area that we are talking about in the proposition is special. Everybody agrees it is special. As Senator Ozouf said, for 20 years it has been recognised as a special area that is worthy of the highest level of protection. Senator Maclean I think usefully talked about the value of heritage-led regeneration. He did not feel it was a good proposition to have brought and he said it was a bad debate to be having. I would simply say that I did this because it is a desperate remedy. I simply do not want to wake up and hear ... I think it is 22nd August when this is due to be determined. I do not want to wake up on the 23rd and hear that these buildings are going to be demolished because that will make it much more difficult to do anything about it. The Constable of St. John's speech, as well as

having a go at the Minister for Treasury and Resources, was fascinating in talking about buying records, whatever those are. **[Laughter]** I can imagine young people who only talk about downloads... I was speaking to some young people who did not know what a cassette was and so records are really archaic. But I look forward to reading his memoirs. I think they will be fascinating, the thing about the fire hose. He did say - and I think this was unfair - that I am delaying the applicant company and he talked about umpteen applications. Well, I know from 12 years in my job, nearly 12 years in my job, that there have not been very many applications. There have been long intervals between applications which have been frustrating and that is ... obviously there are internal reasons for that with the applicant company but there have only been a few major applications that have certainly come to the Parish of St. Helier's Roads Committee and I agree with Members who felt that the previous one which preserved the line of buildings was better, although I have always had a problem with the removal of any of them and even in one of the earlier plans, they were going to punch a hole through the middle so that the executives could have an underground car park, and I simply do not feel in your historic court that you can do that, but that is a matter for planners. I was very helped by Deputy Young's speech who said there is absolutely no risk of compensation arising from this debate and I agree with him. I also agree with him that the Wesley Street development is fantastic and shows what can be done and that this debate has simply re-emphasised the agreed policies of the States. I think I have covered everyone who spoke. I am grateful for the support and I am sure that many members of the public, perhaps feeling rather demoralised after yesterday's debate, will at least be encouraged that the States does seem to value its heritage and let us hope that if we approve this proposition, we will send that message out. I maintain the proposition and ask for the appel.

The Bailiff:

The appel is called for then in relation to the proposition of the Connétable of St. Helier. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 27		CONTRE: 3		ABSTAIN: 10
Senator P.F. Routier		Connétable of St. John		Senator A.J.H. Maclean
Senator A. Breckon		Deputy J.A. Martin (H)		Senator B.I. Le Marquand
Senator S.C. Ferguson		Deputy of St. Mary		Connétable of Trinity
Senator F.du H. Le Gresley				Connétable of St. Mary
Senator I.J. Gorst				Connétable of St. Ouen
Senator L.J. Farnham				Deputy R.G. Le Hérissier (S)
Senator P.M. Bailhache				Deputy of St. Ouen
Connétable of St. Helier				Deputy T.A. Vallois (S)
Connétable of St. Clement				Deputy M.R. Higgins (H)
Connétable of St. Peter				Deputy R.G. Bryans (H)
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S. Pitman (H)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				

Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Peter				

3. Victoria and George V Cottage Homes (Repeal of General Principles) (P.44/2013)

The Bailiff:

Very well. We then revert to the Order Paper and the next matter is the Victoria and George V Cottage Homes (Repeal of General Principles) - Proposition 44 - lodged by the Minister for Housing. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Act dated 11th September 2002 in which they approved revised general principles for the management of the Victoria Cottage Homes and the George V Cottage Homes following the transfer of responsibility for the Cottage Homes from the Cottage Homes Committee to the then Housing Committee; and to agree that the general principles approved in 2002 should be repealed and that the Victoria Cottage Homes and the George V Cottage Homes should henceforth be administered by the Housing Department (or by the future independently regulated wholly States owned housing company if it is established) for the benefit of persons over the age of 55 years, in line with the standard policies in place for managing social housing, except that the current residents of both Cottage Homes will continue with their existing terms and conditions for the duration of their residence at the Cottage Homes.

3.1 Deputy A.K.F. Green (The Minister for Housing):

I would just like to pick up on one point there. The existing tenants that have different arrangements to the rest of our tenants will continue to enjoy those arrangements. It is the new tenants coming in, if the States agree with me, that will be affected by my proposal. Following the success of the P.33/2013 debate on the Reform of Social Housing, there are 2 separately managed developments which currently fall outside of the Housing Transformation Programme and the Reform of Social Housing. I refer to, as the title indicated, the Victoria and George V Cottage Homes. These are currently managed against a very different set of principles with a very different income stream to the rest of our social housing stock. In my efforts to bring all social housing up to decent homes standard within the next 10 years, it follows that I must also bring some level of change to these homes. There is some significant history behind these delightful looking properties. The Victoria Cottage Homes were originally established to commemorate the Diamond Jubilee of Her Majesty Queen Victoria and although His Majesty King Edward VII was on the throne by the time they were opened, the George V Homes were established to commemorate the reign of His Majesty George V and the States made Acts at the time concerning the management of these homes. This history is important to remember as I would not want to see it lost and I have every intention of ensuring that these homes continue to be managed in the spirit to which they were intended. That spirit was independent living for those in need. Of course, this is not the first time that the homes have been the subject of States debate in recent times. In 2002, the States approved P.104/2002 which decided that the future functions of the Cottage Homes Committee, as they were called, the States agreed to rescind then the 1903 and the 1938 Acts and all the rules made under them which saw the removal of a number of outdated criteria. It was agreed then that the Victoria Cottage Homes and the George V Cottage Homes would be administered and managed by the then Housing Committee in accordance with the general principles which still exist today and which I am seeking for ... and I will explain in a minute, I am seeking for good reason to repeal. The original general principles used to manage the homes were initially developed at a time

before the old age pension and before income support. Those members of the population who did not have private means were dependent upon what they earned during their working lives and if, at the expiry of their employment when they retired they had no savings, they became reliant upon the support of family or friends. As a last resort, some of the Parishes would step in to assist and with the introduction of social housing, pensions and, more recently, income support, this group of vulnerable people are now much better provided for. The general principles approved in 2002 have become out of date. They were developed at a time to offer reassurance to the States that the demise of the Cottage Homes Committee would not make it possible for the homes to be operated in a hugely different manner to which they had been operating since they were established. However, P.33 will ensure that the newly-formed housing company will be appropriately regulated and there will be more tools that can be used by the States to ensure that the homes will continue to operate in the spirit to which they have been to date. I started by saying that these are very beautiful looking homes and they are but my difficulty is the homes are tired. They are not ideal for an older community. They are extremely difficult to adapt for those with medical needs and the homes are not deemed as lifetime or lifelong compliant homes. There are no lifts. The configuration of the units make the installation of stair lifts impossible. It is difficult to get wet rooms and showers in. If it is not difficult, it is absolutely impossible in some cases. In addition, the current contributions, and it is a contribution that the tenants make, being paid by the residents is not sufficient to pay for the required works and yet these homes have the potential to offer a superb housing accommodation for elderly persons now and into the future. P.33/2013 has given me the tools to bring social housing stock up to decent homes standard. The House demonstrated that they trust me to do this and to get on with the work and gave me the ability to do it.

[12:15]

You can already see, looking around the Island, that significant work is being undertaken I think at a very impressive pace. Maybe we could speed it up but I think we are doing a lot already. I do not want to see the Cottage Homes left behind. I want to protect the history and have made a commitment to protect the current residents, as I said right at the beginning, from any changes to their existing terms and conditions. I think that is only fair because they took on the tenancy arrangement understanding that that was the level of expenditure that they would make and those were the current terms and conditions, but I need to address the rental income going forward for these homes so that necessary improvements can be carried out. I accept that the ageing society poses one of the greatest challenges in respect of future housing needs and by 2040 Jersey will have almost double the number of older people than in 2010 with the greatest increase, I am advised, in the over-85 population. I want to see more homes developed for the elderly but appropriate homes, modern homes, efficient homes, properly designed to best meet the needs of the ageing population. The new housing company will have the ability to do this and if my proposition is supported, I will be able to plan for the future of the Cottage Homes too. These homes should be managed, I suggest, in line with the rest of the property portfolio which will transfer to the new housing company ... well, we talked about that earlier this morning. It makes no sense to have separate arrangements in place when the homes are equally in need of upgrading. In fact, I would say some of them are in dire need of upgrading. There are a number of benefits to making these changes. They will in time ensure more sustainable financially viable status for the Cottage Homes which would improve the lives for existing residents and those moving to the homes in the future. I would just like to run through some of the benefits for the residents and new tenants. All accommodation at the Victoria and George V Cottage Homes will meet the decent homes standard within 10 years. The homes will be refurbished better to meet the needs of the elderly residents although I have to say they will never fully meet the needs of the elderly residents. The way they were designed and built just does not facilitate that. New tenants will benefit from the security of a formal tenancy agreement and as the management of the Cottage Homes will transfer in line with

general States-owned social policy, residents will have the benefit of an independent regulated sector which will protect the rights of the residents and the standard of their homes. Residents will benefit from the newly wholly-owned States company, which will be able to be more focused on the delivery of housing services for them. The benefit for the States is that the increase ... and this is a double benefit for the States and for the tenants, the increase eventually in rent yield over time will mean that the value of the assets will increase in the future and we will have the money needed to improve and to maintain the property. As I said when I started, and I said in the middle because I wanted to be absolutely clear, I want no red herrings running here, existing residents will be fully protected from any proposed change. That is only right and fair and proper. They have nothing to fear. My officers have visited each and every one of them to consult on these proposals and to offer reassurance and, importantly, to assess what additional support needs or medical adaptations might be required. This proposition simply brings the Cottage Homes in line with the rest of our stock in a modern-day society and which all of it will transfer to the new company under P.33/2013 offering the same reassurance to existing residents and I just ask that Members support me in this. I make the proposition.

The Bailiff:

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

3.2 Victoria and George V Cottage Homes (Repeal of General Principles) (P.44/2013): Amendment (P.44/2013 Amd.)

The Bailiff:

Then we have an amendment to the proposition lodged by Deputy Southern so I will ask the Greffier to read the amendment.

The Deputy Greffier of the States:

Page 2, paragraph 2. Delete the words “the general principles approved in 2002 should be repealed and that”; for the words “over the age of 55 years, in line with the standard policies in place for managing social housing, except that” substitute the words “in receipt of an old age pension and income support, and (a)” and after the words “their residence at the Cottage Homes” insert the words “(b) new residents shall be residentially qualified; (c) new residents of the Cottage Homes will henceforth pay rent (to include water and electricity charges). Rental levels will be capped at 80 per cent of market rates; (d) the Cottage Homes to have a resident manager able to provide appropriate light to moderate (non-medical) support to residents.”

3.2.1 Deputy G.P. Southern:

The question that I think is posed by my amendment is is there a place for the Cottage Homes in our provision for the elderly in the future, now and in the future, and I believe the answer is yes. I think the move to sweep away effectively all of the Cottage Home provisions and have the tenancies identical to others in the new homes company is a mistake. If Members will turn to the back of my proposition they will see what this amendment does, and if I can just point to the 3 things that I think it does before I go on to explain why I think these are important. At the bottom of the paragraph before (a) it says: “For the benefit of persons in receipt of an old age pension and income support.” That condition means that up to one-third of all pensioners can apply for this facility and increases the range of people that it can cater for. One of the problems the Housing Department has is that under the old terms, the restrictions on income and on savings are so tight that they are having difficulty finding people to place there. The second change occurs in (c): “New residents of the Cottage Homes will henceforth pay rent (to include water and electricity charges). Rental levels will be capped at 80 per cent of market rates” not the 90 per cent and we will see what that does to the financial arguments a bit later but I believe 80 per cent is a viable rate

that can be used rather than the 90 per cent that applies elsewhere. Then, finally, (d): “The Cottage Homes to have a resident manager able to provide appropriate light to moderate (non-medical) support to residents.” This basically means somebody on site who can help out or notices things when appropriate. So if Mrs. Renouf was regularly seen at 7.30 a.m. in the morning and then for 2 days on the run is not, there is somebody there to go and tap on the door or give her a ring and see what is happening, to see if she needs any assistance. That sort of assistance is the light touch we are talking about. Now, it is very interesting to see the report of the Minister which says at the bottom of the first paragraph in the introduction: “The new housing company will very much remain a social business and one that continues to protect and support many of the most vulnerable in our society, including those of the elderly” and on page 8, he goes on to mention these: “It is accepted that the ageing society poses one of the greatest challenges in respect of future housing needs. By 2040, Jersey will have almost double the number of older people than in 2010 and the greatest increase is in the over-85 population.” The question is, within that social business, is there a place for the Cottage Homes as we traditionally have known them? The general principles, he says, are outdated and completely inappropriate but they were not inappropriate in 2002 when the last revision took place and clearly in the report of the Minister under 1.2 Article 3 of the Allocations Policy clearly says: “The Cottage Homes each have a resident manager. This will continue but residents must be able to live independently as there are no nursing services available.” So there is the question. Is there a need for a presence for those elderly who do not need yet to move into a nursing home or an old age home, but who could usefully feel better supported by the presence of someone on site to look after emergency needs, not medical, because we can cater for that in other ways, but someone there to help and support, where appropriate at a light level, and I believe the answer is yes, and the key to that is a presence on those sites. What I am keen to avoid, and I make no blame here to the current facilities or current practices, what I need to avoid, I think, is headlines such as the ones we have seen recently. This one from July: “Jersey charity learnt lessons after man was left dead”, where it was not noticed that someone had been deceased for 6 weeks because he choked. That should not be happening. Now arrangements and practices in the 2 associations associated with that person may well have been changed, but I think if I want to guarantee that that never happens again, key to that would be a manager, a support worker, a person present on site. Equally, there was an incident on 14th May reported: “Man found dead in Victoria Cottage homes”, again as a result of fire. Now, somebody present, I do not think can guarantee that would not happen again. It is a rare event indeed, and nonetheless that level of extra security, I believe, is nonetheless important. As I said before, in 2002, it was not felt a need to remove the manager. Why then does it feel imperative now? I think, back in 2002, a Parish Constable would know who in his Parish or her Parish is struggling, who is on a part pension, where there is poverty, because they will be supplying the additional income through welfare. That does not happen anymore, that contact of who is at the poor end, and who would need that sort of support, and is that appropriate? Is the Cottage Homes appropriate? That would have been known then. Is it known now by Social Security? I do not know. Nonetheless, I think those who are on income support who are those that most need this sort of facility can be reached and ought to be reached. The overall thrust of their report, and the comments of the Minister to this amendment, is one of: “These are out of date”, but the number of elderly is going up, is this sort of thing appropriate? I believe yes. They believe it is not. Time to do away with it. One of the arguments they use, time and time again, is it is somehow inequitable. It is unfair, and, in their comments, and I will just highlight this use of the word “inequity”. “The purpose of P.44 is to address those areas of inequity that currently exist between residents of the Cottage Homes and elderly residents housed elsewhere within the States-owned social housing stock” and: “It would be inequitable for the new housing company to subsidise residents in the Cottage Homes who live independently, and are of the same demographic and economic makeup as other tenants in the new company with rents from other tenants.

[12:30]

In relation to the future allocation of homes, it is not equitable for the Cottage Homes to be allocated under separate criteria to that of mainstream social housing.” Finally, in his penultimate paragraph: “It would be inequitable for residents of the Cottage Homes to benefit from onsite support when there are insufficient resources to offer this facility to all our elderly customers.” The use of the word “equity” or “inequity” there, what is happening? Is the inequity being removed by raising standards or is the inequity being removed by lowering standards for all? In terms of a person in support on the site, it is being lowered. So the use of “inequity” is really quite what I call a weasel word to mask a reduction of support. That is the reality. When we come, if we are looking at the financing, I refer Members to the page 2 of the comments of the Minister: “An 80 per cent rent policy would produce rental income of £561,000 per annum, once the rent policy is fully implemented, which would not occur for many years. It is not appropriate to consider the income and expenses of individual estates without considering each estate is required to contribute towards indirect costs.” Listen to his phrase, the wording I come back to, and the issue I come back to, with the overall plan, but nonetheless it has direct effect here. This includes the annual return to the Treasury, which, after meeting the commitments outlined in the Medium-Term Financial Plan will be £454,000 per annum for Cottage Homes properties maintained in real terms. Refurbishment of the Cottage Homes to the required standard estimated to cost £4.5 million in real terms. The problem is not 90 per cent or 80 per cent. The problem is these elderly people are being asked to contribute their share in their rent to the return to the Treasury to the tune of £454,000 out of £561,000 at an 80 per cent rent level. So what we are talking about here is making the elderly pay for the refurbishment and the return to the Treasury, which is even worse, of their accommodation to the right level. My amendment is deliberately phrased in parts (b), (c), and (d). Each can be taken separately. If you believe that there is a case for including those on pensions, on low-ish incomes, the bottom one-third, and making the Cottage Homes available to them; if you believe that 80 per cent is adequate to pay for the refurbishment, as I believe it is; if you believe that it is important to have a presence there for extra support for this particular demographic who need some little help, but do not need a care home or a residential care in that sense, then you can vote for each part individually to produce the effect, so I would ask Members to agree with me that there is a need for this low level extra support in our society, and that the Cottage Homes should be allowed to deliver that with the key element of a presence onsite to cater for those needs.

The Bailiff:

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

3.2.2 Senator A. Breckon:

What I would like to do is speak to the amendment but, in order to do that, I might need to touch on the main proposition because there is some crossover but, having said that, if I do that, then I will not speak on it, when we go back to that. I do know the history of Cottage Homes, not all of it, but quite a bit of it, because it was in my former district in St. Saviour and I spent quite a bit of time in there for one reason or another. The most recent history, if we look at say the last 25 years, there were 2 wardens who lived there. They were available to the residents for really whatever their needs were. Obviously, if they needed outside support, they got that, but they also did such simple things as going to the shops at Five Oaks or Bagatelle Parade, or whatever it was, and getting things, and checking on residents virtually on a daily basis. My understanding is there were 2 people who lived there independently, who gave cover 24/7. My reason for saying that is Deputy Southern is suggesting that. What concerns me is it was in the history of it, and first of all I should congratulate the Minister for Housing, because I remember, not that long ago, somebody looked at it, the Housing President, and thought it was too difficult to do, because it was legislation and it needed to be unbundled and whatever else, so it is good that things are moving on for everyone’s

benefit. But, having said that, I would like to ask the Minister for Housing to also consider something else, and rather than just say: “Well, we have some services that benefit tenants”, why not look at doing it elsewhere, because it used to happen. Many communities and estates had people living among them who used to support others, either on a paid or unpaid basis, and if we are looking at joined-up Government about living in the community, then that is something that perhaps Housing, in whatever way, shape or form, need to address, because people sometimes with some fairly basic support can stay living where they are for a lot longer, and that would certainly apply to Cottage Homes, and rather than say: “Well, we had a managed service”, it perhaps needs to be more than that, and it does give support perhaps to those who do not have family near at hand. But, having said that, there is a community there that does, in my experience, support each other. Deputy Southern has made some financial suggestions and, in the Minister for Housing’s P.44 it mentions how much was spent most recently, and there are some startling figures in there. There is nearly quarter of a million on Victoria Cottage Homes, and I am going to ask the Minister if he can pick this up when we do get back there, it cannot be every year. That must be a sort of a begging thing, and I do know many of the homes there, and sometimes there are 2 bedsitters on the same landing with a bathroom down the corridor, and that is no longer acceptable, and I do know what the Minister says when he talks about they are not easily adapted some of that, but having said that, I do query some of our expenditure. I know, and other Members will know, one of the things that happened at Victoria Cottage Homes is the trees were chopped down. Well, is that included in that money, because that is obviously not going to happen every year, so there were all sorts of things in there. So I think those figures may be questionable, and the reason I say that is because Deputy Southern is talking about having a rent at a level that will maintain the properties, and I think that is probably the case, and, in the comments of the Minister for Housing to the amendment, he said: “As previously stated, the Cottage Homes have only ever been intended to provide independent living, no different to provided elsewhere across the States own housing stock where the tenure is for pensioners.” Well, perhaps, with respect, that is something the Minister should look at, and I know certainly some Parishes with community schemes do this sort of thing, and it is something that they are doing very well, and perhaps we should be joining in with that, and it should be done. The other thing it mentions is, at the bottom of the comments on page 3: “The Housing Department’s remit does not extend to providing anything other than administrative support for its tenants.” Well, I would respectfully suggest that perhaps some tenants, without going cap in hand, do need a little bit more support, and perhaps he could reconsider that, because people can live with a bit of community support, and that could be done in a non-intrusive way, and if we do have, as is mentioned elsewhere, ageing population and joined-up Government then that could be done in co-ordination with voluntary and official agencies and, for those reasons, I think that, of Deputy Southern’s amendment, the thing to maintain a resident manager; what he says is to provide appropriate light to moderate non-medical support for residents. That could be an essential service to some people, and something without shroud-waving is we should really consider rather than just saying: “Well, you can contact the department”, because some people will do that and others will not. They will try and struggle on as best they can. I think what Deputy Southern is proposing as an amendment is really sensible and practical. It is not getting into minutiae and nit-picking. It is about real people, their daily circumstances, and their living and, for those reasons, I will support the amendment, and having said what I have said, when we come back to that, I will just ask the Minister for Housing to note what has been said, and perhaps he could respond in whatever way to that. Thank you.

3.2.3 Deputy G.C.L. Baudains:

I will be brief anyway. I broadly support this amendment. I do believe it has improved on the Minister’s proposition. I have one comment and one query, and that revolves around income support, and before people start talking about whether the cap should be at 80 per cent or 90 per

cent or 85 per cent, I do feel that if the residents are in receipt of an old age pension and income support that the cap is unlikely to be reached anyway, so I think that is basically irrelevant. The query I have, and slight concern, is that the residents must be in receipt of an old age pension and income support. Well, if you are in receipt of a pension that is unlikely to change. Income support circumstances may change, and you may find that you are no longer on income support, does that mean you no longer qualify and have to leave, I am not sure?

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment is proposed then, so we will adjourn and reconvene at 2.15 p.m.

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

4. Chairman, Privileges and Procedures Committee – appointment during this or next meeting

4.1 Connétable L Norman of St. Clement:

Just before we adjourn, can I seek some guidance? I think we are in danger of perhaps finishing our business today, and I am concerned that we might go through whole summer to September without a Chairman of the Privileges and Procedures Committee. I am just wondering if anyone has given any thought as to when we might proceed with that election?

The Bailiff:

Yes, the Greffier circulated, I think, to all Members a very helpful paper which accurately sets out the position, so it is really a matter for Members as to whether they are having discussions and whether any nominations would like to come forward.

The Connétable of St. Clement:

I wonder if I could test the mood of the House, and suggest that we proceed with an election for Chairman as soon as this current debate is concluded because it is something that we do not want to be in a position where we do not have a Chairman and committee throughout the summer.

The Bailiff:

The only point I would make on that is the point the Greffier made is that there needs to be time for a Chairman to nominate members. Otherwise, you will have a Chairman, but no committee, for the summer. It is better to have a committee with a Deputy Chairman rather than a Chairman and no committee, but obviously if we can achieve everything, so much the better.

4.2 Senator I.J. Gorst:

I was going to propose, and test the mood of the Assembly, that it does look like we may finish the business on the Order Paper appointed for this session today. I am not sure whether Members feel it would be appropriate, but I was going to propose that we do resit tomorrow morning to have the election for Chairman of P.P.C. I believe there are a number of Members currently thinking of putting their hat into the ring.

[12:45]

Each Member could take up to half an hour. I think that is possibly a sensible way forward, but I will test the mood of the Assembly.

Senator L.J. Farnham:

I would be happy to second that.

Deputy M. Tadier:

Can I suggest, I think it is important that we have certainty, and I think in order to give those Members who would be willing to put their names forward time to prepare speeches and consider a slate if necessary that we do reconvene tomorrow morning at 9.30 a.m.

The Bailiff:

That is, I think, a proposition from the Chief Minister, is it?

Senator I.J. Gorst:

I can make that formal if I get an indication that that is the way Members wish to go, yes.

The Bailiff:

We will then get a decision out of the Assembly, and that is seconded, I think, by Senator Farnham. Does anyone wish to say anything? Deputy Tadier has just endorsed. Does anyone else wish to say anything? Constable of Trinity, do you wish to say anything?

Connétable J.L.S. Gallichan of Trinity:

I want to inform you I am going to a funeral this afternoon, if you see I am not in the Assembly.

Deputy K.C. Lewis of St. Saviour:

And likewise.

The Bailiff:

Yes, but in relation to this matter, anyone wish to say anything? Very well. All those in favour of agreeing to sit tomorrow to elect a Chairman of P.P.C., please show? Those against? It is carried. Very well, even if we finish the rest of the business, we will come back tomorrow morning to deal with that.

Deputy A.E. Pryke of Trinity:

I just say too that I am attending the funeral this afternoon.

The Bailiff:

We will adjourn until 2.15 p.m.

[12:46]

LUNCHEON ADJOURNMENT

[14:15]

PUBLIC BUSINESS - resumption

5. Victoria and George V Cottage Homes (Repeal of General Principles) (P.44/2013): Amendment (P.44/2013 Amd.) - resumption

5.1 The Bailiff:

I think we are not a quorate yet, are we? I certainly need some more Members. We are now just quorate, I think.

5.1.1 Deputy A.K.F. Green:

Thank you. Before I get into the main comments I want to make about this amendment, I think it is regrettable that Deputy Southern raised 2 unfortunate cases at the Victoria Cottages Homes during his speech. There was no blame attached on the first incident in relation to the Housing Department, and of course I could discuss the points raised at the inquest, but I do not do that, out

of respect for the family, but I think it is unfortunate. The second occurrence is subject to an inquest yet to be held, and I do not feel therefore it is appropriate for me to make the comments that I would like to make there about this now. What I will say though is whenever any form of incident happens we always review our processes and see if there are lessons to be learnt. We house, in the department, some 13,000 tenants, but as an average there is bound to be something like 160 tenants who, unfortunately, will die in our accommodation over any 12-month period. Sadly, some will remain undiscovered, but this is where Senator Breckon is absolutely right when he talked about communities working together, looking after each other, what we might call the Jersey way, and that is something that comes naturally in some cases and something that we will have to embrace and foster as we move forward. It is a pity that the Constable of Trinity is not here, because he was telling me they have no warden in their housing, and I make the name up, but, if Mrs. Ecobichon did not open her curtains at 8.20 a.m. every morning, he had a phone call within 20 minutes. That is Jersey's community working together. Getting on to the amendment then. I do not believe that this amendment achieves what Deputy Southern seeks to achieve. It will continue - apparently it is my new favourite word - with the current inequity. Tenants paying less rent, free water, free electricity, and free heating, and this cannot be right, especially so when all existing residents of the Cottage Homes will have their current occupancy conditions maintained, and I think that is right that we maintain them. They rented on that tenancy agreement. They planned their retirement, and, as they get older, they planned their life around that. I think that is right to protect it, but it is not right to continue with this for no valid reason. I learnt very early in my management career that if you see a problem or something that is wrong, you do not compound it by continuing it. You tackle the issue. This amendment is also not the best way to achieve the objectives sought by Deputy Southern for the following reasons: residents of the Cottage Homes live independently. They are of the same demographic and economic makeup as other tenants over 55 in the Housing Department. No extra support or supervision is provided to the residents of the Cottage Homes that is not available to tenants who live elsewhere. Despite this, residents of the Cottage Homes have completely different terms and conditions to all other tenants, and they do not enjoy, by the way, the same rights of tenancy, but I intend to put that right as well. So the Cottage Homes are the only properties where a resident manager in the past was provided, despite the fact that those managers never provided any form of medical care, and I accept that that point was acknowledged by Deputy Southern. The purpose of P.44 is to address the areas where the inequity is and to get the correct funding in order to develop homes to a decent home standard. I believe that Deputy Southern has failed to adequately identify, in the financial and manpower implications, the true costs of providing a warden for 24-hour cover. He referred to in his speech 24-hour cover. No longer are we living in the 1960s where the warden slept on the premises and was happy to be woken up any hour of the night or day 7 days a week 365 days a year. To provide 24-hour care - and I do know what I am talking about because I ran a service that provided 24-hour cover - in a modern employment framework and in a modern society, you will require 5 staff per Cottage Home to allow for 2 days off a week each, to allow for at least a month's annual leave and some sickness. There is no such thing as a free lunch and if I am to provide the homes, it would seem that to provide the homes on that basis we would need a special arrangement with Social Security and the Minister for Treasury and Resources to cover the proposed heavy subsidy. I have been very clear, since I have been Minister for Housing, that the role of Housing is, in a caring community, to provide good quality housing and the role of Social Security is to assist those who need financial assistance to access that housing. Where we have gone wrong in the past is keeping the rents artificially low at the expense of doing maintenance and that, I am adamant, we are not going to continue to do. Members will recall that this Assembly approved P.33 and I have referred to that this morning allowing for the return to the previous 90 per cent market equivalent rent policy which, interestingly enough, when researching Deputy Martin's ballot issue on P.2/2002 this morning, I found that within that strategy 2002-2006, the rent policy recommended and agreed by

this Assembly was 90 per cent. What goes around comes around, it seems. To remind colleagues, increases in rental level will only affect, as I said before, new tenancies. In order for the housing company to meet its financial obligations and complete its stock redevelopment programme including the refurbishment of the Cottage Homes ... these Cottage Homes look pretty, they look like picture book cottages sometimes or chocolate box cottages but some of them are in an appalling state and they need investment. How can it be right to subsidise residents in the Cottage Homes who live independently and are of the same demographic and economic makeup as other tenants of my new company? In relation to the future allocation of homes, which I would like to talk about now, why would you adopt a different criteria for over-55 residents of the Victoria Cottage Homes and King George V compared to all others in the gateway? Surely social housing should be provided entirely on need and merit. The affordable housing gateway, which I established, has been established and working well for 18 months ensuring that all applicants are fully assessed as being in need of social housing. Allocations of Cottage Homes will continue to be made only to those over the age of 55. I was chatting to the Constable of Trinity again about 55. I know, if I can put it this way, some very old 55s and I think you are looking at the moment at a very young over 55. Different people age differently. The allocation should be allocated to those deemed to be in greatest need of accommodation. I have made it very clear that allocations will continue, though to be sympathetic to the community. Can I say also that I accept the argument made in the amendment for the need for supportive independent living facilities for those who are not yet in need of full residential care. That is absolutely right. However, it is important for Members to understand that the Cottage Homes were never intended to be anything other than independent living and the properties themselves just do not lend themselves as suitable for any other arrangement. I want to see, and I am determined to see, proper sheltered housing extra care housing schemes being developed by the Strategic Housing Unit. Purpose built properties providing support and care in the community. People will have their own front door but can they go down and go to a restaurant and perhaps purchase a meal? Will there be central laundry facilities? That is sheltered housing, not somebody knocking on your door asking if you are all right, although I believe the Post Office are going to provide that. We need to provide the right homes in the right place at the right time and it is something that I have already got the Strategic Housing Unit working on because I support care in the community. As I said, the Strategic Housing Unit will be working with myself and the Minister for Health and the Minister for Social Services and, in fact, just to show that it is not empty words, I have already asked several weeks ago that officers arrange for a presentation from a company that is interested in providing the care side of sheltered housing while we would provide the homes. So this is work in development. I want to see more appropriate housing for our ageing population being delivered. Such work has already commenced with the 80 lifelong homes at Langtry Gardens and the additional 35 lifelong homes, phase 1 at Lesquende temporarily held up by the breeding of slow worms. I think also that Deputy Southern has forgotten our independent living team. The independent living team is established to ensure that all tenants, young and old across the housing stock are able to access additional care and support from the relevant appropriate agencies and that can include, if the tenant asks for it, a daily phone call: "Are you all right?" But nothing beats the community working together and that is where Senator Breckon and I find ourselves entirely at one. As part of the consultation carried out on this proposition, every single resident, as I said in my opening speech, was visited to ensure that they are comfortable about what we are doing. They know that they do not have to worry, that it will not affect them and also to ensure that they were satisfied without the need of a resident manager. I suppose you would say: "Well, he would say that, would he not?" The feedback from the residents was positive. We spent time debating P.33 and it is the second time today that I have had to make reference to it and after much thought and 2 and a half days' debate, the Assembly supported my proposals and I am looking to do the same at the Cottage Homes and the King George V Homes. I am looking to extinguish processes which are no longer

appropriate for a modern age. We need to establish a new structure which will allow the investment, which is clearly needed to provide homes for people who wish to live independently in beautiful surroundings. I reiterate again - and I think this is probably the fourth time because I want to be absolutely clear - I will protect the current arrangements for all existing tenants. This is about the future. This is about moving ahead and I ask Members to reject Deputy Southern's amendment and support my proposals. Thank you.

5.1.2 Connétable S.W. Rennard of St. Saviour:

I am supporting Deputy Southern on this for the simple reason I know very little about the King George V Homes because they are not in my Parish but I do know a lot about the Victoria Cottage Homes and the Victoria Cottage Homes do need a caretaker. They have had someone there for ages and ages who used to just pop in to make sure everybody was okay and go and get prescriptions or whatever was needed. There is nothing there for them now. There is a phone number on the conservatory door that if you need to get in touch with somebody, you can ring them.

[14:30]

They do not work at weekends so we are just talking about Monday to Friday. Also it is a comfort to the tenants to have somebody that is there all the time because they have had a lot of problems with the schools taking a shortcut through and banging on the windows and some of the old people get a little bit nervous and there is no one they can contact. We have already touched upon the point of the person who passed away quite recently there and the sadness of that was that most of the tenants had already been in touch with the authorities to tell them that this ...

Deputy A.K.F. Green:

I do not think it is appropriate, before the inquest, to start going into detail in this case. I am sorry.

The Connétable of St. Saviour:

Right, then all I can say is that when the tenants have a problem and they contact Housing because there is not anybody else to contact, they are told to ring Social Security and then when they ring Social Security, they are told to ring Housing because they could do nothing and so they do not know where to turn. As I say, the phone number on the conservatory is just for sort of any time in the afternoons. So they do need help. It is something that they expected to have there I think, some of them, because it had been there for a long time. In fact, the lady that was there before, she was quite a nutty character, bless her, and she was always making sure everybody was okay. She was not intrusive but they knew if they wanted something they could call on her. I know that the original buildings are elderly and I am with the Minister for Housing on this. They are not really fit for old folks now and there is very little that you can do to them but those on the shoulders are new bungalows and something can be done for those. I do not think old people or recycled teenagers, whatever you want to call them, should be put somewhere and then just told: "Well, you are on your own and when you cannot cope any more we are going to move you into a nursing home." That is not on. It is not on. The Minister for Housing was saying how fit he is at his age. I am 68 and I do not feel old but I could be in one of those retirement places. It is not on. Say you move in when you are 55 and, at 68, I would be all of a sudden thinking: "Well, I had better move because there is nothing to do." No, you need a little bit of care and attention and if you find that you cannot do stairs, the bungalows on the shoulders of these beautiful homes at Victoria Cottage Homes which, as I do agree with the Minister for Housing, will be very, very difficult to do something with now, and what frightens me is the fact that I do not know what he has got in mind for them if he does not think that 55-plus can occupy them. I am a little bit concerned about that but, going back to Deputy Southern's proposition, I agree with everything that he has in there, I am afraid, and I do feel that a caretaker is required. As I say, I cannot talk for the King George V

Homes because I know nothing about it but I know that the Victoria Cottage Homes is a vast expanse of bungalows and homes and they are plagued by the schoolchildren coming through. They bang on the windows, they bang on the conservatories and they do tend to frighten the old folks. So there we are. I agree with Deputy Southern. Thank you.

5.1.3 The Connétable of St. Martin:

I can understand Deputy Southern's option this afternoon because he often brings propositions for the less well-off on the Island and, obviously, he, this afternoon, is seeking to find a better concession, if you like, for those members that will be living in the homes of the 2 estates or 2 Cottage Homes. The comments paper from the Minister has been most helpful, and the comments that he has made this afternoon, and I think they adequately cover the points raised by Deputy Southern as to why the reasoning behind the main proposition has been brought. I know we have yet to discuss that and I do have some questions for the main debate. I will try not to move on to them during this short speech. The 2 areas I suppose that are mostly being discussed at the moment - although the Deputy has put 3 - is the resident manager and the 80 per cent including water and electric. I am not quite sure whether the electric and water will be included in the 80 per cent or on top of. He might answer that when he is summing up. There are many similar schemes and complexes as these 2 around the Island. They have not got the same background or history but a considerable number are run by the Parishes. Indeed, we have one in our own Parish of 27 homes for the elderly. All of the people living in the homes of my Parish are over 55 and the Minister referred this afternoon briefly to those at Trinity as well. We occasionally refer to them as our "sheltered homes" but of course they are not. The occupants are a community to themselves and they look after each other and they look out for each. They help each other, they call in when the weather is bad or if somebody is ill or if someone has not been seen for a day and maybe somebody needs a prescription or some shopping done. The Parish try to support these different little schemes as well. We know the people who live in them and recently someone from one of ours has died and the funeral is next week. The Parish support teams now are offering the organisations help and will go around to assist those in need like those that live in the Cottage Homes. Many of the residents, say, for example, in our Parish homes, would like to have the substantial benefits that are now being received by the current tenants of the Victoria Cottage Homes and the George V Cottage Homes meaning that contribution levels because it is not rent ... and we read in the papers this is not a rent, it is a contribution that is not seen elsewhere but, obviously, and we must remember, being subsidised by somebody else. Free electric at the moment being subsidised by others, free water, again being paid by somebody and, until recently, a resident manager of which Deputy Southern is still trying to achieve or retain. We are assured and reassured as to the current residents, and we have been told again this afternoon, that none of the existing residents will see a change in their conditions tomorrow whether the proposition or the amended proposition is approved. That is the most important thing to them. Nor will we see any difference in the future of their contributions. I would expect there are nominal increases that might occur in those contributions that they experience at the moment but it will not be rises to the 80 per cent or 90 per cent. I say "nominal" and it is not with any complaint or criticism of those residents that live there at the moment because those contributions that they have to pay now may be very hard for them to find, and I accept that even at the concession level that they have today. I know that Deputy Southern withdrew his proposition back in May regarding the maximum of 82 per cent in the main debate and we never discussed that but this amendment of the Deputy is seeking something similar to those figures for the homes with continued subsidies which I accept he has put up from what they are paying now to the 80 per cent and approving this residential management support for those there at the moment, again, at a cost to somebody and probably the housing company. So the main issue with the amendment is if this Government is to help an increased number of elderly people in the years to come, then I believe it has to help all them. All of them equally and not just a lucky

selective few who might be fortunate enough to find accommodation at either of these 2 homes. I was going to ask the Minister this afternoon to give a little bit more information about the independent living team. He did it when he spoke a few moments ago because I was not sure what that related to and I thank him for that. I will not be supporting the amendment because I believe in fairness for everybody but I thank Deputy Southern for bringing it.

5.1.4 Senator F. du H. Le Gresley:

When I first read Deputy Southern's amendment I was quite taken with it, like I think a lot of Members have been, and there are some elements of it which are attractive. But, in a sense, it is a bit contradictory because Deputy Southern wants the people eligible to move into these homes to be on income support and that is one of his amendments. Now if people are on income support and that is a requirement to be eligible for housing within the Cottage Homes, they would firstly have to be assessed on their income and then assistance would be provided towards the cost of their rental component or their rent. So whether the housing company sets the rents at 80 per cent or 90 per cent does not really make much difference because the condition that Deputy Southern wants is they have to be on income support so we will pay in the future whatever the rent is required up to 90 per cent of market rent. So whether it is 90 per cent or 80 per cent, it does not make much difference. The other issue is that when somebody is on income support, we do not allow for the rent. In other words, we reduce the amount of rent that we take into consideration where there are other services provided and, again, he is proposing that water and electricity charges are included within the rent. Well, we would not allow that under the current scheme for awarding a housing component. We deduct those sorts of services because the income support household receive what is called a household component which is to cover those sorts of bills. So, again, I do not think (c) of the proposed changes will work insofar as the requirement is to be an income support household. If it was not a requirement to be an income support household, these conditions that I am talking about would not apply because of course they would not come to income support for assistance, but that is the condition that Deputy Southern has imposed on these amendments. The other point I wanted to make is the other question (b) which is all new residents shall be residentially qualified. I am mystified by this one because these are housing units which have to be occupied by people with housing qualifications who now have to be called "entitled" so why we need to write that into the law again, I do not understand and, similarly, if they are to be on income support, they have to be at least 5 years resident so there is another condition there anyway. So I really am confused, although, as I say, I have some sympathy with what Deputy Southern is trying to do but I think it is a very mixed up proposition, unfortunately. Again, I may have misheard the Deputy when he presented his proposition but I think I heard him say that approximately one-third of Jersey pensioners would be eligible. He will correct me if I have got that wrong but, currently, within income support households that we are assisting, we have just under 1,700 pensioner households and the Census of 2011 had 17,291 people above working age so I do not quite know where the third came from. Maybe I misheard him but certainly pensioner households currently on income support would account for less than one-sixth of the pensioner households or pensioner people in the Island so the eligibility would be restricted to a much smaller group. With that, I will sit down.

5.1.5 Deputy R.G. Le Hérissier:

Very briefly, I think what this illustrates is what came out possibly in the housing debate this morning that if you make an operation *quasi* commercial - admittedly not in a ruthless sense - you are going to set up various tensions and you are going to raise the issue of what do you do with areas where a necessary subsidy is required? I do not fully support, I have to say, Deputy Southern's approach, particularly the inequity that will arise between other over-55s who really have to make their way in the private sector or other parts of the public sector. But I think what should be borne in mind, if we develop housing/social care approach, inevitably these people, to a proportion, will be in public housing and it will be necessary to provide support. It is very odd,

ironically, that we call it the “independent living unit” in housing because a lot of it should be, obviously the “supportive”. But of course the great benefit, which may not translate itself in strict accounting terms, is of course that people who enjoy the kind of support in the Constable of St. Martin’s instance and Trinity and so forth, and the Constable of St. Saviour, is of course the enormous sums of money that are being saved by not having to divert people into residential care. We forget that because we are increasingly - and the model forces us to do this, it has to be said - taking a narrow accounting view of these services. We are travelling caretakers. It was thought that if you put a bunch of people in a van who appear at certain housing estates on a rota, they will do the same job as someone who is the eyes and ears of that housing estate and can really put their finger on the button of what is going on, and it is not the same thing. So maybe a 24-hour - which I think is pushing it - live-in person may not be the solution but neither do I think an anonymous phone number, as the Constable said, is the solution either. It has to be thought through in conjunction with Health and Social Services.

[14:45]

5.1.6 Deputy J.A. Martin:

Well, I thank Deputy Southern and I would like to support him on this but I do think he was in a muddle on the day he wrote this because if you are an old age pensioner you are surely going to be over 55, but he does not want to restrict the houses to over 55 and on income support so somebody who is in receipt of an old age pension and income support. As I say, to me, it is very confusing. I think (c) is there to re-open the rental debate again, and which I was on Deputy Southern’s side then and we lost, and I do not think just picking out one set of properties and then saying: “Well, they are going to be 80 per cent of the market” because ... why? There is no reason in the proposition or the report that says why and you could have some very rich people there on their old age pensions and private pensions. I was slightly disappointed with this new Minister for Housing. I did abstain last time and I am going to vote against this amendment except I will ask the Deputy if he will take (d) separate. I will go back to the Minister for Housing because the one before last Minister for Housing, an ex-Senator, I heard him on the radio and he said: “Social housing is not to look after people. That is what residential homes are for and nursing homes.” But we at Health and working with Social Security and everyone else and Housing are looking at this long-term care very seriously, and in the Victoria Cottage Homes there is a communal area there. There was some office space and there used to be a caretaker and it is office space at the moment. But there are things that can be done with the light touch which (d) would do so if the Deputy is able or can take it in parts, I would support him on (d). I do not know about they should be residentially qualified. I would be mystified if they are not all residentially qualified in either of those homes but I would appeal to the Minister for Housing to look anywhere. I have spoken to him many times on a very big set of units, all one-bedroom, in my district and I have taken him down there and it would not be what he may see as sheltered housing but there is a good communal area there that could have Family Nursing and could have contact and it would make a great start. It is not in our ownership so we are still in talks but these are things that have got to be forward thinking and the Minister for Housing must be open to this. To just look at something like Victoria Cottage Homes and say negatively: “It cannot be done”, I would rather hear: “Well, let us see what we can do” and work together and so, with that, I will finish my speech and hope the Deputy can explain the difference of over the age of 55. He is bringing it down but putting in place people who are only on old age pension. I have got to work until I am 67, which is something we passed in this House as well. I do not know but (c), no. Why treat these people any differently, whoever they will be, and (d) I could support but if it does not go through, I really would urge the Minister for Housing to be a lot more open on it and look at all these other little places. As the Constable of St. Martin said, they work very well in all other Parishes and I would like it to start working very well in social housing. Thank you.

5.1.7 Senator P.F.C. Ozouf:

I may surprise Deputy Southern when I say that when I read this original proposition, I was sympathetic to it. My heart told me that we should be treating the Victoria Cottage Homes and the George V Homes separately but then my head kicked in [**Laughter**] and I believe that you can have a heart and a head. I will explain why and I will come back to the heart for the Constable of St. Saviour because I have got a plea for her. This is a bit of a re-run, as other Members have said, of the 80 per cent debate and I think we have settled that. I think Deputy Martin and the Minister for Social Security said: "An important guiding principle to Members' decisions is fairness" and it would be unfair to have these tenants on a different basis to other tenants, particularly when it is the Minister for Social Security who is paying up to the 90 per cent. So there is no reason why any of the individual tenants should be in any different position and so I am not sure whether or not you have made a decision whether or not we can take the proposition in parts. Are you able to assist?

The Bailiff:

I have not been asked, but in my view, one could, yes, (b), (c) and (d), it seems to me, are separate.

Senator P.F.C. Ozouf:

Okay, Sir. So I will carry on, on the basis that there will be ...

The Bailiff:

It will, of course, be a matter for the Deputy whether he wishes to have it taken in parts.

Senator P.F.C. Ozouf:

Would he indicate whether he is, Sir?

Deputy G.P. Southern:

I deliberately asked the Greffe if I could have it in parts so I can take separate things. If people object to part of it, then so be it, but it can be taken in individual parts.

Senator P.F.C. Ozouf:

I am grateful to the Deputy. I think that the case ... I do not understand why it should be anything else but residentially qualified. You do not get income support unless you are. I think (b) is superfluous to requirements, (c) is unfair and now, if I may turn very politely and constructively to (d). The Constable of St. Saviour is absolutely right when she speaks of a special relationship between the Parish of St. Saviour and the Victoria Cottage Homes. But I would offer this plea to her. She is not a greedy Constable, she is a very fair Constable, but she cannot have her cake and eat it, if I may say. There is a solution, if I may be constructive towards what she wants, which is effectively residents at the Victoria Cottage Homes thinking that they have help close at hand. I would say 3 things. First of all, I hope that she will take on board what the Minister says about the extra help that is available within his own department. But secondly, there are 2 other things that are, if I may say, in the gift of the Parish of St. Saviour. The Parish of St. Saviour is to receive - I cannot remember how many units it is - 32 units, free of charge, in relation to the planning obligation at Langtry Gardens. Members are looking at me confused but they are a number of units which are being gifted to the Parish of St. Saviour for a St. Saviour development. Now, in addition to that, there has been the Department for Housing, who has, with the support of the Treasury, purchased a further number of social rented housing units on that site. But those St. Saviour units, which were given to the Parish for free, are going to be Parish properties with Parish oversight and Parish allocation, I think, subject to discussions with the department. Indeed, it is going to be the Parish only that is going to allocate and it is going to be St. Saviour people that are going to be in there. I imagine that it is going to be almost a Victoria Cottage Homes mark 2 for St. Saviour and

the Parish of St. Saviour is going to get a receivable, a free rent stream, because of course the Minister for Social Security pays the rent up to 90 per cent of about £600,000. Now, out of that, if the Connétable, in her warm heart and her caring nature, wants to put in place some sort of additional facility for those St. Saviour residents, both at Langtry Gardens and Victoria Cottage Homes, then she could do that. She could put in place an additional Parish employee that does not need to be resident at Victoria Cottage Homes or indeed Langtry Gardens, but they could put in place an arrangement to look after those tenants. Indeed, I am pleased that the Constable of St. Clement has rejoined the Assembly because I hope that other Parishes, including St. Saviour, will go a step further and put a community action team in place. It is so well functioning in the Parish of St. Clement and that is something that other Parishes have not been able to do. **[Approbation]** I am pleased that there is support for that and I know that is something perhaps that other Parishes are considering but that worked so well for people in St. Clement. So, if Members want to put a higher degree of care, of safeguarding, of assurance to elderly residents, then we do not necessarily have to take up one unit at the Victoria Cottage Homes for a residential manager, which is a unit of course, which will deprive an over 55 or a senior citizen of a unit. There are other ways that you can achieve that and I would say to the Connétable, she has the enormous bounty of those free units of accommodation. In her Parish, she has had the further assistance of the Treasury of purchasing 2 other units and she has also got the wonderful situation of having a further development of the Minister for Housing's property within her own Parish. So she can achieve what she wants to in part 3 by other ways. I believe that that is the way to do it and I do not believe that Deputy Southern's part of the proposition needs to be supported or should be supported. I see the Connétable has got her light on, so I am happy to give way before I sit down.

The Connétable of St. Saviour:

Could I just reiterate, we are being told we have these free homes ...

The Bailiff:

I am sorry, Connétable, you cannot reiterate anything.

The Connétable of St. Saviour:

I cannot?

The Bailiff:

You are only allowed one speech. You can seek clarification from Senator Ozouf, if you wish.

The Connétable of St. Saviour:

Could I seek clarification as to why the St. Saviour's Parish was donated these homes and why Housing are able to build the vast amount of cottages and retirement homes behind St. Saviour's Parish Hall? Maybe the Senator could explain to us was it a carrot dangled in front of the Parish so that the Housing could have what they required? **[Laughter]**

Senator P.F.C. Ozouf:

I am happy to reiterate. I think it was, and I think it was a pretty good carrot, and to say that there was a win-win for the Parish, I do not think I see any other Parish or any other Connétable sitting on a situation where they get that amount of houses for free. So I think, with respect, the Parish has been given an awful lot of support in relation to that, extracted a huge amount of value for that planning obligation and that is going to be a fantastic opportunity for building a further Cottage Homes mark 2 and the resources that are there and the support can be given. Let us have a community action team in St. Saviour and let us secondly use some of that receivable to achieve what part (d) of that proposition is for the Langtry Gardens tenants and for Victoria Cottage Homes.

Deputy M.R. Higgins:

Sir, can I seek clarification from the speaker? He spoke about all the largesse that he and his colleagues had given to the Parish of St. Saviour. What are you offering the residents of St. Helier who are keen to assist them? Are they going to be allowed to have a resident who can look after the people who are currently residing there?

Senator P.F.C. Ozouf:

I am sure that the Constable and his Deputies will do all they can to help the George V residents, of which a number of them I know because I used to represent that area, and it would be a shame there too, if I may say, for one of those units to be deprived of a facility to enjoy and to live in by having a residential manager. The Parish should be ... community action team, which they probably already do, and the Parish should do what I have suggested for St. Saviour as well, if I may say.

5.1.8 Deputy J.A.N. Le Fondré of St. Lawrence:

Only as an observation, it occurs to me that any such manager could be at the age of 56 and therefore would meet the criteria and would not deprive the unit that the Minister was talking about. I am relieved that the proposer is doing it in 4 parts, because I will support option (d), sorry, echoes of yesterday, but I will not be supporting the rest of it. I do happen to think that caretakers on a site such as this are something that should be promoted where possible and I suspect that in this particular instance it is to do with the rather delicate circumstances or tragedy that happened not so long ago.

5.1.9 The Deputy of St. Ouen:

Just very briefly, I would like to focus a little bit on part (d) and just perhaps remind States Members that life has moved on considerably since 11th September 2002 and not that long ago, we agreed a whole Health Transformation Programme. Key to that was greater care in the community. It had a whole range of support, to support the individuals so they can live independently. Linked to that was working in close co-operation with both the Parishes and voluntary services. I believe that thrust and that approach will remove the issue of needing a residential manager. Furthermore, please look at the information and the wording of part (d) because it does focus on light to moderate, non-medical support.

[15:00]

I am telling you now, our experience in St. Ouen is that the people need medical support, not non-medical, and it is very difficult and we have had first-hand experience of this because we currently have a warden to determine what is non-medical and what is medical and what is appropriate work for a warden to undertake and what is not. We have, being developed currently with Family Nursing and Home Care, greater support within the community for the individual with skilled personnel that are able to meet their needs. We also have new alarm systems that are linked through Jersey Telecom to the ambulance station, panic buttons that people can wear, press and they are not confined to a bell in a room. Equally, we have a new initiative that is being piloted in St. Brelade linked with Jersey Post, utilising people, again, who will focus on people in need and just maintain that attachment. But, more importantly, I think what we must do as a Government and indeed as a community is take up responsibility to look after our neighbour and I think that is a message that we need to convey. We see it every day, I hasten to add, out there in the community and we perhaps ignore the efforts being made by individuals to support each other. That is the way that we protect those vulnerable people from finding themselves in the circumstances that have been spoken about earlier. Not necessarily just putting in and paying someone to do it. Thank you.

5.1.10 The Connétable of St. Peter:

Just a question for the proposer of the amendment. If option (d) does get accepted this afternoon, does he intend to bring back a further proposition to ensure that all the other parts of Social Housing occupied by the Strategic Housing Unit also have resident caretakers in there to look after the residents there? I am particularly thinking of Jack Counter Close, where my parents lived, a block of one-bedroom units down at First Tower, which never had residential support there. If that is the case and he intends to come back on a basis of fairness to extend this game across all the housing stock so they have a warden there. Who does he think is going to pay for it? Because it will be the tenants that will pay for it, not the company. The tenants will pay for it through their rents.

5.1.11 Senator P.F. Routier:

I think this debate has been quite useful to focus on the support that people need to live within our community. This amendment does have various facets to it. I think the Minister for Social Security and Deputy Martin have quite adequately dealt with the issue with regards to the 80 per cent rent. I think it is totally confusing and revisiting the proposition which the States have already set the way forward for rentals in the future. So hopefully Members will be settled on that. We are now focusing on the need to support people within our community and, I have to say, I have been really impressed over the last 2 years, 3 years, about the support which was being given in the community by Parishes now. It started off with St. Clement who have really led the way in supporting people within the community and other Parishes have taken that on. What we need to focus on is the actual needs of those residents who are living in the properties we are talking about today. I do not know whether the proposer of this amendment has done any work on finding out what the actual needs of those particular residents are because I visit a person in these units on a fairly regular basis and speaking with them, they appear to be very satisfied with their ... well, not necessarily the building, because the buildings do need to be refurbished and this is what we are trying to achieve, but certainly the social support that is around them, they seem to be quite satisfied with that. But I do not know whether the Deputy himself has found out for himself what the residents think of what they require. I was also taken with the Minister for Treasury and Resources' suggestion that the Parish of St. Saviour might like to come along with additional support. I think that is an excellent idea that that is the case and I think we would also need to ensure that the Parish of St. Helier do take on that also with regard to the residents of King George V Homes. I hope that Members will be able to reject this (d) section in the knowledge that we already have in place the Health and Social Services social worker support team who go in, we also have medical support that is available to residents and the Department for Housing themselves have the Independent Living Team, which I think Deputy Le Hérisier identified. Perhaps the phrase is not the right word, but it is the right word because it enables people who do need support to live independently. It is the reverse. They do need that extra support to live independently and the Department for Housing, I know from experience, that they do provide that extra support, whether it is just a phone call on a regular basis and they do that very effectively. So, from my understanding of the situation, I believe that there is support within the community for people to live within the homes and we need to support the Minister for Housing in his proposals.

The Bailiff:

Does any other Member wish to speak on the amendment? Then I invite Deputy Southern to reply.

5.1.12 Deputy G.P. Southern:

Thank you to all those who have contributed to this debate and, in particular, I do not see the reasoning of 90 per cent, which is proposed, in the sense that in the report given by the Minister, in the second paragraph, he talks about: "The proposition also provides for the increase in rent in the social sector to 90 per cent of their market equivalent on new tenancies. With any resultant

increase in income support housing component, costs being funded by the Treasury Department by means of an additional budget allocation to the Social Security Department.” So the 80 per cent debate is in one sense irrelevant because the Minister admits that that will come from additional allocation provided by the Treasury Department to cater for that rise in those rents. This amendment has come about because I have been contacted by people who have had their relative in the past in the Cottage Homes and have been very aware of the feeling of safety that those members of families have had by the presence of this manager/warden with a relatively low level of support, which makes people feel better. It is a stage before needing residential care. It is not that sort of insistence of need that is going on here. Now, I believe, and I believe many people, those people who have had contact and members of the family with the Cottage Homes have been very satisfied by the ability to provide that support and this amendment is asking for a continuation of that support. In the past, those people who have been present in the 2 Cottage Homes sites have been, in a simple thing, they live there at a reduced rent, effectively, it is not a vastly expensive requirement. It is not a vast cost. It is therefore, I believe, manageable. In terms of the requirement to be on a pension and to be in receipt of income support, I have looked at the numbers, and I believe that encompasses those people on a part pension, and there are lots of women in particular who are on part pensions, which do have income support attached, and therefore numbers eligible to take part in this sort of support are the bottom third of those incomes and therefore fulfil better that low income requirement which is there. The question about extending this particular piece of support to other sites is not one that I have considered, although it is certainly one thing that should be under consideration, I think. As we get the increase in numbers of the elderly I believe there will be an increased need for some support at a low level, not the residential care overwhelmingly, must be available in some form or other at that sort of low level. So I suggest that in the longer term, certainly looking at other places where some supervision, some help, some support goes on and that feeling of safety is maintained. We have had a good debate on this particular topic. As I said earlier, I believe the proposition can be taken in parts. I think the most important bit is (d). That is the bit that gives that feeling of safety and support, which does not mean a great amount of support but sufficient to give confidence to the elderly that they have support on site, not necessarily perhaps 24/7. That will not be happening, I do not think. I do not think it happened in the past but some support was there when needed. So I would urge Members, please, to vote for the amendment taken separately and I hope they will ...

The Bailiff:

Can we just be clear, Deputy, how many parts? Your first amendment says: “Delete the words, ‘the general principles approved in 2002 should be repealed and that ...’” So is that to be taken separately?

Deputy G.P. Southern:

Where? Sorry, Sir, again?

The Bailiff:

Looking at your amendment, your first line and a half.

Deputy G.P. Southern:

I was looking at what the wording would be ...

The Bailiff:

I think you should look at your amendment.

Deputy G.P. Southern:

“New residents should be residentially qualified ...”, I think we ...

The Bailiff:

No, before that. You start by saying: “Delete the words, ‘the general principles approved in 2002 should be repealed and that ...’”

Deputy G.P. Southern:

Yes, I have got that.

The Bailiff:

So do you want to take that separately?

Deputy G.P. Southern:

Yes.

The Bailiff:

Right. So that is number one. Then your next amendment is in fact in the first 2 and a half lines. You say: “For the words, ‘over the age of 55 years, in line with standard policies in place for managing social housing ...’”

Deputy G.P. Southern:

Replaced by: “Old age pension and income support ...”

The Bailiff:

Now, that is a separate, number 2?

Deputy G.P. Southern:

Yes, that is 2.

The Bailiff:

Very well and then (b), (c) and (d) are 3, 4 and 5.

Deputy G.P. Southern:

Yes, indeed, Sir. Thank you.

The Bailiff:

Very well.

Senator P.F.C. Ozouf:

I just wondered why Deputy Southern did not respond to any of the alternatives to his part (d) in his summing up. Was he just airbrushing out the fact that those suggestions had been made and why does he not agree with the proposal?

The Bailiff:

That is a matter for him, how he deals with matters in reply. Very well ...

Deputy A.K.F. Green:

Not a second speech, Sir, but just for clarity, (b): “All new residents shall be residentially qualified.” They have to be anyway under our procedure.

The Bailiff:

Well, it is still in there so Members will have to vote on it.

Deputy G.P. Southern:

In terms of the question I have just been asked, if you would allow me to just deal with it as best I can, having to look at the alternatives which is said work anyway, that is not the subject of my proposition.

[15:15]

My proposition is maintaining what we have had in the past and I believe that is still particularly necessary as numbers go up and that feeling of security is as valid now as it has been in the past. It is not old fashioned and is something that I believe is needed.

The Bailiff:

Very well, so are you calling for the appel, Deputy? Yes. The appel is called for then, in relation to the amendment, which is going to be taken in 5 separate parts. Just to be clear, the first part therefore is the first line and a half of the amendment which says: “Delete the words, ‘The general principles approved in 2002 should be repealed and that’.” I invite Members to return to their seats and the Greffier will open the voting.

POUR: 13		CONTRE: 30		ABSTAIN: 0
Senator A. Breckon		Senator P.F. Routier		
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Connétable of St. Lawrence		Senator A.J.H. Maclean		
Connétable of St. Brelade		Senator B.I. Le Marquand		
Connétable of St. Saviour		Senator F.du H. Le Gresley		
Deputy R.C. Duhamel (S)		Senator I.J. Gorst		
Deputy G.P. Southern (H)		Senator P.M. Bailhache		
Deputy of St. Ouen		Connétable of St. Clement		
Deputy M. Tadier (B)		Connétable of St. Peter		
Deputy T.M. Pitman (H)		Connétable of St. Mary		
Deputy M.R. Higgins (H)		Connétable of St. Ouen		
Deputy G.C.L. Baudains (C)		Connétable of St. Martin		
Deputy J.H. Young (B)		Deputy R.G. Le Hérisier (S)		
		Deputy J.A. Martin (H)		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy S.S.P.A. Power (B)		
		Deputy S. Pitman (H)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		
		Deputy of St. John		
		Deputy J.P.G. Baker (H)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy R.J. Rondel (H)		

The Bailiff:

Then we come on to the second part, which is, in effect, the first 2½ lines of the next paragraph in the amendment. Just for the avoidance of doubt: “For the words ‘over the age of 55 years, in line

with the standard policies in place for managing social housing, except that' substitute the words 'in receipt of an old age pension and income support, and (a).'' Very well, the Greffier will now open the voting on that part of the amendment.

POUR: 12		CONTRE: 31		ABSTAIN: 0
Senator A. Breckon		Senator P.F. Routier		
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Connétable of St. Saviour		Senator A.J.H. Maclean		
Deputy R.C. Duhamel (S)		Senator B.I. Le Marquand		
Deputy G.P. Southern (H)		Senator F.du H. Le Gresley		
Deputy M. Tadier (B)		Senator I.J. Gorst		
Deputy T.M. Pitman (H)		Senator P.M. Bailhache		
Deputy T.A. Vallois (S)		Connétable of St. Clement		
Deputy M.R. Higgins (H)		Connétable of St. Peter		
Deputy J.M. Maçon (S)		Connétable of St. Lawrence		
Deputy G.C.L. Baudains (C)		Connétable of St. Mary		
Deputy J.H. Young (B)		Connétable of St. Ouen		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Deputy R.G. Le Hérisssier (S)		
		Deputy J.A. Martin (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy S.S.P.A. Power (B)		
		Deputy S. Pitman (H)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		
		Deputy of St. John		
		Deputy J.P.G. Baker (H)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy R.J. Rondel (H)		

The Bailiff:

Very well, then when the machine is reset we will come to what is described as (c): “New residents of the Cottage Homes will henceforth pay rent,” *et cetera*, capped at 80 per cent. The Greffier will open the voting.

POUR: 9		CONTRE: 34		ABSTAIN: 0
Senator A. Breckon		Senator P.F. Routier		
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Deputy R.C. Duhamel (S)		Senator A.J.H. Maclean		
Deputy G.P. Southern (H)		Senator B.I. Le Marquand		
Deputy S. Pitman (H)		Senator F.du H. Le Gresley		
Deputy M. Tadier (B)		Senator I.J. Gorst		
Deputy T.M. Pitman (H)		Senator P.M. Bailhache		
Deputy G.C.L. Baudains (C)		Connétable of St. Clement		
Deputy J.H. Young (B)		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		
		Deputy R.G. Le Hérisssier (S)		
		Deputy J.A. Martin (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy S.S.P.A. Power (B)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy M.R. Higgins (H)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		
		Deputy of St. John		
		Deputy J.P.G. Baker (H)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy R.J. Rondel (H)		

The Bailiff:

Finally, when the machine is reset, what is described as (d) of the amendment, and the Greffier will open the voting.

POUR: 20		CONTRE: 23		ABSTAIN: 0
Senator A. Breckon		Senator P.F. Routier		
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Senator P.M. Bailhache		Senator A.J.H. Maclean		
Connétable of St. Lawrence		Senator B.I. Le Marquand		
Connétable of St. Brelade		Senator F.du H. Le Gresley		
Connétable of St. Saviour		Senator I.J. Gorst		
Deputy R.C. Duhamel (S)		Connétable of St. Clement		
Deputy R.G. Le Hérisssier (S)		Connétable of St. Peter		
Deputy J.A. Martin (H)		Connétable of St. Mary		
Deputy G.P. Southern (H)		Connétable of St. Ouen		
Deputy of Grouville		Connétable of St. Martin		
Deputy J.A.N. Le Fondré (L)		Deputy of St. Ouen		
Deputy S. Pitman (H)		Deputy J.A. Hilton (H)		
Deputy M. Tadier (B)		Deputy S.S.P.A. Power (B)		
Deputy T.M. Pitman (H)		Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		Deputy A.K.F. Green (H)		
Deputy M.R. Higgins (H)		Deputy of St. John		
Deputy J.M. Maçon (S)		Deputy J.P.G. Baker (H)		
Deputy G.C.L. Baudains (C)		Deputy of St. Mary		
Deputy J.H. Young (B)		Deputy of St. Martin		

		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy R.J. Rondel (H)		

5.2 Victoria and George V Cottage Homes (Repeal of General Principles) (P.44/2013) - as amended

The Bailiff:

Very well, so now we return to the debate upon the proposition of the Minister for Housing amended as has just been voted on. Does any Member wish to speak on the proposition? The Connétable of St. Martin.

5.2.1 The Connétable of St. Martin:

I was unaware of the history of the 2 homes until the proposition came along. We have had one history lesson already this morning from the Deputy of St. Martin and I would like to research more now myself about the 2 homes because I found it very interesting what was supplied. I do not have a lot of time, but maybe if my Deputy in the Parish has he could do it for me because he did a very good job this morning. **[Laughter]** I am not sure if anyone had any plans to establish such an attractive group of homes on the Island to celebrate the Queen's Diamond Jubilee of 2012 as they had done for Queen Victoria's Diamond Jubilee back in 1887. Both groups of homes are very attractive and unique to the Island and I hope they will be saved and brought up to today's standards as soon as possible. I know today's proposition is merely seeking that the 2 groups be administered by the housing company and proposes that the existing residents continue to receive their terms and conditions for the duration of their residence. However, I have a number of concerns which I would like to ask the Minister, a number of questions if the proposition is going to be approved today and the current residents assured publicly through this Assembly that the conditions would remain. I am not sure if the Housing Committee who took over responsibility as such in August 2002, and then following the approval of P.104 of that year subsequently the Minister for Housing of 2005, have breached any allocations policy or general principles by not replacing the resident manager who seems to have retired, he or she, at least 12 months ago. Although I hope to look at the history in due course, I am not sure if the Minister can confirm that there is anything in the original Acts - we know the 1903 and the 1938 Acts seem to have been repealed but the 2002 limits the contributions, not the rents - that they would remain for ever more and that the housing company might not be entitled to seek the 90 per cent of market equivalent at some future date of these contributions and make them a rental. I do not know if the Minister can assist the Assembly today whether the homes will always remain in the ownership of the housing company because of their importance and they are not likely to be sold off at some future date by that company and what controls the Minister or the housing company or the States, I should say, would have to prevent this from happening. I am not sure if the premises themselves are listed. I have not had time to look if they were listed, but we see much going on. The Parishes are getting constant letters about road signs and Parish schools, pumps. I had 2 more yesterday about a lavoir and a drinking fountain and I was not sure if the buildings themselves are listed. More importantly, I think ... well, both are important, but if the Minister is able to give us some idea - and I know it mentions 10 years inside the proposition - how soon the upgrades are likely to take place. Bearing in mind the housing company would be taking over, if passed today, then one assumes it is not going to be the highest issue on their agenda, on their radar, the list of things to do, and especially as we have to remember that the income from their contributions coming in will still remain quite considerably lower than the fair market rental. When are these upgrades likely to take place? In particular, moving to nursing or sheltered accommodation may be very rare, certainly when the occupant might be going into a nursing home or into sheltered accommodation or, unfortunately,

passes away. I do not know if there is likely to be a structured programme for the homes to be refurbished. The paper says there is a very small turnaround of occupants on the whole, and I know from our own it is a very low turnaround. If an average of 5 per year or something, we are looking at 15 or 16 years before the upgrades would take place on these premises unless the upgrades took place while the homes are still occupied. I do not know how that is going to be achieved. Did the Minister consider seeking the change of conditions of the existing tenants himself? We know now it is probably a little bit late and I do not know if this was just a promise to the existing members that were in the homes or whether the department tried to up the rental or up the contribution during his time and that has been prevented. It is not a sweetener, that is the wrong word, and I do not mean that in any way detrimental or against the people there, but if it is some sort of: "Yes, accept what we have, you will stay in the home." What I find difficult, I am not sure how the Minister and the department do it at the moment and how the new housing company would decide when a person is incapable or unable to look after themselves in their home and needs to be moved into more expensive care homes or nursing homes. We all know people and we know it in our own families, they want to see it out. They want to stay at home and everybody does want to stay in their own home. They do not want to be moved out. They want to stay there. Obviously, the residents at the moment want to stay there as long as possible because of the concession that they will be getting at the moment. I can imagine many residents thinking they could stay there but the housing company saying: "Enough is enough, you cannot look after yourself. You do not have a caretaker or resident carer in your area to look after you" and wanting to eject. If the person refuses to move, how are we going to get over that? I have already mentioned my concerns regarding the failure to replace the resident manager. I am not sure if there had been a need to refer back to the States when that manager stopped working some 12 months ago. Finally, I can understand the concerns of the Housing Department and the Minister regarding this. We want a fair rental in future, an issue that is now likely after today's debate, concerns that are likely to be passed on to the new housing company. But at least I think there will be 78 residents who may have been concerned, and hopefully many of those will have been listening in today but I am sure they will read it in the local paper. They will worry more than most because they are elderly and may be frail or infirm. They like to have reassurances given by the Housing Department because there is going to be a new landlord, in effect, in one way and they know that things will not change for them. They would like to have that confirmed today. But I do understand the Assembly. We have another responsibility, and I mentioned that in my first speech, of the considerable effect that there is on the taxpayers on the Island in regard to the property owned and administered by the housing company, especially for these homes which are currently running at a deficit, having done so for a very long time and likely to be doing so for a long time to come. Therefore, I am going to support the proposition but could I ask the Minister to answer and reassure the Assembly today on the issues I have raised.

The Bailiff:

Does any other Member wish to speak on the proposition? Very well, I invite the Minister to reply.

5.2.2 Deputy A.K.F. Green:

Just following the Constable, I might be able to remember all the questions he asked me. He asked whether it was my idea that the current tenants should be protected or should continue to have their existing conditions protected. I have to say that when the officers brought it to me that we had this anomaly I would say it was a mutual consent that when you sign a contract, particularly one that puts you at such an advantage, when you sign that contract and you plan all your years of retirement around that contract, it would be, I think, morally wrong to change it, although I do think it would be also morally wrong to continue it with new people. I would say it was a discussion we had at the policy group and I would say it was a mutual one. I did not have to insist. Officers accepted that was my view and I think they shared that view as well. Am I able to repeal the 1903

or the 2002 things? Obviously, we have taken our proposition through the proper channels and, yes, it is okay. It is right legally for us to be able to do that. We have to repeal the current arrangements and we are putting in place the new arrangements and we have that right to do that. The buildings are listed, at least most of them are. Certainly, the granite building, the very attractive one with the veranda on the front, is listed and some of the other buildings, and all of the King George V, I believe, are listed. I can never guarantee that these will not be sold, but I think I can virtually say they will not ever be sold because of the conditions that apply in terms of providing homes for our elderly. I do not know what is going to happen in 100 years' time but there are not any plans for the company to sell them. It will not happen on my watch, I can guarantee that. The Constable also asked me about what you do when you get somebody who is no longer really fit to live alone or independently but who wishes to continue to live independently. That is a challenge that we have now and it is a very difficult one. The only answer I can give, because this is what we do, we get independent medical advice.

[15:30]

Now, okay, even with the independent medical advice, if they say that person is no longer fit to live independently, that person will still not want to move but we will make them move. Of course, sometimes, and we have seen it in one of our estates recently, the tenants around the person think that the person cannot cope anymore but not their G.P. (General Practitioner) but the other independent medical advice thinks they can. That is a challenge. I cannot challenge that independent medical advice. That does happen from time to time. I hope I have covered most of the things that the Constable raised. If not, I am sure before I sit down he will ...

The Connétable of St. Martin:

Just the refurbishment, the period?

Deputy A.K.F. Green:

Yes, sorry, the refurbishment. Again, the Constable is very pragmatic. He understands the issue. There are some things that will have to be done while the tenants are in place. I visited one or 2 of the units recently and we have ceilings in very poor condition in units that are occupied and really people cannot continue to live like that. So there will be some work that will have to be done while the tenant is in place. The more substantial stuff will be done as the places are vacated, but do remember when a place is vacated often you can get on with 2 or 3 different places because you can refurbish one, new tenant next door moves next door, then you can refurbish the other one. So it does make it easier. But our plan is not a 16-year plan. Our maximum time to have everything done is 10 years but there are things that need to be done more quickly because I have a very simple rule in life. I had this rule when I was in catering and particularly in the hospital. The rule is very simple: if that particular dish was not okay for my mum to eat, then it was not okay for any other person's mum. That is the same rules I apply to housing. If I would not want to see my mum in there, why should anyone else's mum or dad be in there? It is a very simple rule to work to. What we have here is an opportunity to update these properties, an opportunity to ensure that everybody is treated fairly. But there has been some talk, particularly in the amendment, around the need for proper sheltered housing and I do genuinely say that in October the Vulnerable Adults Policy Group is getting a presentation from an organisation. We may not go with that organisation but we are having a presentation in October from an organisation that provides the care side of sheltered housing. They do not provide the housing. It sounds as though if we were to go with that or any other supplier there is a partnership there to be worked up because there are lots of people at the moment that are driven into - and this costs the Minister for Social Security more - care homes who just need that bit of extra support, maybe some meals, maybe some medical intervention and so on. I probably never will do this, but I did some costings once for myself and worked out if you

did not need heavy medical intervention, you just needed a bit of help, it was cheaper to go on a permanent cruise than it was to go into a nursing home. I think it would be quite a nice way to end one's time, but anyway, I digress. I think Members know what way they are going to vote on this proposition. I do not think they want me to go on and on and on through every point. I think I have covered it. Unless there are questions that any Member has, I make the proposition.

Deputy J.H. Young:

Could I ask for clarification on the Minister's answer to the question about onward sales? The Minister did say that it would not happen on his watch but he said he could not guarantee it. Yet this morning when we passed the law we were told that there would be guarantees that this would not happen ever.

Deputy A.K.F. Green:

There are no plans to sell it, but who knows whether another Minister for Housing in 40 years' time is going to bring a proposition to change that? I cannot guarantee that. I can guarantee there are no plans to.

The Bailiff:

Very well, all those in favour of adopting the proposition kindly show? The appel is called for then in relation to the proposition of the Minister for Housing. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 37		CONTRE: 3		ABSTAIN: 1
Senator P.F. Routier		Deputy G.P. Southern (H)		Deputy R.C. Duhamel (S)
Senator P.F.C. Ozouf		Deputy G.C.L. Baudains (C)		
Senator A. Breckon		Deputy J.H. Young (B)		
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				

Deputy J.M. Maçon (S)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

6. Draft Income Support (Amendment No. 9) (Jersey) Regulations 201- (P.66/2013)

The Bailiff:

Very well, we come next to the Draft Income Support (Amendment No. 9) (Jersey) Regulations - Projet 66 - lodged by the Minister for Social Security. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Income Support (Amendment No. 9) (Jersey) Regulations. The States in pursuance of Article 5 of the Income Support (Jersey) Law 2007 have made the following Regulations.

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

This proposition proposes increases in accommodation components from 7th October and is designed specifically to match the increase in rents put forward by the Minister for Housing. The level of increase has been set by reference to the March Retail Price Index of 1.4 per cent with an uplift of 0.75 per cent in line with the rental policy recently approved by the States as part of P.33/2012, Reform of Social Housing. The proposed increase in accommodation components, which are set out on page 4 of my report, will ensure that all Housing Department tenants and housing trust tenants in receipt of income support benefits are fully compensated for the increase in Housing Department rents. Low income private sector tenants and owner-occupiers will also benefit from the rise in the accommodation components. While proposing a proportionate increase in one area of income support, I will remind Members that my department is also committed to achieving an annual saving in tax-funded benefit expenditure of £3 million for 2014 going forwards. A comprehensive review of options is currently taking place and if the outcome of the review requires changes to component rates our proposals will be brought to the States later this year. The Housing Transformation Programme recently approved by the Assembly also made changes to Housing Department and housing trust rentals from April 2014. The increase in rent levels experienced by some income support tenants from that date will be matched by a parallel increase in the income support rental component and so further regulations will be drafted to reflect these changes. The total cost of the increase in income support accommodation component rates for 2014 will be approximately £1.1 million. This was allowed for in the provisions for uprating income support in the Medium-Term Financial Plan. The increased cost of approximately £250,000 for 2013 is provided for in the current departmental cash limit. I propose the principles.

The Bailiff:

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

6.1.1 The Connétable of St. Martin:

Just a couple of questions or issues that I would like to put to the Minister. We note that there is a transposed error in the component to the rental value for 6-bedroom houses that was in Amendment No. 8 that came into force in October of last year. I am assuming that there may be few people claiming income support with 6-bedroom houses. I may be wrong, but the error of the figure amounts to £63 a week or some £3,276 per annum. Is the Minister able to advise the Assembly

whether any payments were made because of this error and, if so, how much it has cost the department and the taxpayer? I would also like to know whether the wrongly paid amount is able to be reclaimed by the department either by repayments from the claimant after the error was discovered or from future deductions or whether or not because of the error that was in the Regulations itself the claimant will continue to be paid until Amendment No. 9 comes into force in October of 2013 and that there is no claw-back provision and the claimant is entitled to keep the money they have had wrongly. The other area of concern that I have relates once again to those receiving the component of income support, this component relating to accommodation. The bills that I receive relating to my accommodation, my home, I believe, relate to the upkeep, the electric, the water, gas, mortgage and for my rates. My annual rates bill comes like everybody else's to my property and it will arrive in my letterbox next week. I know what I owe for my property. What it is I will be paying, as we all know, is the Parish rate and I will be paying some money that will go to the Treasury as part of the Island-wide rate. I have to pay it. The Parishes will be collecting it on behalf of the Treasury. I know much discussion has gone on in relation to this issue over some time. We have spoken with the Council of Ministers and with the Minister himself and it was discussed again recently at the Comité des Connétables when we met with the Council of Ministers. I urge the Minister - and I am sure, I hope, a number of my Connétable colleagues urge the Minister - to seek a way of ensuring the accommodation component contains an element for the rates, Parish and Island-wide rates but, more importantly, that he can make a system whereby the Parish receive the figure direct from the department and not just rely on the claimant to pay it as people have a history of failing to manage their income support properly. I know the Minister has said in the past that the accommodation element does not include an element for rate. What the Parishes and the Connétables do not want to do is to take a person to the Petty Debts Court and put them in even further financial difficulties at a time that they may be at their lowest. Paragraph 1 states that the Minister might be coming back later in 2013, and he mentioned it this afternoon, with changes to the component rates. I ask, please, that he attempt to address the ongoing problem regarding rates. I am not sure if there is an actual definition of accommodation component as such and how it would be worked out. I hope that Members today in the Assembly do not think that the Parishes are attempting to take money from those least well off when they are in need. All I want to say is that I believe that there is a component part of the Parish and Island-wide rates and that would be far better for us to receive and distribute back to the Treasury and for the work that we need to assist in our Parishes. It is not just for the day-to-day running but we do assist the charities as well in our Parishes through the money that comes in via the rates. As I said, the Parish are a collecting point for the States Treasury. We are the agency on behalf of the Treasury and I know, as I said, my fellow Connétables have concerns on this, if I can just ask the Minister that.

6.1.2 Deputy T.A. Vallois of St. Saviour:

Could I ask the Minister for Social Security to just explain for me page 3 of the proposition, the report? Although it talks about the Housing Transformation Programme, which was agreed by the Assembly, and the rents going up in April next year, in the second part where it talks about the accommodation component increases for the increase in October this year we will be increasing it by R.P.I. (Retail Price Index) plus the uplift of 0.75 per cent as per the rental policy recently approved. Could the Minister for Social Security explain why we are increasing it by the rental policy in October this year when the rental policy does not come in until April next year?

6.1.3 Senator S.C. Ferguson:

Like most Members, I am concerned with the level of subsidy for rentals in the private sector. The real problem is that these subsidies have, in fact, distorted the market thereby increasing the rentals and, in many cases, resulting in a cash flow out of the Island. It is absolutely essential that the Minister investigates this and specifically with research by Oxera to identify the degree of

distortion of the market and the scope for removing the distortions without causing hardship. We managed to do it with the money that we upstream to the U.K. and the benefit resulting for the U.K. Surely we can work out what the distortion of the market for these private sector rentals is. Will the Minister confirm that this research will be undertaken?

6.1.4 Deputy S. Pitman of St. Helier:

Just a few questions. Firstly, he mentioned the £3 million in savings and I just wanted to know what areas of income support have been affected by the savings. How have savings been made on the incapacity benefits? Also, he talks about the review of options to achieve ... yes, that is it.

6.1.5 Deputy R.G. Le Hérissier:

On a point of information, could the Minister tell us what the total amount will be for the housing component in the year? He talks about the additional sum.

The Bailiff:

Does any other Member wish to speak? Then I invite the Minister to reply.

Senator F. du H. Le Gresley:

Can I just ask Deputy Le Hérissier to repeat his comment? I did not catch it at all.

[15:45]

Deputy R.G. Le Hérissier:

My apologies, could the Minister just repeat his question? **[Laughter]**

The Bailiff:

The Minister wanted to know what your question was, Deputy. **[Laughter]**

Deputy R.G. Le Hérissier:

In the interests of having a tie break, could the Minister outline what the total amount of money is devoted to the accommodation component?

6.1.6 Senator F. du H. Le Gresley:

I think the people have asked me questions and I will try to deal with them all as best I can. The Constable of St. Martin was concerned about anybody who might have received the incorrect amount which was specified in the Amendment No. 8 Regulations for a 6-bedroom property. I can assure him that nobody has received that amount and this is really just to correct the record, if nothing else, by putting it into the amendment we are dealing with today. The issue of rates, of course, is one that has been a discussion point between the previous Minister for Social Security and myself, as the current Minister, with the Connétable and we have had various reviews and discussions and meetings, and my understanding of our last meeting, and certainly the letter that was exchanged with the Chairman of the Committee, was that we would be asking the new housing company once it is set up to consider whether they would include an element for the occupier's rates in the rent so that the housing company could account perhaps direct to the Parishes for the occupier's rates. Of course, as we all know, rates vary so much across the Island and in different homes and it would be impossible for the department, which is paying out a benefit, and also some people come in and out of entitlement to benefit, particularly if they are finding work, for us to set aside an amount on a regular basis to pay the Parish rate when it falls due usually in about June. So for those reasons we would much prefer that the Parishes work with the new housing company to ensure that perhaps they receive their rates direct from the new housing company if that is possible. Deputy Vallois makes a very good point. I have to say, I do not have the answer, I may have to defer to the Minister for Housing because we are simply complying with a request from his

department to increase the rents in line with what is being proposed by his department, and I really cannot comment as to whether we are doing this prematurely by way of the 0.75 per cent increase. I really cannot answer that question. Senator Ferguson has been in contact with me, as she has indicated, to ask for an economic impact assessment perhaps of the proposed increase in private sector rental support through income support as a result of the Housing Transformation Programme. We are in discussion with the States of Jersey Economic Adviser whether using Oxera would be a good thing to do. The Senator has kindly raised a number of terms of reference and this matter is under review by the department. Deputy Pitman asked me to give some indication of where the savings of £3 million is going to be found and I am afraid I am not able to do that today because I have not got any list with me. We are looking at a number of areas and I am afraid States Members will just have to wait until those proposals are formally put to the Assembly. Incapacity benefits of course does not affect income support at all, so really I cannot answer any questions about incapacity benefit because it is not relevant to this proposition. Deputy Le Hérissier wanted to know the total amount paid out in accommodation components. Now, unfortunately I do not have that figure with me. I will get it to the Assembly probably before the end of this session but I can say that our 2012 annual report is almost signed off. We are waiting for the auditors just to complete but it will be going to print very shortly, and in there it will not only have a full breakdown of all tax-funded benefits, including income support, similar to the report we produced last year but it will also have a breakdown of all the Social Security Fund benefits and Health Insurance Fund benefits paid out, as well as the annual accounts. So that report is, as I say, going to the printers very shortly and will have a lot of information for States Members. But I will get back to the Assembly with the total amount paid in accommodation components in 2012 which is the only figure I could provide today. So with that, I maintain the principles and ask for the appel.

Deputy T.A. Vallois:

Sir, before we go to appel, I feel the answer to my question was completely unacceptable, with all due respect to the Minister for Social Security. I wonder whether there is any way of identifying from the Minister for Housing as to why it is October rather than April, and if there is no way, then I ask for this to be referred back until we have a satisfactory explanation, because P.33 said that the rents policy would be brought in in April next year, not in October this year.

The Bailiff:

I think unfortunately it is too late for you to ask for it to be referred back but you could vote against it and then the Minister would have to bring it back again. But, Minister for Housing, are you able to assist?

Deputy A.K.F. Green:

I do not want to be held to this because I am not entirely sure but, as I understand it, we have annual increases of inflation and for the existing tenants it was agreed that there would be an annual increase of R.P.I. plus 0.75 per cent. The new full 90 per cent rent policy comes in later. I think that is right but I have not taken advice on that.

The Bailiff:

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

POUR: 28		CONTRE: 12		ABSTAIN: 0
Senator P.F. Routier		Senator A. Breckon		
Senator P.F.C. Ozouf		Senator S.C. Ferguson		
Senator A.J.H. Maclean		Connétable of St. Lawrence		
Senator B.I. Le Marquand		Connétable of St. John		

Senator F. du H. Le Gresley		Connétable of St. Brelade		
Senator I.J. Gorst		Connétable of St. Saviour		
Senator P.M. Bailhache		Deputy G.P. Southern (H)		
Connétable of St. Clement		Deputy of Grouville		
Connétable of St. Mary		Deputy T.M. Pitman (H)		
Connétable of St. Ouen		Deputy T.A. Vallois (S)		
Connétable of St. Martin		Deputy of St. Peter		
Deputy R.C. Duhamel (S)		Deputy R.J. Rondel (H)		
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

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

It appears that we might, Sir, yes.

The Bailiff:

You do wish it to be referred?

The Deputy of St. Peter:

Yes, Sir.

The Bailiff:

Very well, in which case the matter will be referred to Scrutiny. So that brings us ...

Senator F. du H. Le Gresley:

Can I just confirm it is on the grounds of the query raised by Deputy Vallois or is it more than that?

The Deputy of St. Peter:

Yes, I think we ought to understand properly why there is a difference in the dates. It appears on further reading of the document that it might be just that it is an annual increase, therefore there is no concern, but I think we ought to verify that.

7. Draft Dwelling-Houses (Rent Control) (Standard Tenancy Agreement) (Amendment) (Jersey) Regulations 201- (P.68/2013)

The Bailiff:

Very well. Then we come next to the Draft Dwelling-Houses (Rent Control) (Standard Tenancy Agreement) (Amendment) (Jersey) Regulations, P.68/2013, lodged by the Minister for Housing. I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Dwelling-Houses (Rent Control) (Standard Tenancy Agreement) (Amendment) (Jersey) Regulations: the States in pursuance of Article 7 of the Dwelling-Houses (Rent Control) (Jersey) Law 1946 have made the following Regulations.

7.1 Deputy A.K.F. Green (The Minister for Housing):

I hope this one will be relatively straightforward, but this is consequential on the Residential Tenancy Law and we are working our way through the different things that need to be done. To assist Members, I asked my officers to provide a residential tenancy agreement and show in red anything that has been added to the standard format, and a line through anything that has been removed. I think that probably explains to Members everything that I have done but I am quite happy to go through each one, line by line, if Members want me to. But I think looking at this it is very clear what it is we have done and why we have done it.

The Bailiff:

Very well, are the principles seconded? [**Seconded**] Does anyone wish to speak on the principles? Yes, Deputy of St. Ouen.

7.1.1 The Deputy of St. Ouen:

Maybe a point of clarification that the Minister could deal with quite quickly. But I see on part (d) (da) of the agreement which is on part 1, it says: "The tenant may detach and remove anything that the tenant has fixed to the premises subject to the tenants making good any damage caused by the tenant so doing." I look to part 2 and the tenants' covenants under the heading "Tenants' Covenants", Part (e) says: "You are not to make any structural alteration to the premises nor to erect any aerial satellite dish or similar apparatus without the prior written consent of the landlord." I think that there is a problem, at least as I see it, that it does not seem to be that the tenant needs to get permission from the landlord to fix items to the premises, only that it is covered by structural alteration, and yet the tenant can detach and remove anything, again without approval from the landlord, subject to the tenant making good the damage. I think that that could be a recipe for disaster and cause further problems both in conflict with the tenant and landlord when it comes to determining what damage and what a tenant has done with or without permission. Now, maybe the Minister can clarify that because, as I understand it, most normal agreements with landlords and tenants cover the matter of fixtures and fittings in a slightly better way. Thank you.

7.1.2 Deputy G.P. Southern:

Just a few questions. Yes, I note that at the beginning of this contract it says: "For exemption from rent control" in which case my question is, under what circumstances are rents controlled, and can the Minister confirm that in (j), there has been a change from the old law on tenancies, I think, that says: "If rent is payable under this agreement at intervals of one month or less, the period of notice required from the tenant is one month." In the previous law, if it was a month or weekly, then the period of notice was a month or weekly, as appropriate, for the payments. Then my understanding of what some housing trusts do is insist that their tenants restore the accommodation to a standard that it was at when they moved in, despite the fact that they may be there for periods of up to 10 years and suchlike, in which case fair wear and tear should really account, and it should be the landlord's duty to ensure that the premises are tenantable and not the duty of the tenant, especially in social housing.

7.1.3 Senator A. Breckon:

I am finding the draft copy of the leases very helpful because it does lay down some conditions, albeit it is not perfect. But over the years there have been many disputes in this area and the question I would ask the Minister is, bearing in mind that this standard lease gives exemption from rent control, whatever happened to the Rent Control Tribunal? I say that because over the years with the former Advocate Bailhache, who is now the Deputy Bailiff, I have appeared on the other side, as it were, when he was representing clients in front of tribunals representing tenants. But I have not done for a while and I wonder if it is still in place and if it is functioning because it may well come back into being and have a purpose in some of the rents I have seen. They may be subject to appeal in that way and I would be grateful for any information that the Minister can supply.

7.1.4 Deputy J.H. Young:

Could I just ask the Minister to clear up what the scope will be of this requirement now that where the landlord's consent is required under the standard tenancy agreement, upon request from the tenant, that this new requirement says that the landlord's consent cannot be unreasonably withheld. Can he point out which clauses that, or what areas this applies to? I am just looking at the main law and I notice that there are consents required, for example, for keeping animals on the property, derelict vehicles on the property and so on, all of which require, under the schedule at the moment, the landlord's consent. But this new clause that the landlord could not unreasonably withhold consent, can he clarify where these restrictions are going to apply?

[16:00]

The Bailiff:

Does any other Member wish to speak? Then I invite the Minister to reply.

7.1.5 Deputy A.K.F. Green:

Dealing with Deputy Reed's question first. What we are talking about here is not the tenant not being able to make structural alterations but if they wish to remove, for example, a mirror and put a different mirror up, as long as they make good when they leave the property, that is fine. But I would just say to Deputy Reed that the wording is taken directly from the Residential Tenancy Law which this Assembly passed a few months ago. Trying to remember everything that we are doing. Deputy Southern asked me, I think, a couple of questions but he will remind me as we go along anyway. He asked me one about the period of notice, I think. Yes, and under the new law the tenant must give a minimum of one month and the landlord must give a minimum of 3 months, and I, as the Minister, do have the right to vary that in agreement but not once a contract is signed. But in some special circumstances such as, for example, staff accommodation, the staff might be told that the normal period is one month in their contract because if they are sacked or they are no longer working, you would not want them occupying the premises. But the Privy Council felt, even in those circumstances, and I agree with them, one month would be right. I am going to have to admit to Deputy Southern I cannot remember the other.

Deputy G.P. Southern:

Well, the first question on the period of notice was whether it changed from the previous law which suggested that if the period under which the rent is payable is at intervals of one month or less. It used to be if it was one month then it was one month's notice that the tenant had to give. If it was a week, then it was a week's notice, and this one says a month in both circumstances. Is that the case?

Deputy A.K.F. Green:

In that respect, it changed but the change is not this time. The change was made when we debated the Residential Tenancy Law last time.

Deputy G.P. Southern:

The second question was: standard form of written contract for exemption from rent control. Under what circumstances are people not exempt from rent control? What do we control?

Deputy A.K.F. Green:

I can pick this up with Senator Breckon's as well, and I have to say that the Rent Control Tribunal does not exist at the present time and the only reason this is on at the moment, maybe it is something I need to take up later on with officers in Population because this is where we deal with this one at the moment, is whether we should have that wording there at all at the moment. But at the moment we have that wording and what I have done, or what my officers have done on my behalf, is to put a standard contract together. This is the minimum that people should have in the contract, of course they can add other things if they want to, but they must have at least all these things in. I think Members are right, we probably need to look at removing that comment about rent control.

Deputy G.P. Southern:

Finally, I was asking about the certain housing trusts which insist that their tenants restored their property to the state it was when they moved in, and that might be a long period, and rather than pay for refurbishment or a repaint as fair wear and tear they are charging social tenants for that charge of up to £1,000. In addition, not using the deposit ... charging the deposit on that but allowing the deposit to go through, to be made.

Deputy A.K.F. Green:

This is a difficult one at the moment because I am aware of one or 2 cases similar to the ones that Deputy Southern describes. Normally you allow for fair wear and tear but it is very important, and of course it is a requirement of the Residential Tenancy Law now to have a proper condition report supported by photographs. But having said that, of course things do wear, especially if you are there 10 years and you take a picture down, you are going to see a mark on the wall. That must be handled within the contract. Now, there are some contracts I know that insist, not necessarily in social housing, but insist that, as part of the contract when you move out you emulsion all the walls. There are others that say you must just leave it in a reasonable condition and compare that to the condition report. But I understand where Deputy Southern is coming from but of course at the moment I have no right to ask the trust to do things differently. The regulator of course, will be able to look at this and ensure that we have a fair playing field for all social tenants and that is why we need to get on with the work of the regulator.

The Deputy of St. Ouen:

I need to press the Minister a little bit further on the question that I raised with him regarding this issue around the tenants being able to fix things to the premises without permission and being able to remove them and be required to obviously repair.

Deputy A.K.F. Green:

This is about what is reasonable. We have said in the standard contract that you would not normally put an aerial up on the roof or a satellite dish without permission, but I think it is perfectly reasonable to put a mirror up or a picture up inside the home. Obviously, if you are one of these people that like lots of pictures, I tend to be a bit minimalistic and that is probably because I do the decorating, but if you are one of these people who like lots of pictures you are going to have a lot of

making good when you leave. But these are people's homes and providing they make good before they leave, I do not ... well, it is a matter between the tenant and the landlord.

The Deputy of St. Ouen:

I really must ... I mean, I do not think the answer is good enough because we are discussing here the taking of a deposit ...

The Bailiff:

He has given his answer, Deputy, you must vote whichever way you think as a result. He has given his answer.

The Deputy of St. Ouen:

I do not think that we have been provided with an appropriate answer because this is all about the landlord taking a deposit and being able to retain part of the deposit based on damage to property.

The Bailiff:

Well, as I say, if you are not happy with the answer ...

Deputy A.K.F. Green:

Sir, that was a different question. I am quite happy to answer that question but it was not the one that was asked. There was no mention of deposit unless I have suddenly gone deaf. With the deposit, and we will be bringing the deposit protection, we are still working on it, Deputy Southern will be pleased to hear, and we have progressed stages further. We will be bringing that back. With the deposit protection, the deposit will firstly be held by an independent third party, and if there is a dispute between the landlord and the tenant on the deposit, there will be mediation. Obviously the final fallback is Petty Debts Court but there will be protection around the deposit for both the tenant and for the landlord to make sure it is done fairly.

The Bailiff:

Very well, then is the appel called for?

Deputy J.H. Young:

Sorry, I did not hear an answer to my question about this restriction on tenants' covenants that require landlords' consents. There are ... I asked about what it covers. In the law it is changing, there are a whole set of clauses and I asked the Minister and I want to know which one it covers, please.

Deputy A.K.F. Green:

Could the Deputy repeat that?

The Bailiff:

Could you repeat the question, please, Deputy?

Deputy J.H. Young:

Yes. I asked the Minister to cover in his reply the amendment to ... the amendment which is under Article 1 of the Regulations which includes, puts in a new requirement that the clauses that require landlords' consent to do things for the tenant to do things, that that consent could not be unreasonably withheld by the landlords, and when I looked there are a whole set of clauses in the contract where that is required; the keeping of animals, the use of the premises for other purposes other than private dwellings, for cutting down or lopping trees or bushes, for the placement of the disused or derelict disused vehicles on the land, or for taking in lodgers and guests. Now, all those

in the standard contract, which this Regulation requires all landlords to use, at the moment does not have this requirement for the landlords' consent to be qualified. This change that we approve here that is proposed, I wanted to know to which of those provisions it is now imposed that the landlord would not be able to withhold consent unreasonably.

Deputy A.K.F. Green:

Exactly what it says: "(e) Not to make structural alterations to the premises nor to erect aerial satellite dish or similar apparatus without the prior permission or consent of the landlord." Only for (e) we have removed the bit "which consent shall not be unreasonably withheld." It is quite clear.

Deputy J.H. Young:

I will pick it up in the answer because it is not right.

The Bailiff:

Very well, so then, is the appel called for, Minister, in relation to the principles? Minister, do you wish the appel? No. Very well, all those in favour of adopting the principles, kindly show. Those against. The principles are adopted. Deputy of St. Peter, do you wish this matter referred to your Scrutiny Panel?

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

No, thank you, Sir.

The Bailiff:

Then do you wish to propose the Regulations together, Minister?

7.2 Deputy A.K.F. Green:

Yes, please, Sir, propose them together or *en bloc*.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on either Regulation 1 or 2?

7.2.1 Deputy J.H. Young:

Sorry, I need to come back. I think the Minister's answer referred to the wrong schedule. The schedule that is being changed here, I think, is that in part 2 of the schedule which deals with the tenants' covenants. I think the Minister did not refer to the one that I was asking the question about.

Deputy A.K.F. Green:

I read from part 2(e): "Not to make any ..." sorry.

The Bailiff:

Not yet, Minister, just to see if anyone else wants to speak on any of the Regulations. Does any other Member wish to speak? No, well then nobody else is going to speak, so.

7.2.2 Deputy A.K.F. Green:

Back where we were. I read from part 2(e) which is what I think the Deputy is referring to, unless I need to go to Specsavers or somewhere. **[Laughter]** It is: "Not to make any structural alteration to the premises nor to erect any aerial satellite dish or similar apparatus without prior written permission of the landlord" and we have removed that bit for (e) only: "which consent shall not be unreasonably withheld."

The Bailiff:

Very well. All those in favour of adopting Regulations 1 and 2, kindly show. The appel is called for in relation to Regulations 1 and 2. I invite Members to return to their seats. The Greffier will open the voting.

POUR: 37		CONTRE: 1		ABSTAIN: 1
Senator P.F. Routier		Deputy of St. Ouen		Deputy J.H. Young (B)
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Bailiff:

Very well, do you propose the Regulation for a Third Reading, Minister?

Deputy A.K.F. Green:

Sir, thank you.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading, please show. Those against. They are adopted.

8. Draft Firearms (Amendment No. 3) (Jersey) Law 201- (P.69/2013)

The Bailiff:

We come next to the Draft Firearms (Amendment No. 3) (Jersey) Law, P.69, lodged by the Minister for Home Affairs. The Greffier will read the citation.

The Deputy Greffier of the States:

Draft Firearms (Amendment No. 3) (Jersey) Law. A law to further amend the Firearms (Jersey) Law 2000 and for connected purposes.

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

Although this is a small amendment in terms of words, it does need some explanation. Under Article 43 of the Firearms (Jersey) Law it is not the Firearms Law, it is about possession in any public place of any offensive weapon without lawful authority or reasonable excuse. The purpose of this small amendment is to change the definition of an offensive weapon. If Members would care to look at page 4, which is the first page of the report, they will see there towards the top the text of the existing Article 43, and they will see in particular, in Article 43(3), the definition of offensive weapon. Now, there are 2 categories of offensive weapon. The first is: "Any article made or adapted for use for causing injury to the person." That is what lawyers call an offensive weapon per se, something made or adapted for that purpose, and that has not been changed. The second category however, is: "Any article intended by the person having it with him or her for such use by him or her, i.e. for such use for causing injury to the person." Now, what is being proposed is that the words "or by some other person" be added at the end of Article 43(3) so that an offensive weapon will include any article intended by the person having it with him or her for use for causing injury to the person by some other person. To put it very simply, if a person takes a potential offensive weapon into a public place with the intention to give it to his friend so that his friend can use it to hit or stab somebody, then why should they not also be guilty of an offence. The purpose of adding those particular words is that if they take it with that intent, not to use themselves but for somebody else to use it, then it then becomes an offence. The Royal Court, in a recent case, became aware of the gap in the law and asked that it be filled and I am now simply asking the Assembly to do this and I move the amendment in principle.

[16:15]

The Bailiff:

Is the principle seconded? [**Seconded**] Does any Member wish to speak on the principles? Yes, Deputy Higgins.

8.1.1 Deputy M.R. Higgins:

Just a query. Perhaps the Minister will tell me what ... and I must confess I do not know if it does apply in Jersey, but it is a concept of joint enterprise. If someone is going and is involved in an attack on someone with a weapon, would it not already be called or come under the idea of a joint enterprise and would they therefore be charged with that?

8.1.2 The Connétable of St. Martin:

Briefly the same as the Deputy. It will be a useful extra tool in the box of the prosecution. I have the relevant articles, the interpretation and Article 43 as well, and obviously now adding ... wishing to add the extra words "or by some other person." Accepting the wisdom and the superior knowledge of the Royal Court, and indeed the Minister himself, and the suggestion of bringing the Jersey Firearms Law on a similar footing to the U.K. legislation, I believe we possibly already have

the alternative provision set out in our law. My recollection of days of old is that it is an offence for a person to aid and abet, counsel, cause or procure or command the commission of a common law offence but that there is no such offence in statute law unless the statute creates such an offence. I would therefore ask the Minister what his view is regarding a different article, Article 54 of the Firearms Law, that states: "Any person who aids and abets, counsels or procures the commission of an offence under this law", and I must stress that is the whole, and the Minister will well know, the whole Firearms Law: "Shall be liable to be tried and dealt with and punished as a principal offender" which is unlimited fine or 4 years' imprisonment. So I would just like to ask the Minister's view that if it was proved that a person was carrying an offensive weapon for use by another person, then that person carrying it would, up until today, if today's proposition is passed, still have been liable for a prosecution under the existing Article 54 of the Firearms Law, and also ask the Minister to confirm, if he is able, that no prosecutions have failed because of this perceived anomaly or interpretation of the law. Thank you.

8.1.3 Deputy G.C.L. Baudains:

I am going to oppose this for 2 reasons. First of all, in my view a firearms law is not an appropriate place to be referring to offensive weapons. A firearm is not automatically an offensive weapon any more than a cricket bat or a screwdriver. I believe the insertion of this into this law has more to do with expediency than common sense, which incidentally seems to be becoming less common these days. The second reason, I have always opposed legislation where a person is assumed guilty unless he can prove his innocence as we see on page 4 of the report. "Any person who without lawful authority or reasonable excuse, the proof of which shall lie on the person." I am totally opposed to turning the normal innocent until proven guilty issue on its head.

The Bailiff:

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

8.1.4 Senator B.I. Le Marquand:

I thank the 3 contributors for some very interesting questions which I am going to seek to answer. Firstly, the joint enterprise question of Deputy Higgins is a good question, but it seems to me there can only be joint enterprise in a case where you have a situation in which there is something like an assault with a weapon. There, if one person goes with a weapon and another person goes with him knowing that the other person has got the weapon, and an assault occurs, then you would have a joint enterprise situation where both could be charged with assault or grave and criminal assault. But I do not think it would apply in this particular type of case because I am trying to think about how you would have a joint enterprise where only one of them had possession of it but it was not actually used. The point is here that this is an offence before the weapon is used if the person has the intent to use it, and so I cannot see how there could be a joint enterprise where it did not happen. The second question of aiding and abetting is an extremely fiendish question and I think the answer is that you could not charge somebody with aiding and abetting unless the weapon passed from one person to another. It seems to me, what you have got here is a situation where the person who is in possession of the weapon with the intention that his friend would use it, would be charged. But it is difficult to see how his friend could be aiding and abetting him. He could, I suppose, be counselling or procuring the offence, which is something slightly different in those circumstances, if in other words he had asked his friend to take the weapon. But I think we do still need this to fill all the gaps that will be needed. I think there is still a gap left which would not be covered without this. In relation to Deputy Baudains' question, I am minded to quote a former Chief Minister who said: "We are where we are", although I do not often say that. The fact is of course that this would require a new law; it would require a specific law on offensive weapons. It would have to take it out of that which is a particular piece of work. The test to which he objects,

which is what lawyers call a burden shift, which is where certain facts are established and then the defence has to be proved by the accused person on the balance of probabilities. Such situations have given us a number of pieces of legislation. I do not think they are objectionable. Normally they arise in a circumstance in which frankly it would be virtually impossible to prove beyond reasonable doubt, and that is why it is there. I am not of course adding that burden shift into this, it already exists in the Article and I am seeking to amend the Article so it applies to a wider thing. That, I hope, has answered the questions. As I say, the Deputy of St. Martins' question is very complex and would lead me to have to go down and analyse a whole series of whole different avenues. But I think there always will be a gap left. But he is absolutely right, there may be circumstances where in addition to the statutory offence where an offence of aiding and abetting or counselling and procuring would exist. But I still think we need this. I am not aware of any cases where it could have been charged but then of course I do not deal with operational policing matters, so there may be active situations in which this has arisen and the police have not been able to charge. But they will certainly, I think, want to fill this gap so I maintain the principles.

The Bailiff:

All those in favour of adopting the principles, kindly show. Those against. The principles are adopted. Deputy Maçon, do you wish this matter referred to your Scrutiny Panel?

Deputy J.M. Maçon (Chairman, Home Affairs Scrutiny Panel):

No, thank you.

The Bailiff:

Very well. Then, Minister, do you wish to propose the Articles?

8.2 Senator B.I. Le Marquand:

I propose the 2 Articles, there is no need for me to say anything further because I have already dealt with the details.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on either of the Articles? Deputy Higgins.

8.2.1 Deputy M.R. Higgins:

Yes. It has got my curiosity going here in terms about an offensive weapon, and it says: "Any article made or adapted for use for causing injury to a person." Well, something like a baseball bat, if a person does not use it to play baseball, if he is carrying that, could ... it has not been adapted but it could be used for that purpose. Would that type of weapon come under this type of thing, or anything else that is an innocent weapon in the right circumstances?

The Bailiff:

Does any other Member wish to speak? Very well, I invite the Minister to reply.

8.2.2 Senator B.I. Le Marquand:

That is precisely why I explained that there were 2 categories. There are the weapons which are made or adapted which lawyers call weapons per se, weapons in themselves. They are inherently weapons, and then there is a second category which could be something like a normal kitchen knife or something of that nature. That is not an offensive weapon in itself, unless you have it with you with the intent of using it, and that is where the second category comes into existence. So I maintain Articles 1 and 2.

The Bailiff:

Very well, all those in favour of adopting Articles 1 and 2, kindly show.

Deputy M.R. Higgins:

Sorry, could I just seek clarification there? Sorry, just going back to my curiosity here. A kitchen knife, obviously in a public place it is going to be used with intent. We have just talked about the fact that the burden of proof is on the person who is carrying it to prove that they were not planning on using it for some assault that was taking place. So you are saying a kitchen knife would still fall under this law in those circumstances?

Senator B.I. Le Marquand:

No, it is more complicated than that. The statutory defences of without lawful authority or reasonable excuse apply to both categories, both for the weapons in themselves and to the others. But of course in relation to the one that is not a weapon in itself, the onus is on the prosecution to prove beyond reasonable doubt that the person who had it with them for such use, in other words with the intention of using it to cause harm, yes. So although the statutory defence of lawful authority or reasonable excuse would still apply in such a case, it is not an offence unless there is the intent to use it to cause harm to another person. That is the safeguard.

The Bailiff:

All those in favour of adopting Articles 1 and 2, kindly show. Those against. They are adopted. Do you propose the Bill in Third Reading?

Senator B.I. Le Marquand:

I do, Sir, yes.

The Bailiff:

Does anyone wish to second the Third Reading? **[Seconded]** Thank you, Senator. Does any Member wish to speak to the Third Reading? All those in favour of adopting the Bill in Third Reading, kindly show. Those against. The Bill is adopted in the Third Reading.

9. Draft Security Interest (Jersey) Law 2012 (Appointed Day) Act 201- (P.97/2013)

The Bailiff:

We come then to the Draft Security Interest (Jersey) Law 2012 (Appointed Day) Act, P.97, lodged by the Minister for Economic Development. I will ask the Greffier to read the Act.

The Deputy Greffier of the States:

Draft Security Interest (Jersey) Law 2012 (Appointed Day) Act. The States in pursuance of Article 96(2) of the Security Interest (Jersey) Law 2012 have made the following Act.

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

Despite being numbed by the reform debate yesterday, I am sure the Members will recall late in the afternoon approving P.61. This Appointed Day Act brings that amended Security Interest Law into force in 2 parts. Firstly, on 1st October 2013, the interpretation provisions and other framework provisions of the law would come into force, as well as such other provisions that are necessary to enable the registration of existing assignments of receivables, and then on 2nd January 2014, all the remaining provisions of the law would also come into force. The 2-stage process is necessary because the law covers 2 types of agreement, namely security interests and also assignment of receivables. Security interests have a grandfathering clause which allows them to continue to exist without any further issue if they came into force before the introduction of this law. The same

however, is not true of assignments of receivables. Therefore, the 3 months from 1st October 2013 to 2nd January 2014 is to allow the previous assignments of receivables to be registered under the new law before new assignments come into existence. I propose the principles.

The Bailiff:

Is the Act seconded? **[Seconded]** Does any Member wish to speak on the Act? Very well, all those in favour of adopting the Act, kindly show. Those against. The Act is adopted.

10. Draft Trusts (Amendment No. 6) (Jersey) Law 201- (P.62/2013)

The Bailiff:

Now, the next matter, Chief Minister, cannot be debated until tomorrow unless you invite the Assembly to shorten the period on the grounds spelt out in the Standing Order that the proposition relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate. **[Laughter]** It might be tricky to argue that one.

10.1 Senator I.J. Gorst:

Even I recognise when my abilities have reached the end of the road, as it were, when it comes to persuasion. I cannot make that case, however I would ask the Assembly to consider whether they would rather take it this evening than have to do it tomorrow when we ... prior to the election of a Chairman of P.P.C. (Privileges and Procedures Committee) but I am afraid even I cannot make the case on those grounds.

The Bailiff:

The Assembly cannot do it just because it would like to. **[Laughter]** The Assembly can only do so if it relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate until tomorrow. I think that would be a tricky matter for the Assembly to do. But no doubt it could be done first thing tomorrow morning.

Deputy G.C.L. Baudains:

If I might make a suggestion, it seems to me, if my memory serves me correctly, it is normal when we are voting for there to be a delay somewhere along the line while we are waiting for votes to be counted, perhaps that would be an appropriate time to do this tomorrow.

The Bailiff:

Yes, that would be a possibility. Yes, to start with the other one and then do this while the vote is being counted, if you wish.

Senator I.J. Gorst:

I am quite happy to do that. I wonder if I could request the incoming Chairman of P.P.C. to consider whether there should not be some latitude in that particular Standing Order considered in due course. Thank you.

[16:30]

The Bailiff:

Very well. Senator Le Gresley.

Senator F. du H. Le Gresley:

As you are feeling quite generous at the moment, I just wondered if I could ask if P.66 could be debated tomorrow if we can provide satisfactory answers to our Scrutiny Panel. I ask that, Sir,

because the change in the computer systems for an upgrade in the housing component is normally done in August and there will be terrific difficulties if we do not debate this until September.

11. Draft States of Jersey Police Force Law 2012 (Appointed Day) Act 201- (P.78/2013)

The Bailiff:

Well, what I suggest is that you must liaise with the Chairman of the panel. If, having had an opportunity, the Chairman decides that they do not wish it to be formally referred to them and are content to proceed tomorrow then I imagine the Assembly might agree. But if the Scrutiny Panel says no, then that is it. So I think you need to liaise with her overnight. Very well, so we come to the final matter today which is the Draft States of Jersey Police Force Law 2012 (Appointed Day), P.78, lodged by the Minister for Home Affairs. I will ask the Greffier to read the Act.

The Deputy Greffier of the States:

Draft States of Jersey Police Force Law 2012 (Appointed Day) Act. The States in pursuance of Article 34(2) of the States of Jersey Police Force Law 2012 have made the following Act.

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

Lodging this Appointed Day Act is asking the Assembly to bring into force those parts of the States of Jersey Police Force Law 2012, which relate to the setting up of the Police Authority and to the crucial relationships between the Minister for Home Affairs, the Police Authority and the Chief Officer of Police. I have circulated today to the Members the text of those parts of the law which would thus come into effect. I have a confession to make, and I am going to need to seek your indulgence, because it appears that there is a typographical error ...

The Bailiff:

Yes, the Greffier will correct that as a *corrigendum*.

Senator B.I. Le Marquand:

Yes, which refers to Schedule 1 paragraph 9, it should refer to paragraph 11.9 because that makes sense of what we are doing here. I had hoped to be able to bring in the whole of the law in one go but that has not proved to be possible for a number of reasons. Firstly, it would have required some quite complicated transitional arrangements to have done that but what finally defeated me, although the transitional arrangements were feasible, what finally defeated me was the fact that there are so many references to the old law and different parts of legislation and the Law Draftsman wanted to properly tidy those up in terms of amendments to a whole lot of other matters. I am not seeking to bring in other various parts of the law, particularly the parts relating to the appointments and the disciplinary matters for the Chief Police Officer and Deputy Police Officer because those frankly will require in parallel to be brought in Regulations and this Assembly will then have an opportunity to debate those Regulations. But I do not think it is appropriate to bring the matters in without bringing those forward at the same time. Those parts which the Appointed Day Act seeks to bring in, to summarise very quickly although Members do have the text, are Article 1 which is interpretations and definitions, Article 2 on continuity of the force, Article 3(1) to 3(4) the functions of the Minister, Articles 4 to 7 which is the setting up and the role of the Police Authority, the membership of the Police Authority, meetings of the Police Authority and the power of the Minister to direct the Police Authority on certain matters. Articles 17(1) to (4) the functions and status of the Chief Officer, Article 18 the accountability of the Chief Officer, Article 19 on the Annual Policing Plan, 20 on the Annual Policing Report, 34 which is citation and commencement, and then Schedule 1, Article 11(9) but that has only been brought in to the extent to which it repeals Articles 8(1) and (2) and 9(3) of the 1974. Those are consequential repeals which were required. I

can give Members details of that if they so wish. I have also today written to Members of this Assembly to explain where we have got to already in relation to the process for the appointment of the first chairman, and the proposed programme in order to lead to the Police Authority being set up, and referring hastily to that letter, Members will see that I will be asking for the matter of the election of 2 members of the Police Authority by the States of Jersey to come up on the Order Paper on 10th September 2013, and I bring Members' attention to the criteria for those Members who are eligible and those who are not. I also explain the programme which is intended in relation to leading to the appointment of the 4 remaining posts, that selection under the law being made jointly by myself and by the chairman. I have explained the process by which the preferred candidate was appointed, which was an independent process, involving neither myself nor my Assistant Minister sitting on the board, but us both then speaking to the individual to make sure that we understood each other's roles. I cannot today reveal the identity of that candidate because the necessary complete and full background checks have not been completed, but I will do so as soon as they are made. I, therefore, move the Appointed Day Act.

The Bailiff:

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

11.1.1 Deputy M.R. Higgins:

As a matter of fact I am going to urge Members to delay this particular Appointed Day Act and I do so for a number of reasons. I am not convinced that it has to be brought today. Certainly the Minister has mentioned he was only going to be bringing part of it in today and another part to be brought in later. We are talking about appointing the States Members on 10th September, I do not see why it all could not be done in the first sitting in September. It would not delay things. We are being told, for example, although he has a chairman in mind he will appoint him and he will let us know. But we are not going to be here until September anyway so surely he could make that announcement at that time. But my main reason for opposing this Appointed Day Act at the present time is that, as Members know from various question times, I have been highly critical of the Minister for Home Affairs, and in terms of the conduct of the States of Jersey Police, and in particular the Chief Officer and Deputy Chief Officer of the Police. People have been coming to me with information regarding what they are alleging are perversion of the course of justice. The people who have been coming to me with this type of information are not just ordinary members of the public - although there are some of them - many of them are ex-members of the police force. I would not even say that it is the conspiracy of police officers because some of them do not even like each other and there are various comments being made. But what I can see from all the people who have come to me is that we have got some problems. Those problems lie, as I see it, in terms of the relationship between the Minister and the Chief of Police. I have concerns about the Police Complaints Authority in terms of their handling of investigations. All this information is information that I am planning on bringing to the House for the first sitting in September. We may not be able to debate it but the information will be set out with all the allegations and all the information. I think Members should look at this information before they decide on the structure and vote this through or rubber stamp it through. There is no compelling reason, as far as I am concerned, that it needs to be done today. If it is September then you have all the information and you can decide whether it has merit or not. I am not saying it is, I am simply going to present before this House the information that has been given to me and part of the information is that the Minister for Home Affairs has not acted on correspondence, almost a year of people writing to him making these allegations. The only time some of them had a response was after I started asking questions in this House. I do not think that is acceptable. This is one occasion where I hope the House will say: "Where is the imperative reason for bringing this in?" I do not think there is this time. September is good enough. Look at the evidence of the time and see whether you think it is

justified and needs to be taken into account when we decide on the Appointed Day Act and whether we are happy with these things. I will leave it at that, thank you.

11.1.2 Senator A. Breckon:

I can understand what Deputy Higgins is saying but I think that is Police Complaints as opposed to what we are talking about here which is Police Authority. I think there are some subtle differences there, which I am not sure where the crossover is. Having said that, as a former member of the Home Affairs Committee, we did set up a Shadow Police Authority many years ago and the other member from that committee was the former Constable of St. Ouen, Mr. Ken Vibert. At that time, as this was progressing, I think particularly worthy of mention is a former Deputy of this Assembly - which is Robin Rumboll - who did a tremendous amount of work on the background to what the Authority should be and the sort of shape it should have. He did some sterling work, unfortunately he had to step down for personal reasons. I think this has - bearing in mind what I have just said - been a long time coming because that is probably 8, 9, 10 years ago when we first set up a shadow authority to try to do that and we got information from authorities in the U.K. to try to pick out the best of that and Jersify, if you like, the situation and I think that is where we are. I brought a proposition a number of years ago for the Minister to bring back a report by the end of not last year but the year before, which he did, and he set up a working group. So, again, even in the last 3 years a lot of work has been done. So although I hear what Deputy Higgins says I do not think really it is good to delay any further. I have not spoken to this Police Chief but the former senior officers welcomed a Police Authority as a sort of buffer between the Minister and them. We have laid down the sort of guidelines and the procedural things for that. The other thing, a number of members of the public have been in touch with me about this issue because what they have said is when that is advertised could it be widely advertised in a sort of reasonable period because there are people interested. To quote Deputy Le Hérissier, maybe not just the usual suspects, so that we do draw wider so we get people from the community who can contribute to this and give assistance to the workings of the police and also the Minister. So when the Minister does respond could he tell us, if he knows, how he would intend to advertise for members of the public to get involved.

11.1.3 The Connétable of St. John:

I must agree with everything that has been said by the previous speaker, having been on the Home Affairs Committee just after the turn of the century when we were talking about this and putting all this in place at the time. We were hoping that within the early part of ministerial this would have been in place. We are now 11 or 12 years down the line since we were talking about this and we are still talking about delays. I would not want to see this delayed any further. This needs to go forward. A lot of work has been done and, as the previous speaker said, this is not what Deputy Higgins was referring to. The work that has been done we need to move forward on and I would recommend to the Assembly, let us move in the right direction, let us not hang around any longer.

11.1.4 Deputy R.G. Le Hérissier:

Just to confirm I am a bit shocked by Deputy Higgins because the whole purpose of this is to deal with the incredibly mounting dissatisfaction with the way, for example, that the police might be seen as managing themselves, the incestuous relationship that might exist between the Minister for Home Affairs and the police and so forth. It is to give distance, it is to introduce a community, and maybe - open to question - a political element in the management of the police service. In other words, to remove it from the political system to some extent and to ensure that people see it is not being run in a self-interested fashion. I would have thought if there are serious issues bubbling away, this is a very important step on the way to dealing with them.

11.1.5 Deputy J.A. Hilton:

I have to agree with the previous speaker and other speakers. It is absolutely essential, I believe, that we carry this forward. It has been in the offing for a very, very long time. I am just slightly confused at where Deputy Higgins is coming from because if he looked at the paper that we were handed today it states quite clearly in the paper the accountability of the Chief Officer and what the Chief Officer has to provide to the Jersey Police Authority around general administration, the discipline and organisation of its officers. It also has to advise or provide a written report on any event arising out of matters specified in the annual policing plan, an event arising out of the direction, governance, or control of the States Police Force, or any deployment of police officers. I think this is definitely the way forward and Members should support this, this afternoon.

[16:45]

11.1.6 Senator I.J. Gorst:

I am not sure it is necessary after the 4 excellent speeches that we have just had, following on from Deputy Higgins. If there were any merit in what Deputy Higgins was alleging, we will have to wait and see until we have seen his dossier, then bringing forward this Authority is absolutely the right thing to do and should not be delayed any further because it will lay out the responsibilities, in due course, of the Chief Officer, it will lay out the responsibilities of the Minister. It will clarify those areas where politicians should not rightly get involved in because they are everyday operational matters, and yet the policy areas that the Minister should be involved in. I do not think that anything that Deputy Higgins has said is a reason that we should not go ahead and agree this Appointed Day Act. I would refute the claim that it is a rubber stamping. The actual pieces of legislation were debated properly, appropriately, and at length in this Assembly on previous occasions.

The Bailiff:

Does any other Member wish to speak? Then I invite the Minister to reply.

11.1.7 Senator B.I. Le Marquand:

I am frankly baffled as to where Deputy Higgins is coming from on this because if he thinks that there is some improper way in which I have dealt with matters concerning the Chief Officer of Police then, as other speakers have already said, surely he would want there to be in place this Police Authority between the Minister and, as it were, the Chief Officer of Police. So I am completely and utterly baffled. I am of the opinion that we have an excellent leadership of police force, both our Chief Officer and our Deputy Chief Officer are outstanding officers. **[Approbation]** If I may say, the figures for the first 6 months of this year, in which we have had a 21 per cent reduction in crime as compared with last year, is ample demonstration of that, apart from other matters. It may be that individual constituents of the Deputy have some complaint about the manner in which I have dealt with matters, I will face that in due course. But this is absolutely no reason not to go ahead with this today and I, therefore, maintain the proposition.

Deputy M.R. Higgins:

Sir, can I seek clarification from the previous speaker. I did ask the question, what is the imperative of bringing it in today? Why can it not be left until the next sitting of the Assembly in September, the first sitting, when Members would have the information? What is so pressing it has to be done today?

Senator B.I. Le Marquand:

Because that will put back yet again for further weeks, because of the summer gap, the whole process of getting on with this. I think that we need to get on with this.

Senator A. Breckon:

I did ask the Minister if he could give some assurance when he replied about the recruitment of members of the public and he has not mentioned that at all.

Senator B.I. Le Marquand:

I am sorry, I am not sure I understood the question. Could that be repeated please?

Senator A. Breckon:

I asked if the Minister, when he was replying, could he give some assurance that when recruiting or seeking to recruit members of the public it will be widely advertised with a reasonable period so that anyone who did show an interest could get details and decide whether or not to apply.

Senator B.I. Le Marquand:

Yes, that is our intention. In fact, because of the summer period which is impending, discussions I have had with the preferred candidate were that we should delay the process of interviews well into September so that people could be responding and have time to respond and consider it after the end of the normal summer period. So we are very keen to do that. But we are deliberately delaying that process because of the intervening period.

The Bailiff:

Very well. All those in favour of adopting the Act, kindly show. The appel is called for then in relation to the adoption of the Act. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 38		CONTRE: 1		ABSTAIN: 0
Senator P.F. Routier		Deputy M.R. Higgins (H)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				

Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Bailiff:

That brings an end to Public Business. Deputy Tadier, do you wish to raise a point?

Deputy M. Tadier:

Just at the appropriate point I would like to just suggest a way forward again for tomorrow's election.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Bailiff:

Yes, I was going to suggest that we had nothing further to consider this afternoon unless Members want to consider arrangement of public business for the next occasion. Would Members wish to consider item M? Yes, so are you able, Acting Deputy Chairman of P.P.C. to speak to M, the arrangement of public business for 10th September.

12. Deputy M. Tadier (Vice-Chairman, Privileges and Procedures Committee):

For my part, I will not be putting P.51 for debate at the next session on 10th September. I still need to consider whether that is a viable proposition. Obviously P.66 we will need to hear back from the Scrutiny Panel from the Deputy of St. Peter and that can be dealt with at the next session. Members will also be aware that P.86 has just been lodged today which could be taken at the next sitting. Apart from that I do not know if there have been any other changes so it would be as it currently it on the Order Paper.

The Bailiff:

Does any other Member wish to say anything about the proposed paper? I can tell Members that Deputy Tadier has lodged P.86 which is entitled Public Elections: Single Transferrable Voting System and an Alternative Voting System. Do Members agree to take the items listed there, apart from P.51 and with the possible addition of P.66 and the addition of P.86?

12.1 Deputy J.H. Young:

Could I just query? I understand from the Minister for Planning there is a prospect of a proposition being lodged, it was due for lodging this week. Does that mean that this will be ruled out for the 10th September sitting?

The Bailiff:

It will be required to be lodged for 6 weeks if it is by the Minister. Very well, then the Assembly agrees to take those items. Deputy Tadier, did you want to raise another matter then about tomorrow?

**

13. Chairman, Privileges and Procedures Committee – appointment during this or next meeting

13.1 Deputy M. Tadier:

Obviously we are coming back anyway with that one piece of business to finish off and the election. What I think would be very helpful is if there were a break between the election and the appointment of Chairman so that discussions could still ensue. I do suspect that all candidates may wish to give an indication of the slate that they are to propose, but that should not be forced upon them and they may still wish to discuss after that. So could I suggest we have the appointment of further members of P.P.C. at 12.30 p.m. if that is not too much of a gap for Members. I am open to a different time but I think we do need a certain period of time for consultation to ensue, it is an important committee of the States and it should not be rushed in a matter of minutes when it could take an hour or 2. We could suggest 11.30 p.m.

13.2 The Bailiff:

Can I suggest that perhaps in the morning after the election of a Chairman, the Chairman can inform Members how long he or she would like to consult and perhaps if he or she says: “I need an hour” it will be for Members to decide whether they are willing to agree that.

13.2 Senator I.J. Gorst:

Sir, perhaps I can help. I did have a conversation with Deputy Tadier and he suggested that it might be a way forward. At that point I had not consulted with Members that I was considering putting their names forward. I have done that with one, I will be doing it with another shortly after we rise. Could I suggest that any other Member who might be thinking of putting their names forward has a conversation with me? I am sure they will be having the same conversation with the President of the Chairmen’s Committee and, therefore, in light of that and other Members we may not need a large gap at all and in actual fact the Chairman might be in a position to be able to say who they would be proposing during the election process anyway.

The Bailiff:

Can I suggest to Members that this is deferred until tomorrow when we know the result and we find out how much time the successful candidate wishes. Very well, so that brings today to an end. The adjournment is proposed. We will reconvene at 9.30 a.m. tomorrow morning.

ADJOURNMENT

[16:55]