# STATES OF JERSEY

# DRAFT ANNUAL BUSINESS PLAN 2012 (P.123/2011): SEVENTH AMENDMENT

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**Lodged au Greffe on 30th August 2011**
**by the Connétable of St. Helier**

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**STATES GREFFE**

DRAFT ANNUAL BUSINESS PLAN 2012 (P.123/2011): SEVENTH AMENDMENT

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**PAGE 2, PARAGRAPH (e) –**

After the words "for 2013 and 2014" insert the words –

> "except that the indicative total of net revenue expenditure shall be increased in 2013 by £1,840,000 and by a similar sum in 2014 (uprated as appropriate for inflation) to fund the introduction of the payment of rates on all public land and buildings (which are currently exempt from both foncier and occupier rates in accordance with Articles 17 and 18 (respectively) of the Rates (Jersey) Law 2005), without seeking to recover such payment from the Parishes".

CONNÉTABLE OF ST. HELIER

## REPORT

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

Very quickly, should the States pay rates? **[Laughter]**

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

Ideally, yes, because there is an unfairness ... **[Laughter]**

*Hansard, 11th December 2008 (Election of Minister for Treasury and Resources)*

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In 2004 the Policy and Resources Committee was persuaded to include in the landmark Report and Proposition 'Machinery of Government: relationship between the Parishes and the Executive' (P.40/2004) the proposal to investigate the States' liability to rates. The Committee agreed to lodge an amendment to their own proposition, with the following accompanying report:

> "The report and proposition of the Policy and Resources Committee on the relationship between the Parishes and the Executive was lodged "au Greffe" on 9th March 2004. The Committee has since received valuable feedback from the Connétable of St. Helier, and as a consequence it would like to propose an amendment to part (e) of the proposition relating to the proposed review of the States land and property portfolio.
>
> In paragraph (e) it is proposed that "the Finance and Economics Committee should be charged to undertake a review of the States land and property portfolio in order to bring recommendations to the States regarding the States' liability to rates". The scale of this task should not be underestimated, but the Committee accepts that it would be helpful to set a deadline for these recommendations to be placed before the Assembly.
>
> An assessment of the work involved in this review indicates that a deadline of July 2005 would be reasonable, as this will allow sufficient time for consultation with interested parties and for consideration of the various options referred to in paragraphs 65-69 of the Committee's report. It is anticipated that this will be a high-level review, during which a general assessment would be made as to the extent of the estimated States liability to rates, should the States ultimately decide to pursue this option. It is not felt that it would be appropriate at this stage for the review to make a detailed assessment of the rateable value of every States property, as this would be a costly and time-consuming exercise, and it would be premature to carry out such an exercise until such time that the States have had the opportunity to consider the recommendations of the review.".

P.40/2004, as amended, was approved on 25th May 2004. On 19th July 2005, the Finance and Economics Committee presented to the States their Report: 'Parish Rates: the States' liability' (R.C.56/2005) in which, although they shied away from firm recommendations, the following statements were made –

"…the disproportionate location of States properties in St. Helier, St. Saviour and St. Peter creates significant costs for those Parishes and the Committee would like to address this issue *as a priority* **(my italics)**… The Committee will undertake to provide *firm recommendations* (my italics) with regard to the States Rates Liability when the Island-Wide Rate has been introduced and assessed and the economic effects of the Fiscal Strategy are more clear. The Committee anticipates that this will be possible *during 2007* **(my italics)**.".

In Question Time in January and March 2006, the Minister for Treasury and Resources gave assurances that this matter would be progressed, and he agreed that it would be advisable to set up a working group to pursue this matter further if 'firm recommendations' were to be made the following year. During the debate on the Strategic Plan in June 2006, the Minister repeated his assurance –

"I confirm now for the benefit of the doubt of the Connétable or anybody else that I will now be setting up that working group within the next 3 months with the aim that we will, in fact with the commitment, that we will be able to come back by 2007 with firm recommendations. I underline that is an undertaking which I am happy to give.".

A Working Party was set up under the Chairmanship of the Assistant Minister for Treasury and Resources (Deputy J.A.N. Le Fondré of St. Lawrence), with the following terms of reference –

- (to establish) whether there is merit in the States paying Parish and Island-Wide rates, or some equivalent payment, in respect of its properties;
- if so, what the financial impacts would be on the States;
- if the States should seek to defray these and, if so, how this could be achieved;
- the options for defraying these costs and the impact on parishes, ratepayers and/or taxpayers.

The Working Party concluded its work in August 2007. On 13th May 2008, the Minister for Treasury and Resources lodged 'Parish Rates: the States' liability' (P.68/2008), including the Working Party's report as an Appendix. The Working Party gave 4 reasons why the States should pay rates –

"***4.1 Proposal 1 – that the States, like other ratepayers, should be liable for both Parish Rates and Island Wide Rates on all their properties.***

(a) The Working Party is of the opinion that this course of action is the correct one for the following reasons:

- **The States should pay rates on an equity basis**

The States operates as a competitor with the private sector in the provision of certain services, for example office facilities, management services, grounds maintenance, etc. By not including an equivalent to the rates charge met by a private sector organisation, the States' operations are artificially subsidised.

- **The States should recognise the full cost of occupying property for comparative purposes**

The lack of a rates charge skews comparisons with private sector service providers and public sector bodies in the UK when benchmarking on performance indicators.

- **The States should recognise the full cost of occupying property to improve strategic decision making**

By not recording the full cost of occupying property, the States are hampered when making decisions on property usage.

- **The States should pay Parish rates to meet the cost of Parish service provision**

Parishes incur costs associated with the occupation of buildings that are normally recovered through rates. In particular, the Parish of St. Helier faces an opportunity cost of foregone rates when the States takes possession of a building that was in the private sector (e.g. Morier House), without any reduction in the Parish cost base.

- **The States should pay their share of the Island Wide Rate**

The States, by not contributing to the IWR, requires a higher level of contribution from the parishioners of all Parishes than would otherwise be the case. A commensurate States contribution would provide scope for a reduction in the rates demanded from all parishioners.".

The Working Party further recommended that the States should absorb the additional cost involved in the payment of rates, except where such costs are part of a charge recoverable from service users.

"***4.2 Proposal 2 – that the additional cost to the States in meeting their rates liability should be contained within existing States budgets, except where such costs form part of a service whose costs are recovered in the form of charges to end users.***

(a) In the United Kingdom, local and national government buildings are liable for National Non-Domestic Rates, subject to mandatory or discretionary relief, and the resulting costs are born by those organisations as part of their annual budgetary requirement.

(b) The Working Party considered that, as an overriding principle, total public sector revenue take (taxation and rates) should not increase and that the States should seek to absorb the additional costs within its approved future funding envelope.

(c) *The Working Party was of the view that the States contribution should not be offset by a commensurate increase in the contribution to the IWR, which would have a 'neutral' impact on States finances.* **(my italics)**

(d) Where those costs form the basis for the recharge of a service whose charge is limited to cost recovery (e.g. car parking, planning fees, etc.), such costs should be passed onto the end user to maintain a 'level playing field' position when comparing States services to comparable services provided by the private sector.

(e) The proposal will have a distributional effect between ratepayers and taxpayers but it should not increase aggregate public sector expenditure (i.e. the combined expenditure of the States and all Parishes) above that required to provide the current level of services.

(f) The Working Party did, however, acknowledge that each Parish has the autonomy to determine whether the States contribution was reflected in full as a reduction in rates charged to parishioners or employed to provide additional services. Ultimately, this would be for the relevant Parish Assembly to decide.

(n) The Working Party recognises the competing financial pressures within the States. The cost of implementing these proposals is not included in the current States forward financial forecast, but the Working Party considers that this should not, in itself, be a reason to delay implementation.".

However, the Minister proposed instead that the States should pay only Parish Rates, and that they should claw that money back through a greater 'contribution by the Parishes' to the IWR. Ratepayers in St. Helier and to a lesser extent in St. Saviour would have benefited from such an arrangement, but the other parishes would have been worse off. States Members were effectively being asked to require the ratepayers of 10 or 11 parishes to pay more in order that the ratepayers of one or two parishes should pay less. The likely outcome of the debate on P.68/2008 was clear, as an oral question put by Senator Norman on 13th May indicated.

In addition, the proposition displayed a fundamental lack of understanding of the operation and interrelation of the Parish Rates and the IWR, in seeking to request the States to increase the contribution by the Parishes to the IWR, as the Parishes do not contribute to the IWR – they collect it on behalf of the States.

Thus, the Minister ignored the Working Party's recommendation that the States pay both Parish rates and contribute to the IWR. If the principle was accepted that the States should pay rates – and the Minister appeared to accept this in the first line of the final section of his Report ('Proposal' – page 6) – there was no reason why the States should be treated differently from any other owner or occupier of land. After all, the States should operate on a level playing field with the private sector: yet under the Minister's proposal, the operator of a private school, for example, would have had to pay Parish Rates and the IWR at the Non-domestic level but a school run by the States would not.

The Minister's response to The Working Party's proposals on page 4 of P.68/2008 was contained under the heading 'Counter position' (in itself a curious phrase in this context when we recall that this Working Party was set up by the Minister himself and staffed by the Treasury and Resources Department) in 2 short paragraphs, the arguments in which can be summarised as follows –

According to the Minister, the States paying rates –

- 'achieves no net efficiency gain to the wider public sector';
- 'has a marginal increase in overall administration costs';
- '(will impact) on service provision'.

The first point can be rebutted by referring to the recommendations of the Working Party: States' service delivery is artificially subsidised, cannot be properly benchmarked with local private sector or UK public sector service delivery, and States decision-making on property usage is hampered by the fact that the full costs of its property holdings are not taken into account. Increased efficiency will be one result of the States paying rates, because it will enable the States property portfolio to be managed more effectively and with more realistic assessment of revenue budgets.

The second point is debatable – surely the information systems in States departments can manage to remit an annual rates payment? Or did the Minister mean 'negligible' rather than 'marginal'?

The third point raises the all too familiar spectre which confronts anyone who suggests that departmental revenue budgets should be trimmed. For several years now, and in spite of dire predictions of service cuts, States departments have shown themselves able to make efficiency savings, and there is no reason to think that further savings cannot be made. In any case, if there are – and I believe the Working Party showed this to be the case – good reasons for States departments to fulfil their obligations by paying rates, it is no more acceptable for the States to object, than it would be for a private business to do so.

Perhaps aware of the paucity of these arguments, the Minister proceeded to spend 3 paragraphs playing the centuries-old political trick of trying to drive a wedge between the Parish of St. Helier and the rest of the Island: if the States were to pay rates, the Minister argued that St. Helier would benefit in relation to other parishes, which would be inequitable. The Minister appeared to forget that for decades the ratepayers of St. Helier bore an unequal proportion of the burden of welfare payments, with the equalisation of the payment for non-native welfare only occurring in May 2006. Addressing 'the position of St. Helier' was one of the objectives of P.40/2004: 'Machinery of Government: relationship between the Parishes and the Executive', and the Working Party chaired by the then Deputy of Trinity accepted that it was unfair that St. Helier ratepayers funded a range of public amenities including toilets, parks, gardens, street-cleaning and litter-bin emptying within the Parish, the majority of which are funded out of general taxation where they are provided elsewhere in the Island. It is the predicament of St. Helier ratepayers now that is inequitable, not the prospect of their being the main beneficiaries of the States paying rates.

The Minister concluded his ‘Counter position’ with 2 further arguments which he appeared to believe reduce the States’ obligation to pay rates –

- Direct investment in St. Helier by the States (e.g. reclamation schemes) increases the rates paid to that parish.

- Public sector activity in St. Helier leads to increased trade for small businesses and hence ‘a higher level of rates take’.

The first point omits the obvious quality of life considerations for St. Helier. The impact of the La Collette reclamation scheme on the residents of Havre des Pas, in particular, is incalculable in cash terms, but there is a much larger question to be asked of how the quality of life of town residents suffers from the concentration of States’ development, or ‘direct investment’ as the Minister called it: traffic impacts, noise nuisance, air quality problems, to name but a few. The effect of increased rates income is to lower the amount per quarter, or ‘penny rate’ that is required to meet the Parish’s expenditure. Increased development in St. Helier means increased rates income, but if that exceeds the cost of the extra services required, there is no windfall to the Parish but a lower Parish rate will be set. Is it so very wrong for St. Helier ratepayers to nurse the hope that the disbenefits of their situation will be at least partly offset by their paying lower rates than Islanders living in less highly developed parishes? Over the past decade, the States of Jersey has been keen to endorse and implement policies which concentrate development, traffic, noise, et cetera, in St. Helier – how can they propose to deny this parish the rates income that is needed to maintain high levels of service and, if possible, to lower the rates paid by St. Helier ratepayers in relation to those paid in other parishes?

It is worth noting that despite the equalisation of native welfare payments achieved in 2006 by the creation of the IWR, St. Helier ratepayers in 2011 still pay among the highest parish rates in the Island (only St. Ouen and Trinity are higher; 6 parishes are lower).

The Minister’s second point makes no sense at all: there is no link between increased trade for small businesses and the amount of rates paid. Or does the Minister mean that increased economic activity will lead to the creation of more businesses? If that is the case, the second argument is the same as the first and is similarly flawed.

The last section of the Report to P.68/2008 returned to the supposed inability of States departments to pay rates. Ministers have known for some considerable length of time that it was feasible their departments would become liable to pay rates, and should have been planning accordingly. They had a clear steer from the Machinery of Government Review **as long ago as 2004** (P.40/2004), and a report by the Finance and Economics Committee the following year; at that stage more time was bought by the claim that the issue of the States paying rates could not possibly be debated until the ‘economic effects of the Fiscal Strategy (are) clearer and the IWR debated, accepted and implemented.’ One year later, in 2006, the States adopted my amendment to the Strategic Plan requesting that **firm recommendations** on this matter be brought forward later that year. Subsequently, the Minister for Treasury and Resources set up a working group and committed to bringing forward **firm recommendations** one year later, in 2007. The Working Party’s proposals were actually completed in the summer of 2007, and the Council of Ministers should have included the matter in their work on the 2008 Business Plan, even if there appears to have been no hurry on the part of the Minister to bring forward his **firm recommendations** as agreed in the Strategic Plan.

If one accepts the findings of the Working Party – as the Minister said that he did, albeit 'broadly … on an equity basis,' on page 6 of his report – there is no good reason for delaying any further the implementation of the Working Party's recommendations. The Minister cited 'already pressured States spending limits' as a good reason for further delay, but I suspect that if the States do decide that they simply cannot afford to pay the rates which the Working Party (set up by the States) advised are due, owners of businesses in Jersey (some of which provide services in competition with the States) will protest at unfair competition, while individuals struggling to make ends meet in the current economic climate will declare that they cannot afford to pay rates either!

The effect of this amendment, if approved, is that –

- the States will have to pay both Parish and Island-Wide Rates;
- the States will be unable to simply claw back via the Parishes a commensurate amount to offset Parish Rates, but States departments will have instead to make efficiency savings, increase fees where services are provided, and, where necessary, seek increased revenue budgets;
- the States will have to pay their rates bills in 2013 and 2014, in common with the rest of the Island's businesses and householders.

There are no manpower implications in this amendment. The financial implications have been estimated by the Treasury Department to be £1,840,000, and a similar sum in 2014 (uprated as appropriate for inflation).

**APPENDIX 1**

**States' Questions:** 31st January 2006

**2.1 Connétable A.S. Crowcroft of St. Helier of the Minister for Treasury and Resources regarding progress with the States paying Parish Rates on property in public ownership:**

In R.C.56/2005 regarding "*Parish Rates: the States' liability*", the former Finance and Economics and Committee identified that: "there is a strong argument that the States should pay rates", there was an unfair burden on several Parishes at the present time, and that the issue should be addressed as a priority with "firm recommendations" being made in 2006; would the Minister indicate what progress, if any, is being made?

**Senator T.A. Le Sueur (The Minister for Treasury and Resources):**

I am not sure where the Constable has found the reference to firm recommendations being made in 2006. I have searched R.C.56 and can only find a reference in the concluding paragraph to an anticipated date of 2007 for such recommendations to be presented. However, by way of reassurance, I can confirm that it is still my intention to bring forward firm recommendations at that time on the possibility of the States paying rates on its properties. If they read elsewhere, Members will find in the executive summary, the words: "In the interests of fairness and transparency, the Finance and Commerce Committee supports the argument of the States being rateable on all its properties. In recognition of the inequity caused by the current exemption and the severe financial constraints placed by the States, the Committee puts forward its preferred option for funding this potential liability. The Committee believes it would be unwise for the States to make a firm recommendation with regard to funding until the economic impact on the fiscal strategy are clearer and the Island-wide rate debated, accepted and implemented. The Committee would like to issue this R.C. as a preliminary consultation document in respect of the way forward." I remain of that opinion. At the present time, while the Island-wide rate has been debated and accepted, its effects, particularly on businesses, have not yet been fully evaluated. Similarly, aspects of the fiscal strategy remain under review. By the end of this year, there should be much greater clarity in both these areas enabling proposals to be considered in light of full information. In conclusion, I reaffirm my support of the conclusions of R.C.56/2005 and it is my intention to bring recommendations as stated in 2007.

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

I apologise for the typo. It is, indeed, 2007 and it should have been in the question. Notwithstanding that, if the Minister is to bring forward firm recommendations next year and given that the conclusion promises preliminary consultation, would it not be advisable for the Minister to invite Members of the Committee of Constables and other interested parties to form a working group this year in order that firm recommendations can be brought forward next year?

**Senator T.A. Le Sueur:**

Yes, Sir, I am perfectly happy to meet with the Comité of Connétables but perhaps that would be premature at this stage until the clear impact and the effect of the non domestic rate has been evaluated by them.

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

Sorry, Sir, clarification. I did ask whether the Minister would be prepared to form a working group involving the Committee of Constables so that firm recommendations could be brought forward next year.

**Senator T.A. Le Sueur:**

I think it is more than a Comité of Connétables, so as the report suggested there are also matters of fiscal implication and economic implication. I would be happy to form a working group which would include the Connétables but other people would also be needed on that group as well.

**APPENDIX 2**

**Debate on States' Strategic Plan 2006 – 2011 (P.40/2006)**: 22nd June 2006

**1.12 The Greffier of the States (in the Chair):**

I put the amendment, so those Members in favour of adopting it as amended kindly show. Against? The amendment is adopted as amended. We come now to the second amendment in the name of the *Connétable* of St. Helier. I will ask the Greffier to read that amendment.

**The Deputy Greffier of the States:**

After the word "appendix" insert the words: "Accept that (1) in commitment 6 outcome 6.1 after action 6.1.3 insert the following actions. 6.1.4 bring forward firm recommendations on the possibility of the States paying rates on its properties in 2006."

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

Members will be delighted to learn that we are not to have this evening, or we do not need to have this evening, a debate about the States paying rates. We possibly could even finish the strategic plan this evening perhaps because of that. I see that Senator Ozouf has brought in a glass of water and he will not need it because the Council of Ministers has proposed an amendment and I understand that certain comfort is to be given to me by the Minister of Treasury and Resources that we are indeed, as said in the Finance and Economic Committee's paper last year, going to have firm recommendations in 2007 for the States to pay rates on its properties. My request for a working group to be set up to progress that is to be taken forward this year. So, I am happy. My only concern really is that in the comment on this second amendment lodged by the Council of Ministers they say that the solution to the problem, and it clearly does present a problem, has got to be cost neutral to the tax payer, and I do not think it is right at this stage that we prejudge the outcome of that study. Who knows what solutions the study is going to come up with? But having said that, Sir, I am pleased that we seem to have reached an accord and I propose the amendment.

**The Greffier of the States (in the Chair):**

Is the amendment seconded? **[Seconded]** There is an amendment in the name of the Council of Ministers. The Greffier will read that amendment.

**The Deputy Greffier of the States:**

In the proposed new action 6.1.4 before the words "in 2006" substitute the words "by 2007".

**1.12.2 Senator T.A. Le Sueur:**

This is really an obligation to be placed on the Treasury and Resources Minister and so I am happy to speak to it. I am grateful for the Connétable of St. Helier and the position that operates between these benches and his benches which enables me to deal with this fairly quickly. I said in answer to him earlier that I would be setting up a working group once the full impact of the new rates law had been assessed. The Connétable of St. Ouen yesterday gave details of the breakdown of the rating assessment and I confirm now for the benefit of the doubt of the Connétable or anybody else that I will now be setting up that working group within the next 3 months with the aim that we will, in fact with the commitment, that we will be able to come back by 2007 with firm recommendations. I underline that is an undertaking which I am happy to give. The Connétable is happy to accept that undertaking and on that basis I would like to propose the amendment.

**The Greffier of the States (in the Chair):**

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the amendment to the Council of Ministers? Deputy Breckon.

### 1.12.3 Deputy A. Breckon:

I would be delighted if the Minister of Treasury and Resources could tell me the difference between in 2006 which is the end of the year, I would presume, and by 2007. Could you tell me what the difference is?

### 1.12.4 Senator T.A. Le Sueur:

By 2007, it is vague and it does not say by what date in 2007. However, I think the spirit of this is we are going to go on ahead with it as quickly as possible. I maintain the amendment.

### 1.13 The Greffier of the States (in the Chair):

I put the amendment to the Council of Ministers. Those Members in favour of adopting it, kindly show. Any against? The amendment is adopted. Does any Member wish to speak on the amendment of the Connétable as amended? If not I will put that amendment as amended. Those Members in favour of adopting it, kindly show. Any against? That amendment is adopted as amended.

**APPENDIX 3**

**States' Questions:** 13th May 2008

**3.6 Senator L. Norman:**

This morning the Minister lodged the proposition P.68 which, if adopted, would require the States to pay Parish rates but this would be balanced by an increase in the Island-wide rate. This would mean the rate payers of St. Helier would be significantly better off, the rate payers in St. Saviour would be marginally better off and the rate payers of the 10 other Parishes would be significantly worse off. Does the Minister consider this to be fair and equitable?

**Senator T.A. Le Sueur:**

The issue of the States paying Parish rates is not a simple matter as the report of the working party makes quite clear and there is, on the one hand, the desire for equity that the States would be treated just like any other property owner. The reality is, Senator Norman rightly says, that it will shuffle the revenue and expenses around and that there will be certain winners and certain losers. That is a decision which ultimately this House will have to make, Sir, and that is why I have lodged the proposition for discussion and in due course the House will decide whether this is a good idea or not.

**3.6.1 Senator L. Norman:**

The Minister did not answer my question. Does he consider his proposition and the effect of his proposition to be fair and equitable?

**Senator T.A. Le Sueur:**

On the one hand, yes, Sir, and on the other hand, no. **[Laughter]** It replaces one inequity by another potential inequity.

**APPENDIX 4**

**Debate on Vote of no confidence in the Council of Ministers**: 1st and 2nd July 2008

### 7.1.5 The Connétable of St. Helier:

But I would refer Members to the failure of the States to grapple with several long-running issues surrounding the inequity of the way the Parish of St. Helier is treated. Of course it might be wrong to blame this Council of Ministers for that because this has been going on not only for decades, but for centuries. I was particularly disappointed that the Treasury Minister hoped that dithering and delay would mean that the issue of the States paying rates on its properties could be quietly buried and when he finally brought forward a proposition which, as Members will know, was almost designed to failure, that of course has now been withdrawn despite my having spent quite a lot of time on it, on amending it and I suppose that might come back next year or the year after. I think that is one example of the inequity of this important Parish in the Island that gives me concern, but other Members will be aware of, under the former Deputy of Trinity, David Crespel, the machinery of government review recommended that the position of St. Helier be addressed as a priority and several issues around the Parish's position simply have not been met ...

### 1.13 Senator F.H. Walker (The Chief Minister):

I was very grateful for the contribution from the Constable of St. Helier. I am particularly pleased that he identified a number of issues in St. Helier where the Council of Ministers have been supporting initiatives in terms of street cleaning, safer St. Helier, et cetera.

**Election of Minister for Treasury and Resources**: 11th December 2008

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

Very quickly, should the States pay rates? **[Laughter]**

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

Ideally, yes, because there is an unfairness … **[Laughter]**