

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 15th JANUARY 2013

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[10:25]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1. The Bailiff:

1.1 Welcome to Members

May I begin by welcoming Members back to the Assembly after the Christmas break? I trust that everyone is well refreshed and, in particular, I am delighted to welcome His Excellency to this first sitting. **[Approbation]**

1.2 Church service – thanks

The second matter I want to do is to thank the Dean for organising the service we have just attended; also the town choristers for singing and Reverend Graeme Halls and Father McAuley for participating in it, so thank you very much. **[Approbation]**

1.3 Deputy Viscount – appointment

The next matter I want to raise is that as Members know, the Deputy Viscount, Mr. Peter de Gruchy, retired at the end of last year. The Viscount, with my consent, has now appointed a new Deputy Viscount and that is Advocate Mark Harris and he will be taking up his appointment on Monday, 28th January so I am sure Members will look forward to welcoming Advocate Harris as our new Deputy Viscount. **[Approbation]**

1.4 Former Senator R.J. Shenton – appreciation

I suspect that there is no one in the Island who does not know that the former Senator Dick Shenton died on 2nd January at the age of 86. Much has already been said and written about him and the many who attended his funeral on Friday heard moving and well merited tributes from his son Ben and from Monsignor Nicholas France. Breaking the mould by not standing first for Deputy, Dick Shenton was elected to the States as a Senator in 1969. Despite that being the first time he had stood for election, he topped the poll, as he was to do in the next 3 elections in which he stood. He served a continuous total of 30 years as a Senator, retiring in 1999 before coming back for a further period of just over a year in 2004 following the resignation of the late Senator Lakeman. During his time in the States, he was entrusted with the presidency of many committees. These included Health and Social Services, Defence, Establishment, Agriculture and Fisheries, Constitution in the Common Market, Island Development, Resources Recovery Board, Tourism, Broadcasting and Postal, as well as some committees of inquiry and special committees to look into various matters. He made his mark at almost all of these. At the I.D.C. (Island Development Committee), he was said by the Bailiff of the day, Sir Frank Ereaut, to have put a human face on planning and at Defence, which he assumed at a time of crisis because of criminal prosecutions involving senior police officers, he rapidly restored public confidence in the police. He was one of the most powerful orators that this Assembly has ever seen. He had, of course, great physical presence but he was much more than that. He would invariably speak without notes and he would speak from the heart. He felt passionately about matters and this came across in the way he spoke in the Assembly. His audience would be swept up in what he was saying, even if they did not instinctively agree with him. There is no doubt that he carried the day in the States on many occasions simply through the power of his oratory. Those of us who had the privilege of hearing him in full flow will long remember him. He certainly felt things strongly and he liked to have his say. I enjoyed Ben Shenton's description of political discussions of the Shenton family as being rather like a States debate where the Bailiff has completely lost control **[Laughter]** but oratory is no good if there is no underlying purpose to it. There was certainly purpose in Dick Shenton's case. He loved his Island passionately and he wanted to do his best for it and he was willing to stand up to anyone to defend its interests. A classic example of this was the incident at the Home

Office. It was mentioned in the *Jersey Evening Post* recently but I think it bears repeating. He was part of a delegation of Jersey politicians which was attending the Minister at the Home Office with responsibility for the Crown Dependencies. As the delegation entered, the Minister sat down, undid his watch and ostentatiously placed it on the table in front of him. Now many might have been put off by this clear indication that the Minister was a busy man who had limited time but not Dick Shenton. He responded immediately by saying that the delegation had travelled all the way from Jersey to discuss a matter which was important to the Island and if the Minister did not have sufficient time to deal with it that day, they would leave and return another day when he did have sufficient time. The Minister was, of course, immediately shamed into retreat and the meeting progressed without time limit. Dick Shenton's other abiding political belief was the need to stand up for the ordinary Jersey man and woman. His entire political career was underpinned by this desire. As Ben Shenton mentioned also in his address at the funeral, there was regularly a queue of people waiting to see him in his office and he invariably did his best to help them. During his time in the States, he lodged some 150 propositions in his own name, many aimed at helping those whom he felt had suffered a raw deal. For his services to the Island and to charity, he was awarded an O.B.E. and also made a Knight of the Holy See for his services to the Catholic Church but much of what he did was unsung. I was told the other day of an occasion where an 8 year-old girl from the U.K. (United Kingdom) had lost both her legs after illness and the suggestion was made that she and her family should come to Jersey for a holiday. An approach was made to Dick Shenton to see if he could help. He worked behind the scenes and he managed to arrange everything free of charge, hotel accommodation, hire car, entry to the Island attractions and so on. He was there to meet the girl and her family on their arrival at the airport but he made it clear he did not want any public acknowledgement of what he had done. It was a typical example of the way that he would help other people. The Island has lost a charismatic politician who gave much of his life to serving his Island. His devoted wife Jill and his family can be justifiably proud of what he achieved and our thoughts are with them at this time. I ask Members to stand with me in his memory. That concludes matters under A.

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

2. Nomination of Deputy M. Tadier of St. Brelade as a member of the Education and Home Affairs Scrutiny Panel

The Bailiff:

I am able to inform Members that the Connétable of St. Brelade has resigned from the Education and Home Affairs Scrutiny Panel. Now I understand that the Chairman of the panel may wish to make a nomination for a replacement member.

2.1 Deputy J.M. Maçon of St. Saviour:

Before I do that, I would like to thank the Constable of St. Brelade for his contribution to the Education and Home Affairs Scrutiny Panel over the past year. It has been a pleasure guiding and training him in becoming a fully-fledged member of Scrutiny and learning from such a dedicated Member of the Assembly who holds such high standards, particularly for and sometimes against himself. The Constable has proven to be a great asset to the Scrutiny function and while on the panel, the Constable has been robust at demanding evidence from Ministers, officers and witnesses and readily repeating questions until actual evidence and not opinion is provided. The Constable has added a dynamic approach to the panel and his passion for young people, which I know is a subject close to his heart, has shone through, especially when discussing the Youth Service. While naturally the panel did not want to give up the Constable, we have reluctantly accepted his resignation and wish him every success in his ongoing role on the Economic Affairs Scrutiny Panel

and fulfilling his role as Constable. I would not like to be the Minister for Economic Development who will now receive the undivided attention of such a well-trained scrutineer. On behalf of the Education and Home Affairs Panel and on behalf of the public, I would like to thank the Constable of St. Brelade, Steve Pallett, for his service **[Approbation]** but before the Minister for Education and Home Affairs can breathe a sigh of relief, it gives me great pleasure to be able to propose Deputy Montfort Tadier of St. Brelade to join the panel.

The Bailiff:

Is that nomination seconded? **[Seconded]** Are there any other nominations? Very well then. I declare that Deputy Tadier is elected to the scrutiny panel. **[Approbation]**

QUESTION TIME

3. Written Questions

3.1. DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING HEALTH INSURANCE FUND PAYMENTS TO DOCTORS:

Question

“Will the Minister complete two tables using the following format noting that the information will be anonymous in that each doctor will be allocated a number and those who entered or left practice in or after 2009 should appear at the end of the list and only show an aggregate figure for each year for –

Doctor	2009	2010	2011
1			
2			
3			
4 etc			

- (a) the amount of money paid to each GP out of the States Health Insurance Fund for visits to the doctor each year;
- (b) the amount of money paid to each GP out of the States Health Insurance Fund for letters of referral for each year?”

Answer

These tables have been prepared according to the format requested in the question. It should be noted that between individual GPs there will be significant variations in funding received for several reasons including:

- The total number of hours worked per GP;
- The make- up of the patients seen by the GP - some GPs will have a higher number of elderly, under 5’s or vulnerable patients.
- The proportion of work undertaken by the GP that receives funding from the Health Insurance Fund - some services provided by GPs do not qualify for health insurance rebates.

The medical benefit rates for the three years in question are as follows:

From	To	Rate
1 January 2009	16 May 2010	£15.00
17 May 2010	7 July 2011	£19.00
8 July 2011	31 December 2011	£19.59

(a)

GP Index No.	2009 Visits	2010 Visits	2011 Visits
1	£84,765	£99,609	£110,444
2	£66,225	£70,941	£71,288
4	£54,975	£67,465	£77,434
5	£100,485	£122,867	£124,957
6	£40,050	£44,510	£40,330
9	£34,905	£35,556	£44,485
10	£56,475	£64,662	£72,865
11	£70,185	£81,715	£92,142
12	£68,115	£69,653	£85,785
13	£32,130	£37,553	£39,488
14	£56,430	£69,601	£74,829
15	£70,830	£78,647	£97,859
16	£98,430	£97,398	£91,677
17	£67,275	£68,819	£77,459
18	£92,970	£101,278	£106,698
19	£67,065	£79,167	£68,200
20	£49,755	£51,857	£59,122
22	£63,840	£76,843	£82,577
25	£14,325	£6,935	£21,843
26	£64,305	£67,402	£72,267
27	£79,245	£88,332	£89,112
28	£72,075	£82,838	£89,365
29	£19,890	£30,037	£34,086
30	£77,415	£82,686	£84,762
31	£68,940	£75,396	£84,996
33	£30,165	£40,898	£40,282
34	£63,045	£62,013	£75,081
35	£75,915	£85,972	£92,177
38	£57,360	£57,091	£65,749
39	£56,070	£51,632	£51,748
40	£58,755	£68,311	£74,495
41	£130,815	£153,510	£179,733
43	£66,750	£70,911	£78,873
44	£54,615	£65,148	£75,982
45	£86,790	£97,434	£117,115
46	£55,080	£57,584	£63,304

GP Index No.	2009 Visits	2010 Visits	2011 Visits
47	£33,030	£32,553	£35,218
48	£76,635	£81,237	£86,992
50	£31,110	£34,450	£38,810
51	£77,475	£83,610	£107,310
52	£69,675	£75,781	£81,507
53	£40,020	£53,083	£61,049
54	£72,480	£77,427	£83,200
55	£62,640	£69,989	£78,494
56	£47,730	£47,458	£46,215
58	£44,010	£54,457	£43,285
59	£11,295	£13,461	£14,344
60	£56,775	£58,768	£70,547
61	£89,370	£95,578	£107,153
62	£61,125	£67,754	£74,333
63	£64,815	£69,388	£77,483
64	£15,465	£19,001	£13,714
65	£52,950	£64,564	£69,800
66	£49,200	£56,052	£60,179
67	£41,805	£53,991	£47,818
69	£36,150	£53,028	£53,048
73	£31,725	£40,665	£52,020
74	£61,230	£70,530	£84,248
76	£66,165	£76,070	£82,454
77	£43,410	£42,460	£43,525
78	£71,730	£63,368	£86,242
79	£88,665	£99,050	£93,941
80	£121,650	£108,055	£106,424
82	£35,655	£39,882	£42,346
83	£61,095	£69,117	£69,854
84	£73,815	£76,629	£77,628
87	£54,105	£62,053	£69,082
88	£30,120	£34,734	£44,267
90	£66,405	£67,041	£69,175
92	£47,295	£52,034	£56,934
93	£58,305	£67,915	£72,662
94	£41,205	£49,525	£55,621
95	£52,099	£55,333	£70,971
96	£82,905	£88,177	£88,914
99	£58,065	£65,125	£68,959
100	£73,845	£83,461	£79,722
101	£57,195	£56,315	£69,062
102	£57,210	£64,378	£78,552
103	£28,515	£34,680	£34,544

GP Index No.	2009 Visits	2010 Visits	2011 Visits
106	£89,835	£91,348	£93,555
107	£70,710	£87,937	£100,343
111	£132,420	£147,304	£154,705
113	£72,420	£78,729	£85,707
114	£57,150	£70,003	£74,406
115	£73,290	£65,520	£66,300
116	£46,725	£50,664	£53,398
118	£68,160	£81,160	£66,336
121	£54,615	£61,671	£70,252
126	£79,740	£89,630	£99,457
Retired & Started	£242,325	£210,927	£349,866

(b)

GP Index No.	2009 Referrals	2010 Referrals	2011 Referrals
1	£9,735	£11,644	£11,763
2	£5,415	£5,298	£7,827
4	£5,070	£6,915	£11,451
5	£13,380	£17,851	£17,778
6	£3,630	£4,010	£4,483
9	£4,965	£9,362	£13,364
10	£3,015	£3,670	£3,458
11	£10,665	£12,469	£13,437
12	£12,255	£14,424	£18,571
13	£3,300	£3,846	£4,274
14	£6,480	£9,493	£9,954
15	£16,605	£11,652	£14,588
16	£5,580	£7,028	£7,924
17	£4,425	£4,666	£5,743
18	£9,735	£11,671	£12,124
19	£7,740	£8,000	£6,224
20	£2,835	£3,918	£4,202
22	£3,795	£4,685	£6,866
25	£3,060	£1,284	£3,372
26	£10,185	£12,343	£16,389
27	£7,845	£8,519	£10,949
28	£9,015	£11,057	£12,873
29	£3,675	£5,759	£5,994
30	£11,565	£12,551	£17,649
31	£5,520	£6,628	£6,503
33	£3,150	£4,847	£4,664
34	£11,505	£11,848	£15,955
35	£4,260	£4,839	£5,463

GP Index No.	2009 Referrals	2010 Referrals	2011 Referrals
38	£8,865	£9,692	£10,696
39	£5,415	£5,350	£5,991
40	£5,760	£7,774	£9,433
41	£13,320	£18,009	£21,335
43	£7,230	£6,847	£8,457
44	£7,680	£13,172	£17,582
45	£4,920	£5,027	£4,770
46	£4,380	£5,449	£6,787
47	£6,330	£7,648	£8,192
48	£8,985	£9,517	£10,287
50	£2,370	£2,689	£3,317
51	£12,045	£12,410	£18,136
52	£4,005	£6,384	£8,341
53	£6,015	£10,077	£12,139
54	£7,095	£8,637	£13,283
55	£7,035	£9,452	£11,241
56	£5,685	£8,017	£9,515
58	£4,665	£7,989	£8,689
59	£870	£1,081	£1,278
60	£9,510	£10,281	£14,418
61	£12,030	£14,946	£18,295
62	£5,760	£6,050	£5,874
63	£5,340	£6,549	£6,828
64	£990	£1,050	£810
65	£4,470	£4,651	£5,222
66	£2,580	£3,532	£3,549
67	£7,005	£8,110	£8,235
69	£6,735	£12,301	£14,771
73	£4,020	£7,939	£11,994
74	£8,670	£11,585	£13,515
76	£9,915	£11,334	£12,100
77	£5,820	£5,722	£5,897
78	£6,285	£5,309	£7,516
79	£7,485	£7,585	£7,006
80	£12,810	£12,903	£14,661
82	£3,735	£4,875	£4,241
83	£3,525	£3,985	£4,564
84	£14,745	£17,769	£20,909
87	£7,290	£7,861	£8,856
88	£810	£1,527	£702
90	£3,735	£4,710	£5,014
92	£4,215	£7,625	£8,093
93	£4,200	£5,048	£7,092

GP Index No.	2009 Referrals	2010 Referrals	2011 Referrals
94	£5,520	£5,931	£8,636
95	£4,035	£4,450	£5,141
96	£10,620	£12,422	£13,352
99	£11,460	£13,586	£15,141
100	£3,645	£4,528	£5,377
101	£1,605	£1,862	£3,120
102	£3,390	£6,092	£6,551
103	£3,645	£5,172	£5,007
106	£6,360	£5,615	£6,593
107	£12,135	£13,772	£19,465
111	£22,035	£24,458	£23,911
113	£7,065	£7,694	£8,661
114	£5,925	£6,089	£6,618
115	£7,680	£6,088	£6,420
116	£10,875	£14,132	£15,441
118	£25,605	£25,953	£28,348
121	£4,020	£6,159	£6,742
126	£7,740	£6,931	£7,828
Retired & Started	£19,800	£18,154	£40,796

3.2 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE ECONOMIC BENEFIT TO THE ISLAND OF THE HANGAR8 PROJECT:

Question

Further to the Minister's answer to my question of 11th December 2012 regarding Hanger8 in which he stated that the new operation will 'pay all relevant taxes', what economic benefit, if any, will this company deliver to the Island?

Answer

- As a Jersey registered business, the company will be subject to pay relevant government taxes, as well as Parish rates and other associated company operating costs.
- There will also be increased revenue for Jersey Airport through ground lease payments, and growth in aviation income such as aircraft landing and parking fees.
- In the short term there will be construction related jobs, from the design stage through to the actual building of the new facilities, subject to the usual planning permission being granted.
- The company will also provide direct employment opportunities, in a variety of roles from administrative to highly technical maintenance functions. The exact number of roles will be determined by the company in accordance with their business needs.

- The provision of such a facility increases the existing offering for high net worth individuals to locate and hangar their aircraft in Jersey. It will also provide businesses and individuals based in the Channel Islands with access to a worldwide network of corporate aviation available through the global links provided by the new operator, Hangar8.

3.3 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING THE NUMBER OF ‘J’ CATEGORY PERMITS CONVERTED TO ALLOW PERMANENT RESIDENCE IN THE PAST 5 YEARS:

Question

How many ‘J’ category permits have, in each of the last 5 years, been converted from time limited permits to those allowing permanent residence and can a breakdown be provided of the occupational makeup of these changed permits?

Answer

	2012	2011	2010	2009	2008
Finance and Legal	23	32	47	38	62
Public Sector (civil servants)	5	3	4	2	3
IT	4	1	0	3	3
Private Medical	1	3	2	2	2
Construction	3	2	2	4	0
All Other Private Sector, including retail, tourism, and telecommunications	9	8	11	14	14
1(1)(j) category consents extended such that time limits are removed	45	49	66	63	84

It should also be noted that just because a 1(1)(j) consent is extended from a time limited to an unlimited basis, that does not necessarily mean the individual will remain permanently resident in the Island. Indeed, the 1(1)(j) population of the Island experiences a high turnover, with up to 40% of 1(1)(j) employees leaving in any one year.

3.4 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ‘GIGABIT JERSEY’ PROJECT:

Question

Would the Minister as representative of the shareholders confirm whether the ‘Gigabit Jersey’ project is on target in terms of predicted connections and projected costs?

How many connections have been made to date and how many were predicted?

What was the anticipated cost per connection and what is the actual cost?

Answer

Gigabit Jersey is a five-year programme that started in 2012 and will result in the removal of copper installed over the last 50+ years in buried ducts so that all fixed broadband services will instead be provided over fibre optic cables.

As JT is a commercial organisation working in a competitive market, it would be inappropriate to give exact costs of connection but the Board of JT remains confident that Gigabit Jersey will be delivered as scheduled by 2016 and to budget.

The fibre product is experiencing very strong consumer demand and is running ahead in terms of fibre optic cables installed in JT ducts under the road (26,115 homes passed by 31 December 2012 against a plan of 9,628) and the installation of the core network infrastructure was completed in 2012 to time and to cost. The Board of JT is now focussed on improving the delivery of the homes connected part of the programme. On 31 December 2012 this stood at 1,737 broadband homes connected against a plan of 3,505. This shortfall will be recovered over the course of the switchover.

3.5 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE RECENT SEWER REPAIRS ALONG ST. CLEMENT'S COAST ROAD:

Question

With regard to the recent 'hole in the road' in St. Clement, would the Minister advise of the projected life expectancy of the repairs, whether there is any contingency to replace the sewer and, if so, at what cost?

Would the Minister also advise whether the ten men in the photograph published in the Jersey Evening Post watching two others working in the hole in the road were public sector employees and, if so, what their job titles are?

Answer

The repair to the collapsed sewer in La Grande Route de la Cote that was carried out over the 27th and 28th of December was a temporary fix to prevent further leakage of sewage from the sewer, and to enable sewage flow to be restored and the road to be re-opened to traffic as quickly as possible.

The department is currently in discussions with contractors over a more long term remediation, although this is likely to be some form of structural lining option as was carried a few years ago on La Grande Route de la Cote between the Rice Bowl Restaurant and the Ambassadeur Hotel.

The advantage of this form of remediation is that the structural integrity and flow capacity of the original pipe can be restored without having to carry out major excavations in the road as the relining can be carried out from existing manholes. The life expectancy of this remediation option is likely to be something like 50 years.

The exact costs of this remediation option are not yet known but they are likely to be of the order of £30,000. However, a survey of downstream sections of sewer has not yet been carried out as clearance operations to remove residual debris are still ongoing. It is possible therefore that consideration will need to be given to extending the re-lining to ensure that the risk of a further collapse is mitigated.

With regard to the ten men in the photograph featured in the JEP, these were a mix of public sector employees and employees of the private drainage contractor Brenwal. Brenwal were brought in as

the department did not have sufficient experienced men available to address this emergency due to the Christmas break.

Of the ten men outside the excavation, seven were Public sector employees and three were from Brenwal. The two men in the excavation itself were also Brenwal employees.

Of the seven public sector employee's, two were Driver/Operators of Specialist Vehicles, manning a jetvac tanker which was providing a sewer cleaning support function, two were Driver/Labourers who were collecting, setting up and operating support equipment for Brenwal such as lighting and pumping.

A further public sector employee was a Drainage Leading Chargehand who was supervising the work of the aforementioned personnel and another was the Manager Drainage Infrastructure who has overall responsibility for the day to day operation of the drainage network. The final employee was the Assistant Director Drainage Infrastructure who was attending site at the time to obtain an update for media purposes.

I should add that at the time the photo was taken, excavation had reached a stage where the pipe was about to be exposed which generated an interest in all those in attendance as to how bad the damage was.

Given the short time between personnel attending the original incident and the road re-opening to traffic, I would like to take this opportunity to thank all personnel involved, both public sector and those from Brenwal, for their efforts in resolving this emergency as speedily as they did, particularly as it occurred over the Christmas period when many staff were on leave.

3.6 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE AVERAGE DAILY USAGE AND THE COST OF ADMINISTERING THE ISLAND'S CYCLE PATH NETWORK:

Question

Would the Minister give details of the of cycle paths his department administers, together with the estimated average daily usage by cyclists?

Answer

TTS provides a shared walking and cycle route which, with the exception of a section of Commercial Buildings by the English and French Harbours, provides a continuous cycle route between Havre des Pas and Corbiere, with a connection through Quennevais Sports Centre, alongside the airport to the southern end of St Peter's Village.

In addition to the above, the following discrete routes are also designated shared walking and cycle paths:-

The footpath on Beaumont Hill,
La Perquage Path in St Lawrence from Sandybrook to La Route de la Haule,
Gorey harbour to Lavender Villa.

Ignoring pedestrian journeys, TTS survey data shows the southern coastal cycle route at West Park is used by approximately 460 cyclists between 7.30 and 9am on a fair working day reducing to about half that number on wet winter days. Interpolating from various other data the estimated total number of cyclists using that route ranges between 2400 per day on a fair summer weekday and 1200 per day on a wet winter weekday. The States' Statistical Unit 2012 Jersey Annual Social Survey shows ten percent of commuters' state they cycle to work once or more per week.

The States Sustainable Transport Policy charges TTS to improve the Island's infrastructure and to provide off road cycling and walking routes in order to facilitate and promote active travel, such that cycling and walking levels respectively increase by 100% and 20%.

3.7 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING WAITING TIMES FOR HOSPITAL APPOINTMENTS WITH CONSULTANTS:

Question

Would the Minister, further to the answer given on 11th December 2012, explain why over 4000 patients have to wait on average more than five months to see a hospital consultant?

Would she further explain why the average wait for General Medicine (affecting 1,094 patients) is eight months, whether she is content with these delays and, if not, explain what tangible changes are being made to remedy the situation?

Answer

HSSD absolutely recognise that some of our specialties have waiting times longer than we would wish and actions have been put in place to try and remedy this situation. The percentage of patients waiting less than 5 months, across all specialties, is 96.5%, specialties currently experiencing longer waits and their specific actions are detailed below.

Dental: An orthodontic dental officer has just been appointed and will start in February, additional clinics are also being undertaken.

Pain - Additional clinics were undertaken in December plus two additional clinics each week in 2013. All clinic profiles are being reviewed.

Trauma & Orthopaedics: HSSD has already maximised clinic slots and is currently reviewing options for a 4th consultant. It is recognised that demand for this service, which is in part related to an aging demographic, will continue to increase. To provide expertise and flexibility, specialist consultants visit the island on an intermittent basis, this can lead to those patients with specific requirements unfortunately having an extended wait. Availability of theatre facilities is a limiting factor for this specialty which will be resolved by the new hospital, in the interim time temporary options are being explored as a matter of some urgency.

Ophthalmology: HSSD recruited a locum to undertake additional clinics in December 2012. This will be repeated in 2013 followed by a substantive Consultant appointment.

Speciality Medicine¹: This consists of a number of specialities which is why the number waiting appears so large:

- Cardiology: A research fellow commences in February and will provide additional clinics. A review of clinic profiles is being undertaken to maximise utilisation.
- Gastroenterology: Additional clinics were undertaken in December and HSSD has now appointed a locum consultant to deliver appointments in 2013.
- Neurology: HSSD reviewed clinic profiles in 2012, maximised clinic slots and introduced an additional weekly clinic. As a result waiting times for a new appointment have reduced from 78 weeks in 2011 to 48 weeks. 280 patients were awaiting a new appointment in May 2012 has reduced to 89 patients in January 2013.

Speciality medicine is usually provided by a singular consultant, as opposed to a team of consultants this can result in capacity challenges due to annual leave, sick leave and study leave impact.

In addition to the actions outlined above HSSD is:

- undertaking a refurbishment the outpatients department during 2013 to increase flexibility in use of the consultation rooms, thus allowing increased capacity in outpatient facilities
- reviewing all outpatient waiting lists on a weekly basis to ensure clinic slots are maximised.

Waiting times are impacted upon by a range of complex factors that include:

- increase in referrals: demand for outpatient appointments continues to rise This demand is driven by a number of factors including: population increase; population changes (eg: aging demographic; increase in birth rate); referral practice and patient expectations. Over 10,000 outpatient appointments are currently undertaken each month.
- unforeseen breaks in service provision: staff sickness or absence creates a backlog in waiting lists which can take months to address because of single handed provision and physical capacity.
- inter-relationship between outpatient and inpatient activity: an increase in throughput in one area has a direct impact on resources available in the other area.
- resource availability: HSSD is continually seeking ways to reduce waiting times by maximising use of current resources, including staff and facilities. Despite this however there is a trend for increased demand across HSSD services which cannot be matched by improvements in efficiency alone. The redesign and investment outlined in the White Paper will help to address this.

HSSD is committed to bringing down waiting times and will continue to work to do so.

3.8 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE FUNDING OF NURSES' PAY AWARDS:

Question

¹ The question specifically refers to long waits in General medicine affecting 1,094 patients. These waits are actually in speciality medicine, not general medicine.

Would the Minister advise whether the ‘contribution from the Health and Social Services budget’ referred to by the Chief Minister in his statement on 4th December 2012 with regard to funding nurses’ pay awards, includes any component from the Health Insurance Fund transfer recently approved by the Assembly?

Answer

The contribution referred to by the Chief Minister does not include any monies from the Health Insurance Fund (HIF) transfer. The budget contribution towards the nurses pay award comes from funds within HSSD’s MTFP budget which were specifically earmarked for investment in nursing.

As previously reported to the Assembly, the transfer to HSSD from the HIF is to fund primary care services, for example Family Nursing and Home Care services, and is independently audited by the Treasury.

3.9 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE SCREENING OF THE ENERGY FROM WASTE PLANT:

Question

Would the Minister confirm that planting and other measures were to have been used to mitigate the unsightliness of the new incinerator and, if so, would he explain why this has not yet been done given that the last reason for delay given by his department (over a year ago) was that it was the wrong season?

Would the Minister further advise what action, if any, will be taken to screen the rusty containers and what seems to be a huge white plastic sheet that have appeared in recent times and when will this take place?

Answer

Approximately 5,000 trees and shrubs were planted on the mound to the East of the Energy from Waste Plant during the autumn and winter of 2011/2012 as a requirement of the overall development. Due to the exposure of the site to South and South Westerly winds and the closeness to the sea, establishing trees in the area is extremely challenging as they are repeatedly subject to strong winds and salt damage. Because of these conditions, the planting of 'Standard' trees was not possible and instead the trees were planted as transplants (approximately 50 cm's tall) rather than anything bigger. As a result it will be some time before the trees and shrubs mature and become fully noticeable.

As expected, many of the trees have suffered from the harsh conditions of the site and some trees have not survived. During the winter of 2013 more trees will be planted to replace the ones that did not survive.

The shipping containers are being used to store asbestos which has been stock piled over the last 10 years. Transport and Technical Services submitted a planning application two years ago for the transfer of the asbestos to a sealed pit at La Collette and the subsequent disposal of the containers. Unfortunately this application is still awaiting a decision by the Planning Minister. In the mean time there are no plans to carry out any screening of the containers.

The “white plastic sheet” is part of the lining system which lines the inside of the ash cells used to deposit incinerator ash. The particular cell where this lining is visible will have the sides raised to increase its capacity by July of this year which should screen it from view.

3.10 THE DEPUTY OF ST. MARTIN OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE ROADS RESURFACING SCHEDULE FOR 2013:

Question

Would the Minister list which roads are scheduled for resurfacing during 2013 and the estimated expenditure budgeted for that work?

Answer

£3.2 million will be spent on road resurfacing in 2013.

Full resurfacing on sections of the following roads

Route de la Hougue Bie
Rue A Don
Gloucester Street and the Esplanade
Rouge Bouillon

Smaller scale resurfacing in the form of large panels

La Profonde Rue
St. Peter’s Valley
La Route de St. Aubin

In addition to the above a number of pavement and footway improvements will also be carried out

3.11 DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE DELIVERY OF AFFORDABLE HOUSING:

Question

Would the Minister advise the Assembly how many, if any, new homes have been delivered in 2012 and how many will be delivered as 'affordable housing' for purchase in 2013 and 2014 and on which sites?

Answer

As I have said on previous occasions the delivery of new homes, including affordable homes is not something I can control. The supply of homes is controlled by the Minister for Planning & Environment and his Department under the policies set out in the Island Plan. Delivery is carefully monitored and reported on annually by the Department of the Environment in its report on Residential Land Availability.

As the Department of the Environment is responsible for this very comprehensive and detailed report, I would suggest that the Planning Minister is the most appropriate point of reference for questions of this kind in the future. However, on this occasion, I am pleased to be able to provide the information requested and would like to record my thanks to the Planning Minister and his officers for providing the data which they will ultimately publish in the aforementioned report.

According to the Department of the Environment data 48 properties reserved for purchase by first time buyers were completed in 2012 and there is potential for an additional 51 homes in the next 5 years. Tables showing the sites and the numbers of homes thereon are set out below.

I have been drawing attention to the lack of affordable housing supply for some considerable time and wrote to the Planning Minister in December 2012 commenting on that and offering some suggestions (I have not as yet had a reply). I myself have been doing all that I can as Housing Minister to develop available sites in my control, specifically:-

94 new homes have been delivered in the past 18 months - 34 at Salisbury Crescent and 60 at phase 2a & 2b Le Squez

Work on 113 new homes which will commence this month - 24 at Le Squez phase 2c, 80 at Langtry Gardens and 9 at Journeaux Court

Contracts for a further 58 new homes will be entered into in 2013 – 35 at Lesquende and 23 at the former Le Coin site in Ann Street

As sites are made available to me through the Planning system, at least another 500 social and affordable homes can be delivered by the social sector

In respect of the social housing sector overall I think it is important to acknowledge the very important role played by our Housing Trusts some of whom are keen to develop more homes where sites are available, or to acquire homes produced by developers as part of their planning obligation requirement.

Table 1
Schedule of purpose built first time buyer housing completions 2012

Ref.	Site	Units by Type					
		1 bed	2 bed	3 bed	4 bed	5 bed	Total
Completions 2012							
2206 P/2009/1092 B/2010/0659	Uplands Hotel – Phase 2, Mont-a-l' Abbe, St. Helier <i>N.B. 3 other houses completed in 2011</i>			7			7 houses
P/2007/0223 B/2007/0654 B/2009/0397	Fields 190, 191 & 192, La Rue de la Sergente, St. Brelade (H2 site)			14			14 houses
P/2007/0223 B/2007/0654 B/2009/0397	Fields 190, 191 & 192, La Rue de la Sergente, St. Brelade (H2 site) INTERMEDIATE			12			12 houses
(P.75/2008) P/2009/1600 B/2010/0234	8053 Fields 561 and 562, St Mary			10	5		15 houses
Total completions				43	5		48

Table 2
Schedule of known completions due for first-time buyer housing, by type, in the next 5 years

Ref.	Site	Units by Type					
		1 bed	2 bed	3 bed	4 bed	5 bed	Total
Completions due by end 2017							
19304 Prelim. Advice PA/2009/2243 Still no Application.	Field 873, Bel Royal, St. Lawrence (H2 site)			7			7 houses
19304 Prelim. Advice PA/2009/2243 Still no Application.	Field 873, Bel Royal, St. Lawrence (H2 site) HOMEBUY or equivalent			5			5 houses
(P.75/2008) PA/2010/1774 P/2011/0618 B/2012/0240 (Phase1) B/2012/0358 (Phase 2) Not started	Field 578, Trinity NB – <i>App for 39 FTB and 4 social rented - this mix of units is different to the required tenure split set out in the Island Plan.</i>			39			39 houses
Total completions due (net) to end 2017				51			51

3.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING COMPANY TAX RETURNS:

Question

Can the Minister reconcile the figures given in answers to questions in March 2011 and November 2012 which stated that company tax returns of £54.6 million in income tax had been received for the trading year 2009 from all trades other than financial intermediation (15th March 2011) and £43 million from financial services for 2009 (6th November 2012) when a total figure of £83 million for company tax for 2009 was given on 6th November 2012?

Is the Minister able to provide the equivalent figures for the trading year 2010 along with estimates for 2011?

Given his consistent denial that the figures produced by the Statistics Unit for the overall profits for the financial services sector (£809 million for 2009, which gives an effective tax rate of 5%) cannot be used as a guide to the tax base used by the Income Tax department to assess actual tax due from the financial sector, will he inform members exactly how the differences in methodology can be used to produce a different figure for an effective tax rate?

Answer

The Deputy is not comparing like with like.

The £54.6m does not relate as the Deputy states to company tax but in fact relates to tax from all trading entities i.e. including non corporates (sole traders and partnerships) which derived profits from all trades other than financial intermediation for the year of assessment 2009.

The figure of £43m is the total tax payable in respect of all corporate entities that fall under the strict definition of a financial services company as defined within the Income Tax Law.

Therefore the sum of the two figures will not equate to the total of £83m for company tax for the year of assessment 2009.

As the Deputy will also appreciate the exact figures can change slightly as appeals are continually being settled and assessments being amended and therefore there can be a degree of variation depending on what date the statistics are provided.

I can confirm as at 9 January 2013 the figures for the 2009 year of assessment are as follows;

Year of Assessment	2009
Financial Service Companies*	£44.0m
Non Financial Service Companies	£22.7m
IBC Financial Service Companies	£14.3m
IBC Non Financial Service Companies	£ 1.0m
Total tax payable/paid	£82.0m

(*as defined in Article 3 of the Income Tax Law)

The figures for 2010 and 2011 as at 9 January 2013 are as follows;

Year of Assessment	2010
Financial Service Companies	£39.3m
Non Financial Service Companies	£25.7m
IBC Financial Service Companies	£10.9m
IBC Non Financial Service Companies	£ 0.8m
Total tax payable/paid	£76.7m

Year of Assessment	2011
Financial Service Companies	£48.0m
Non Financial Service Companies	£22.4m
IBC Financial Service Companies	£ 8.6m
IBC Non Financial Service Companies	£ 0.2m
Total tax payable/paid	£79.2m

As I have repeated previously the data provided by the Statistics Unit is not the appropriate information to give an accurate and effective tax rate for financial services companies. The main reasons being:-

- The Statistics Unit figures include the total profits for businesses in the finance sector (including legal and accountancy). This will differ greatly from total profits of the companies that fall within the narrow definition of financial services companies for income tax purposes meaning that the profits subject to tax will be lower.
- The Statistics Unit figures are based on an annual survey of estimated calendar year profits. Businesses are assessed to tax on their profits arising in their financial period ending in the year of assessment so these periods may not be co-terminus.
- The Statistics Unit figures will also include International Business Company profits that fall within their definition of finance sector businesses. The profits of these businesses will have been charged to tax at varying rates.
- There will be adjustments made to the profits disclosed for the purpose of the Statistics Unit survey and the profits on which tax is charged by the Taxes Office. As an example, loss relief brought forward may be relieved or group relief may be applied to reduce the taxable amount.

In conclusion – and for the reasons explained above - it is misleading to look at the whole of the financial services profitability figure and try to apply a 10% rate to arrive at a tax charge.

3.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE IMPACT THAT THE CONTINUED PAYMENT OF FUNDS TO THE TREASURY WILL HAVE ON THE ABILITY TO FUND THE HOUSING TRANSFORMATION PROJECT:

Question

Further to the answer given on 6th December 2012 (7269) will the Minister state what precise impact the continuing payment of the sum of £24 million (indexed) to the Treasury will have on the ability of the new arms-length housing organisation to fund the building, maintenance and repair of social housing over the coming decade with specific reference to the business plans on which the Housing Transformation Project (HTP) is based?

Will he further state what efforts he has made, if any, to reduce these payments in the HTP and, if not, will he do so before lodging the HTP proposition?

What evidence, if any, does the Minister have to contradict Professor Whitehead's finding that £2.5 million would be produced by a £35 increase in weekly rent, but cost £3.3 million in additional Income Support, and if none, why does he not rule out rent increases to fund future day-to-day repairs and scheduled maintenance (historically running at £7.5 million annual underfunding)?

Answer

In my answer to the question from the Deputy on 6th December 2012, I stated that the overall budget allocated to the Housing Department over a long period had not been adequate to ensure that all States owned housing meets the English Decent Homes Standard resulting in a deteriorating stock. Clearly this is something that, as the Housing Minister, I have a duty to address whilst paying due attention to the States' overall financial position.

I have supported the Medium Term Financial Plan and I intend to keep the commitments contained therein. However, the Medium Term Financial Plan also includes a section on the Housing Transformation Programme and forewarns that changes will be required to the funding of social housing to ensure that the sector is sustainable, viable and suitable in the long-term for residents requiring decent social rented homes.

The new wholly States owned Housing Association will be unable to operate unless these changes to the funding of social housing are made. The changes required are both complex and long term in nature and will be set out fully in the Report and Proposition and supporting Full Business Case that I will lodge shortly. As you would expect, my Final Business Case is a substantial and detailed document that sets out a coherent plan for the long term funding of social housing and it would be inappropriate for me to set out what is still policy in development in this answer.

I am and will continue to work closely with the Treasury and Resources Minister to ensure that the new Housing Association is sustainable, viable and suitable in the long-term.

In relation to the third part of the Deputy's question, I refer him to my previous answer given on 6th December, 2012 and reiterate that Professor Whitehead was referring to the current arrangements. Further work undertaken for the Minister for Social Security by the Cambridge Centre for Housing and Planning Research, (currently policy in development), has indicated that there are other ways of setting the rental components for those renting in the private sector. Those alternative options would not result in the position set out within my Department's Green Paper.

The Minister for Social Security and I have agreed that he will publish his proposals for setting the private sector rental component of income support following my lodging of proposals for housing transformation so that all States Members can understand the full context.

3.14 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE RECOVERY OF INCOME SUPPORT OVERPAYMENTS:

Question

Following his response to my question of 26th June 2012 which revealed that some 2,688 cases of overpayment (median £135) had occurred on an annual basis in the processing of Income Support claims, what measures, if any, has the Minister put in place to reduce this level and, if none, why not?

Given that in supplementary discussion of the issue of the Department claiming back such overpayments, the Minister accepted that such claims could cause hardship and that a limit of £21 weekly reduction in benefit would normally be applied, what action, if any, has been taken on this issue, and can he assure members that any such hardship is being addressed?

Answer

As indicated in my responses to the Deputy's question number 6972 of 26th June 2012, and furthermore his question number 7024 of 17th July 2012, Income Support benefit is always paid in advance, on either a weekly or four-weekly basis. Any change of circumstance that occurs after a payment has been made and during the period paid for, which affects the value of the claim rate, will result in the need for a payment adjustment in respect of the over or under payment.

This means that small overpayments are an expected and inevitable part of a benefit system that pays in advance, and in most cases simply result from the short-term repayment of extra income that households have received above their actual benefit entitlement. The alternative, which I do not support, would be to make Income Support payments in arrears - which could lead to real hardship amongst low income families.

The Department has undertaken a considerable amount of work during 2012 to improve communications with Income Support claimants to ensure that households are fully informed about their entitlement to benefit and their responsibilities under the Income Support Law, including a revised application form and detailed award letter. We are also investing in additional staff (MTFP) and further training for existing staff, both of which will support our efforts to improve service and communication with claimants. These measures were not undertaken principally to reduce the level of overpayments within the system but as claimants become more familiar with their legal obligations under the Income Support system, it is likely that the number and level of overpayments will decrease.

Contrary to the wording of the question, I did not accept the Deputy's assertion that the current system of recovering overpayments creates hardship during the discussion of Question 7310, asked by Deputy Baudains, and I confirm that I still hold the same position. In particular, it should be noted that officers take into account the circumstances of the claimant before setting any repayment level. Circumstances that will be considered include the number of children in the household, the health needs of the household, the level of rental paid and any pre-existing debts.

However, it is an important principle that taxpayer-funded benefits must be recovered whenever they are overpaid, particularly when the household has failed to take appropriate action to notify the Department of changes, as required under the Income Support Law.

3.15 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE NEGOTIATION OF A FOREIGN ACCOUNT TAX COMPLIANCE ACT AGREEMENT WITH THE U.K. AUTHORITIES:

Question

What further progress has the Chief Minister or his Ministers, along with our colleagues in Guernsey and the Isle of Man, had in negotiating the terms of a United States' (US) style Foreign Account Tax Compliance Act (FATCA) agreement with the UK authorities?

How is the position of the UK government affecting progress, if at all, with FATCA negotiations with the US?

Answer

The position on developments relating to FATCA and the UK Government remain as stated in the Joint Statement from the Chief Ministers of Jersey and Guernsey regarding FATCA issued on the 7th December 2012.

We continue to be engaged jointly with Guernsey in discussions with the UK government. In those discussions we are continuing to stress the importance we attach to the UK mirroring the approach of the US FATCA in being global in its application, ensuring a non-discriminatory approach for all jurisdictions. The Isle of Man is engaging separately with the UK.

Officials for Guernsey, the Isle of Man and Jersey continue to engage with the US authorities, in concert, on the negotiation of an inter-governmental agreement under the US FATCA regulations. The position of the UK government is not affecting progress with those negotiations which is currently waiting on the receipt of information requested from the US authorities.

3.16 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE PROCEDURES FOLLOWED AFTER RECEIVING THE PLANNING INSPECTOR'S REPORT IN RELATION TO PLÉMONT:

Question

Will the Minister provide the Assembly with full details of the procedures he and Planning Officers followed after receiving the Planning Inspector's report of the public inquiry for Plémont Bay Holiday Village on 6th November 2012 and before 14th November 2012, when he announced his decision to approve the application and, in particular will he advise -

- (a) whether a draft report had previously been submitted and comments offered to the Inspector and, if so, would he disclose those comments;
- (b) whether any questions or requests for clarification were raised with the Inspector on the reports contents and, if so, provide details of the matters queried and the replies received;
- (c) whether he sought and considered the advice of his planning officers or third parties on the principle and practice of 'enabling development' in the UK and Jersey, the application of policy ERE 3 and the mandatory conditions applying to that policy and, if so, provide details; and,
- (d) whether he considered the applicant's policy arguments or absence of them, for proposing enabling development and the use of policy ERE 3?

Answer

I received the Inspector's report on 6th November 2012. Having carefully considered the content of the report, I called a meeting with Department officers on 14th November 2012, where all aspects of the application were discussed. I made my decision the same day.

In answer to the specific points raised by the Deputy:

(a) The Director of Development Control was sent a draft copy of the report on 30th October 2012, with a request from the Inspector that it be checked for factual accuracy. The Director was on leave all that week and so the Inspector forwarded the draft copy to the Chief Executive on 31st October 2012. The Chief Executive checked the report and raised no queries with the Inspector, nor did he make any comment or alteration.

(b) Subsequently, on 5th November 2012, the Inspector sent a final draft to the Director of Development Control, who passed the matter on to the Senior Planner. The Senior Planner asked for one alteration to the appendix (to reflect the fact that he had been present at the Inspector's site visit). This was the only alteration to the Inspector's report requested by the Department. As Minister, I did not receive any versions of the draft report.

(c) When arriving at my decision on the planning application, I made it clear to all parties that I had taken into account all of the material considerations which were relevant to the case. Principal amongst these were the policies of the 2011 Island Plan. I do not consider that it is appropriate to isolate any particular policy considerations for examination within this Assembly, as my decision was based upon an overarching assessment of the Plan as a whole.

(d) See answer to part (c) above.

3.17 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE PLANNING OBLIGATION AGREEMENT ASSOCIATED WITH THE DEVELOPMENT OF THE PLÉMONT BAY HOLIDAY VILLAGE SITE:

Question

Will the Minister confirm that his decision ref (MD-PE-2012-0120) dated 23rd November 2012 to approve the Plémont Bay Holiday Village application requires a planning obligation agreement to be entered into between the Minister and the applicant before the planning permit has any legal effect and, if so, will he inform the Assembly of the arrangements he proposes to reach agreement with the applicant and obtain any required prior approval from the Assembly or other Ministers, including the following matters requiring prior agreement;

(a) an appropriate body or trust to which the open land to be created outside the three housing clusters, is ceded by the applicant for public access in perpetuity in accordance with a scheme of public access determined by the Minister;

(b) the commuted sum payable by the applicant to the appropriate body or trust to fund the landscape maintenance regime works required to be carried out for at least 25 years;

(c) the restrictive covenants to be included in the contracts of sale of the houses proposed to be built, to prevent their owners and occupiers from using the land out-with their domestic curtilage for domestic purposes?

Answer

I can confirm that the planning permission which I will issue for the Plemont Bay Holiday Village will be subject to a planning obligation agreement between the Minister for Planning and Environment and the applicant which addresses the points in paragraphs (a) – (c) of the Deputy's question.

As to the detailed arrangements of the agreement, these are currently being drafted and will be the subject of discussion between the officers of the department and the representatives of the applicant. The applicant may only enter into a planning obligation agreement with the Minister for Planning and Environment and the Planning and Building (Jersey) Law 2002 does not require the Assembly or other Ministers to approve the planning obligation agreement. Once agreed, the planning obligation agreement will be a matter of public record.

I include details of the Ministerial Decision (MD-PE-2012-0120) I made in relation to the Plemont Bay Holiday Village planning approval, and the associated planning obligations and conditions.

Plemont Bay Holiday Village: Public Inquiry

A decision made on 23 November 2012:

Decision Reference: MD-PE-2012-0120		Application Number: P/2011/1673	
Decision Summary Title (File Name):	Plemont Bay Holiday Village, La Route de Plemont, St. Ouen, Jersey, JE3 2BY	Date of Decision Summary:	14 /11/ 2012
Decision Summary Author:	Senior Planner Alistair Coates	Decision Summary: Public or Exempt?	Public
Type of Report: Oral or Written?		Person Giving Oral Report:	
Written Report		Date of Written Report:	6 /11/ 2012
Written Report Author:	Mr Alan Langton Independent Planning Inspector	Written Report :	Public
Subject: Plemont Bay Holiday Village, La Route de Plemont, St. Ouen, Jersey, JE3 2BY Demolish all existing buildings and remove hard-standings. Return 67% of total site area (16.19 verges) to public accessible natural landscape. Replace existing Manager's bungalow/Staff cottage with 2 No. four bed houses and construct 26 No. houses comprising of 10 No. three bed houses, 11 No. four bed houses and 5 No. five bed houses all in three groups plus landscaping, footpaths and reed-bed rainwater recycling pond. Create passing place on C105 at Western edge of Field 48.			
Decision(s): The Minister has resolved to approve the application, subject to the completion of a Planning Obligation Agreement and to the compliance of Conditions. The terms of these Obligations and conditions is as follows:- The applicant shall, prior to any demolition or construction works, enter into a formal obligation with the Minister for Planning and Environment under Article 25 of the Planning and Building (Jersey) Law 2002. The planning permit shall not have any effect until such planning obligation agreement is completed, signed and lodged with the Greffe. Thereafter, the conditions attached to the permit shall take full effect.			

Unless otherwise agreed by the Minister, the obligation shall, in relation to the development approved under this permit, guarantee the provision of the following;

Obligations

- a) Prior to completion of the development the Applicant shall cede the open landscape created outside the boundaries of the three housing clusters (as defined on drawing no. 1871-08-68 Areas 2, 3 & 4) to an appropriate body or trust, with full agreement of the Minister, for allowing public access in perpetuity in accordance with a scheme of continued access to be agreed in writing with the Minister. The land shall not be ceded until the landscaping as set out in the approved plans has been completed to the satisfaction of the Minister.
- b) The Applicant shall submit a commuted sum payment and shall undertake, or arrange and fund for the body or trust referred to in a) above, to undertake, landscape maintenance regime works for a period of at least 25 years after completion of the development, in accordance with a comprehensive programme to be agreed in writing by the Minister. Such programme shall include a monitoring schedule and provision for the maintenance regime to adapt according to the findings of the monitoring schedule and shall further include details of a covenant relating to the Conditions of Sale with the express aim of preventing home owners / occupiers from using land outwith their domestic curtilage for domestic purposes.
- c) The Applicant shall provide appropriate funding towards a research and monitoring programme for conservation of Puffins and seabirds.
- d) The German Coastal Observation Post (M3) shall be refurbished as a publicly accessible bird hide by the Applicant, or with full funding from the Applicant, in accordance with a scheme to be agreed in writing by the Minister. The works shall be completed before any of the approved dwellings are occupied and the Observation Post shall remain in, or revert to, the ownership of the Public.
- e) The Architect appointed in the development of the scheme hereby approved (BDK Architects) shall be retained throughout all the construction phase of the development. Prior to the occupation / use of each dwelling of the development, the Architect must give written confirmation to the Minister that he or she is satisfied that the building has been completed in accordance with the approved plans and that the quality of materials and workmanship is of the highest possible order. The Minister reserves the right to request minor amendments to the approved development following advice from the Architect.
- f) The Landscape Architect appointed in the development of the landscaping scheme hereby approved (Michael Felton Ltd.) shall be retained throughout all the landscaping (both hard and soft) phase of the development. Prior to the occupation / use of each element of the development, the Landscape Architect must give written confirmation to the Minister that he or she is satisfied that the landscaping has been completed in accordance with the approved plans and that the quality of materials, planting and workmanship is of the highest possible order. The Landscape Architect shall liaise directly with the Department, including the Environment Division and the Minister reserves the right to request minor amendments to the landscape proposals following advice from either the Environment Division or the Landscape Architect.

Planning Conditions / Reasons

1. The development shall be carried out strictly in accordance with the approved plans, drawings and schedules, and strictly in accordance with the submitted reports. No variations shall be made without the prior written approval of the Minister for Planning and Environment.

For the avoidance of doubt and in accordance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.

2. Physical samples of all external materials to be used as identified on the approved Schedule of Required Sample Panels / Assemblies, dated 9 September 2010 shall be submitted to and approved in writing by the Department prior to such materials being used.

To safeguard the character and appearance of the area and in accordance with the requirements of

Policies GD 1 and GD 7 of the Adopted Island Plan 2011.

3. Prior to the commencement of development, the finished floor levels, eaves and ridge heights of each dwelling shall be approved in writing by the Department. On sloping ground, detailed sections indicating the precise level of cut and/ or fill shall be similarly approved. No such approved level shall be exceeded without the express written approval of the Department.

For the avoidance of doubt and in accordance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.

4. Notwithstanding the provisions of the Planning and Building (General Development) (Jersey) Order 2011, or the provisions of any Order that replaces, amends or supersedes the 2011 Order, no alterations, additions, extensions (including loft conversions, conservatories, conversion of garages and car-ports to any other habitable space and, external lighting to dwellings and vehicular areas), windows, doors, external utility meter boxes, fences, walls, sheds or other structures shall be installed, affixed or erected on any part of the site or building therein without the prior written approval of the Department.

To enable the Minister for Planning and Environment to control the development and so safeguard the character and visual amenities of the area and to ensure that adequate private amenity space is retained within the curtilage of the dwelling in compliance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.

5. In respect of the provisions of Condition No. 4 above, a 'pattern book' shall be produced by the retained Architect for the applicant / developer detailing the form, style, materials and positioning of any future alterations, additions or extensions to the proposed dwellings that would respect the vernacular architecture of the development. Such a pattern book shall be submitted to the Department for written approval and shall thereafter, and without prejudice to any future decision, be used as guidance when assessing future planning applications relating to each dwelling.

The Minister considers that the production of a pattern book would be an appropriate mechanism by which to guide any subsequent planning application for alterations or extensions to the new dwellings.

6. Before the dwellings are occupied, the proposed means of boundary treatment to all external aspects of the development and between dwellings shall be submitted to and approved in writing by the Department. The use of low granite walls, banques, post & rail fences and hedgerows will be required in accordance with the approved drawings.

To safeguard the character and appearance of the area in accordance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.

7. The stated Mitigation Measures, as embodied in the Environmental Impact Statement and supporting documents, and all other recommendations of the Environmental Impact Assessment and, any additional or revised measures as may be required by the Department as a result of a specific concern or consultation response, shall be implemented in accordance with a schedule of works, timings and on-going monitoring / remediation to be agreed in writing by the Minister.

The Minister considers that the proposed development may not be acceptable without the implementation of the stated mitigation measures.

8. All demolition and groundworks shall be undertaken outside the main bird breeding season (April to August), unless written authority for specific elements of the proposal is given by the Department's Environment Section.

In the interests of minimising disturbance to seabirds which form an important element of the Island's bio-diversity.

9. A rat eradication programme and programme for the clearance of invasive plants (including Hottentot Fig) shall be agreed and implemented to satisfaction of the Environment Department prior to any demolition works taking place.

In the interests of allowing less invasive native species to establish within the area.

10. A detailed landscaping scheme shall be submitted prior to the commencement of the development to show sensitive planting with relevance to the landscape character and wildlife habitats of this area. The scheme shall provide for locally relevant habitat creation and shall be drawn up in consultation with the relevant Officers of the Planning & Environment Department's Countryside Section. Such scheme shall be completed prior to any sale of property on the site.

To safeguard the character and appearance of the area in accordance with the requirements of Policies GD 1 and NE 4 of the Adopted Island Plan 2011.

11. Precise details of the proposed means of foul and surface water drainage, including full details of the reed-bed ponds and measures to store and re-use rainwater where practicable shall be submitted to and approved in writing before works commence. A sustainable drainage system will be required.

In order that such details can be the subject of further consideration by the relevant bodies to ensure that the site and development is adequately drained.

12. Precise details of types, positions, luminosity, shielding and justification for each external light, including measures to minimize sky-glow shall be submitted to and approved in writing by the Department before the development commences.

In order to prevent unnecessary light pollution in this sensitive headland setting.

13. The garages to all the houses shall not be used for any purpose other than those incidental to the enjoyment of a dwelling house but not including use as habitable accommodation.

To safeguard the character and appearance of the area and to ensure the provision of adequate parking accommodation within the three housing clusters and to avoid congestion by residents vehicles of adjoining lanes or public parking areas in accordance with the requirements of Policy GD 1 of the Adopted Island Plan 2011.

14. Reasonable access shall be given at all reasonable times for archaeological work. Reasonable access shall also be given to a nominated member(s) of the Department's Historic Environment Team, Jersey Heritage Trust and the Channel Island Occupation Society for the purpose of observing and recording any Occupation structure or other archaeological finds. A minimum of 3 weeks written notice shall be given to each party prior to any works commencing. All finds and records of archaeology shall be safeguarded and lodged with the Department.

The Minister is aware that the site may hold archaeological finds, including Occupation material and wishes to ensure that appropriate opportunity is given to record such objects.

15. Prior to completion of the development the Applicant shall provide and pay the costs for the construction of a bus shelter at the south-western end of the central area footpath, to a design and details approved by the Department.

In order to promote the use of public transport.

16. A work of art shall be delivered in accordance with the advice of the appointed Approved Art Advisor and the Percentage for Art Statement dated 10th September 2010 which has been submitted to and approved by the Minister for Planning and Environment. The work of art must be installed prior to the first use/occupation of the development hereby approved unless otherwise agreed in writing.

To comply with the provisions of Policy GD 8 of the Adopted Island Plan 2011.

17. Details of the siting and nature of all temporary site huts, compounds, security fencing, security lighting, fuel storage and waste disposal during the demolition and construction phases shall be submitted to and approved by the Department before works commence. Should additional elements be required during the course of works, subsequent approval from the Department shall be required. To ensure that all construction / demolition related materials and operations do not result in unacceptable damage to the local environment.

18. Prior to commencement of the development, full details shall be submitted to the Minister to demonstrate how the proposed development will incorporate on-site low carbon or renewable energy production to off-set predicted carbon emissions by at least 10% or shall fully demonstrate

that the proposed development will otherwise off-set predicted carbon emissions by at least 10% by alternative means. Any such measures as may be approved shall be implemented, retained and maintained in accordance with the submitted and approved details.

To ensure that the development complies with the provisions of Policy NR7 of the Island Plan.

Reason(s) for Decision:

The Minister has resolved to approve the application, subject to the completion of a Planning Obligation Agreement and to the compliance of Conditions.

In reaching his decision, the Minister paid special regard to the Independent Inspector's Report and recommendations into the Public Inquiry which was held over the days of 25 / 26th September 2012 and to the representations and consultations received on the planning application and the subsequent Inquiry.

The Minister originally called for the Public Inquiry as he considered that the proposal to redevelop the former holiday village by way of 26 new dwellings and 2 replacement dwellings constituted a substantial departure from Policy SP1 (Spatial Strategy) of the 2011 Island Plan. Nonetheless, Article 19 (3) of the Planning and Building (Jersey) Law 2002 states that the Minister may grant planning permission that is inconsistent with the Island Plan but shall not do so unless he is satisfied that there is sufficient justification for doing so.

In this instance, the Minister is satisfied that there is sufficient justification for allowing a substantial departure from the Island Plan.

The crux of the issue has been whether the proposed re-development is justified as a means by which to secure a substantive, positive contribution to the repair and restoration of the landscape of the Plemont headland.

Policy ERE 3 of the Island Plan makes permissible, as an exception, 'enabling development' which is something that would normally not be permitted but, may be permitted if it would provide a mechanism or funding to secure positive environmental benefits for the Island.

Moreover, although Policy NE7 of the Island Plan presumes against the redevelopment of commercial buildings (for anything other than their original purpose) it does make an exception where the redevelopment would give rise to demonstrable environmental gains and where it would make a positive contribution to the repair and restoration of the landscape.

On this point, the Minister is satisfied that the proposal represents a clear and significant reduction in the building mass and floorspace area compared to the existing complex and that, by splitting the development into 3 clusters, this will further serve to break up the perceived bulk of the existing structures. The new dwellings would certainly be visible on the skyline from various viewpoints but the Minister does not consider that this would result in a seriously detrimental impact upon the skyline, nor result in the loss of any strategic view or important vista.

The proposed new dwellings also share a high quality of design following a rural vernacular with significant openness punctuating the 3 clusters. Although not on the same footprint as the existing structures, the 3 clusters would be 'pulled' away from the North coast cliff path, offering a greater visual buffer between the coast and the development. The Minister is satisfied that this approach to the development of the site is an appropriate response to the sensitivities of the site and its surroundings.

The Minister has fully considered the thorough and balanced report of the Inspector and accompanying submissions, including a comprehensive Environmental Impact Assessment. He has reached the conclusion that, notwithstanding the policy presumptions against the erection of new residential development outside of the Island's principal settlements, this proposal will result in the significant and substantial repair and restoration of landscape character. It will enable the wholesale clearance of the existing Plemont Holiday Village structures which are, presently, a blight on the Island's sensitive North coast. Accordingly, the Minister contends that the proposals represent a justifiable exception to Policy SP1 of the Island Plan, but also that they fall in with the exception permitted under Policy NE7 and ERE3.

Resource Implications: Nil		
Action required: Notify Agent, Applicant and all other interested parties		
Signature: Deputy R C Duhamel	PLeG / AS Initials	Position: Minister for Planning and Environment
Date Signed:	Date of Decision (If different from Date Signed):	

3.18 DEPUTY J.H. YOUNG OF ST. BRELADE OF H.M. ATTORNEY GENERAL REGARDING THE LEGAL IMPACT OF THE PLANNING OBLIGATION AGREEMENT ASSOCIATED WITH THE DEVELOPMENT OF THE PLÉMONT BAY HOLIDAY VILLAGE SITE:

Question

Will H.M. Attorney General inform the Assembly whether the Minister for Planning and Environment's decision to approve the development of Plémont Bay Holiday Village (MD-PE-2012-0120) on 23rd November 2012, which is conditional on a Planning Obligation Agreement being entered into between the Minister and applicant, has any legal effect before that Agreement is entered into and whether, in the interim pending the required Agreement, the Minister is permitted to use powers under the Planning and Building Law (Public Inquiries) (Jersey) Order 2008 to reopen the planning inquiry to consider any issues which are insufficiently or not covered in the Inspectors report, including issues arising in respect of the required Planning Obligation Agreement?

Answer

The Minister has given an 'in principle' decision subject to the preparation and completion of an agreement embodying the obligations set out in the Ministerial Decision.

The decision is not one on which the applicant can rely to start development. That stage would be reached once the decision has been perfected by the completion of the planning obligation agreement and grant of planning permission. However, given the substance of the Ministerial Decision, the applicant will have a reasonable expectation that the planning obligation agreement will be negotiated in good faith and on reasonable terms.

The Attorney General is not at this time in a position to give definitive advice on the legal effect of the 'in principle' decision in the time available and without further research.

Article 18(1) of the Planning and Building Law (Public Inquiries) (Jersey) Order 2008 provides:

The Minister may direct the inspector to re-open the public inquiry if, before the Minister determines the application, it appears to the Minister –

- (a) that there are material considerations, other than the Minister's policy, that either are not mentioned in the inspector's report or are insufficiently considered in that report; or*
- (b) that the report contains any technical information that is incorrect in a material particular.*

If the matter is one that falls within Article 18(1), it is technically possible the Minister to exercise his discretion to re-open the public inquiry. The question as to whether or not such a decision would be open to challenge would also require further research and consideration.

3.19 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE FINAL TOTAL COST OF THE LOW VALUE CONSIGNMENT RELIEF COURT CASE:

Question

What is the final total cost of the Low Value Consignment Relief Court case and Jersey's share of H.M. Government's costs?

Answer

Whilst it is still not possible to give a final figure for the full cost of the LVCR judicial review proceedings, the final element, namely HMRC's claim for costs has been received within the last few days and will now be the subject of review and possible negotiation with a view to agreeing the correct amount.

Once this exercise is completed, it will be possible to provide a final figure for the total cost.

3.20 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE FINAL COST OF FAILING TO HEDGE THE EURO FOR THE ENERGY FOR WASTE PLANT:

Question

Will the Minister advise the final cost to the States of failing to hedge the Euro for the Energy for Waste Plant?

Answer

The final cost to the States of the delay in hedging the Euro for the Energy from Waste Plant was reported in the answer to oral question number 4868 from the then Deputy of St. Mary on 1st December 2009. The cost was £2.7 million.

3.21 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE FINAL CONTRIBUTION FROM THE FULFILMENT INDUSTRY TOWARDS THE COSTS OF THE LOW VALUE CONSIGNMENT RELIEF COURT CASE:

Question

What is the final contribution from the fulfilment industry towards the costs of the Low Value Consignment Relief Court case versus H.M. Government?

Answer

As stated in written answer 1240/5(7029) tabled on 17th July 2012 by the Attorney General, the total contribution pledged by the fulfilment industry towards the cost of the legal action came to £85,000.

Whilst it is still not possible to give a final figure for the full cost of the LVCR judicial review proceedings to the States of Jersey, the final element, namely HMRC's claim for costs has been received by the Law Officers Department within the last few days and will now be the subject of review and possible negotiation with a view to agreeing the correct amount.

Once this exercise is completed, it will be possible to provide a final figure for the total cost.

3.22 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING PATIENTS TREATED AT ORCHARD HOUSE OVER THE PAST 5 YEARS:

Question

Over the last five years how many patients have been confined in Orchard House, the medical classifications used for their confinement and what medication was usually prescribed for each particular classification?

How many patients were re-admitted over that five year term?

How many patients, if any, committed suicide after their treatment?

Answer

Over the last 5 years 1172 patients have been admitted to Orchard House, as shown in Table 1. 362 were admitted under Orders under Mental Health (jersey) Law 1969, and 810 were admitted voluntarily.

Medications and reasons for admission vary on a case-by-case basis so it is not possible to provide an accurate breakdown without interrogating every individual patient's health record.

With regard to reasons for admission however, the most common presentations to Orchard House include people who are in crisis or at risk due to depression, psychoses (such as schizophrenia), bipolar disorder and to a lesser extent severe anxiety disorders. The unit also has a dedicated detoxification facility which enables two persons per week to address their alcohol or drug dependency whilst experiencing poor mental health.

For those admitted under Order, Table 2 shows a breakdown of the different orders used over the 5 year period.

Medications vary on a case by case basis. All medication regimes in Orchard House are informed by the National Institute for Clinical Excellence (NICE) and prescribed in accordance with the British National Formulary (BNF). This will include mood stabilisers, antipsychotic medications, antidepressants, and medications for insomnia, and to a lesser extent anxiolytic.

Most mental health problems have a high risk of recurrence within a one year period, for example 40-50% in psychosis, therefore in mental health the readmission rates are defined as the person returning to hospital within one year of being discharged. A review of 2012 readmission rates for Orchard House indicates that we have a 10% readmission rate. This is in keeping within the national averages.

With regard to suicide rates, Table Three shows total number of adult suicides in Jersey and, of those, numbers of patients who had been at Orchard House in previous five years.

TABLE 1 – INPATIENT SUMMARY INFORMATION

	2007	2008	2009	2010	2011	2012	TOTAL
Inpatient admissions to Orchard House	223	202	163	181	228	175	1172
No of admissions under Orders	81	93	52	39	54	43	362
No of voluntary admission	142	109	111	142	174	132	810
Percentage of admissions under Order to voluntary admissions	36%	46%	32%	22%	24%	25%	31%

TABLE 2 – USE OF ORDERS UNDER MENTAL HEALTH (JERSEY) LAW, 1969 FOR CLIENTS ADMITTED TO ORCHARD HOUSE

TYPE OF ORDER	2007	2008	2009	2010	2011	2012	TOTAL
Nurses Holding Power	2	1	3	1	0	0	7
Emergency Orders Article 10	13	13	5	3	1	2	37
Observation Orders Article 6	33	33	14	6	22	21	129
Treatment Orders Article 7	30	46	30	29	31	20	186
Guardianship Orders Article 14	3	0	0	0	0	0	3
Total	81	93	52	39	54	43	362

TABLE 3 – SUICIDE POPULATIONS

	2007	2008	2009	2010	2011	2012
Total number of suicides in the adult population in Jersey.	11	15	20	9	10	8*
Number who were inpatients in the previous 5 years	0	3	2	1	3	0

*The data for 2012 is incomplete due to cases being processed by the Viscounts Office.

3.23 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE OPERATION OF THE ENERGY FROM WASTE PLANT:

Question

Are all the outstanding problems for the Energy for Waste Plant now resolved and, if not, what issues still remain?

How much electricity, shown as a percentage of its capacity, has been generated by the Plant?

How much waste has been burnt since the Plant became operational and what percentage of its capacity has it averaged?

Answer

The Energy from Waste plant will remain within its Defect Liability period for at least another seven months. During this period outstanding defects will be addressed and resolved by the contractor CSBC (Jersey) Limited. As previously stated in question 7124, CSBC (Jersey) Limited are responsible for addressing and financing all defects and snags that are a result of design, installation or component failure. The Transport and Technical Services department is responsible for failures of equipment if such failure is due to misuse or incorrect maintenance.

There are presently 66 outstanding snags and defects and of these, 17 are new defects that have been identified and registered since the 9th October 2012.

CSBC (Jersey) Limited are working with the Transport and Technical Services Department to resolve these issues.

The Energy from Waste plant's electrical power generation shown as a percentage of its full load capacity is 45.5% and 60.4% for the years 2011 and 2012 respectively.

Waste throughput since the plant became operational is 127,814 tonnes which represents an average of 61% of the maximum mass throughput.

The plant has processed approximately 100% of the waste that has been delivered to it since December 2010.

It is not possible to meaningfully calculate the plant's throughput by reference to a single parameter such as weight as the true capacity of the plant is limited by a combination of the mass and the energy content of the waste.

4. Oral Questions

4.1 Deputy T.M. Pitman of St. Helier of the Chief Minister regarding the impact on the so called 'Troy' rule of the creation of a post of Minister for External Relations:

Does the Chief Minister plan to propose the creation of a Minister for External Relations and if so, has he considered how this would impact on the so-called Troy Rule in the eventuality of the number of States Members being reduced, as proposed by the Electoral Commission?

Senator I.J Gorst (The Chief Minister):

The Council of Ministers decided in December that a proposal to create a new Minister for External Relations should be brought forward for the States to consider. The next step will be for the necessary Draft Regulations to be scrutinised by the Corporate Services Panel. The final report of the Electoral Commission notes that the so-called Troy Rule will need to be considered by the States if the Commission's recommendations were to be accepted. The report also notes that this rule evolved from the assumption that Ministers and Assistant Ministers would act as a Government bound by some form of collective responsibility but that in practice, experience has shown that Assistant Ministers do not always vote with the government. My own view is that that

is illogical. I hope the States will therefore consider this matter as the Electoral Commission's recommendations are taken forward.

4.1.2 Deputy T.M. Pitman:

I thank the Chief Minister for his answer. However, even allowing for the fact that the Electoral Commission does not seem to fully acknowledge the importance of the Troy Rule, in order to prevent us slipping into what some would probably call a Chinese type of democracy, does the Chief Minister not concede that really any decision on the increase of Ministers and the inevitable increase in Assistant Ministers must wait until that issue has been decided, i.e., are we going to have a 42-Member Assembly?

Senator I.J. Gorst:

I can see the Deputy's argument and I certainly think or I hope that the decision-making process will be aligned with P.P.C.'s (Privileges and Procedures Committee) Sub-Committee and the work that they are doing but I think at this point, it is important that they work in parallel. I hope that during the course of the year, they will come together and inevitably the States will be required to make decisions, certainly about a referendum question, with regard to the Electoral Commission's work, but it is important that Scrutiny do their work so that the States can be in a position to make a decision.

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

Does the Chief Minister anticipate giving any guidance to the P.P.C. Sub-Committee currently looking at the machinery of government on whether the Council of Ministers would wish to see an increase in the size of the Executive as implied by this proposal or a reduction as implied by the Electoral Commission's proposals?

Senator I.J. Gorst:

I think we have to be clear that should the Electoral Commission's recommendations, whichever option A or B, be approved, then we will need to consider the Troy Rule and the number of Ministers and Assistant Ministers so I am absolutely supportive of that. The Privileges and Procedures Committee have invited me to attend the problem to discuss this issue. I have not yet been able to find an appropriate date but I hope that I might be able to attend upon them in February.

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

Since one of the functions of the Electoral Commission was to put a hold on piecemeal changes, does the Chief Minister not think that he has come in with his own piecemeal change in the wrong timescale?

Senator I.J. Gorst:

Absolutely not. I have been supportive of this particular work, that is the work of a person responsible for helping the Chief Minister acting concurrently in relation to external relations. I have been supportive of this post being a Ministerial post right from the start when it was initially decided to create it as an Assistant Minister post. It is incredibly important. The challenges that we face we need to be out engaging and addressing them and liaising with our political partners around the world and that is why this post is so important and it needs to be given the appropriate value and one that is internationally recognised.

4.1.5 Deputy G.P. Southern:

Notwithstanding the Chief Minister's answer, does he not accept that it was part of the reason for setting up the Electoral Commission that we should suspend piecemeal changes to the structure of

the States in the meantime? Does he not accept that that was the wish of the House and of P.P.C. at the time?

Senator I.J. Gorst:

This is not a piecemeal approach to changes to the structure of the Assembly. It is quite simply we do already have a department with an accounting officer that is dealing with external relations. This, on one level, is quite simply ensuring that the individual fulfilling this function is appropriately named a Minister rather than an Assistant Chief Minister because that is how that office is understood around the world.

4.1.6 Deputy M. Tadier of St. Brelade:

The Chief Minister will be aware that there have been calls for the creation of other ministries and Ministers, notably the Minister for Children which I believe at least one report a few years ago, the Williamson Report, suggested that it should be taken ahead. Will the Chief Minister be giving priority to this ministry to be created? If not, why not, and which of the 2, the creation of a Foreign Minister or the creation of a Children's Minister, is his priority?

Senator I.J. Gorst:

Both are important but as I think I just said in answer to the last question, this department already exists so it is relatively straightforward to create a Minister to head up the department to carry out the functions concurrently with the Chief Minister, which is exactly what happens in virtually every other jurisdiction around the world and we would be coming into line with that international standard which is understood, accepted and functions well around the world. The Deputy is right and I know that he was one who supported the creation of a Ministerial post for external relations rather than an Assistant Minister when it was first created and therefore I hope that he does support this particular element, but he is also right that when we reform government as a whole, and there are lots of issues that need to be considered and I know that P.P.C. are considering them in their various subgroups or the Electoral Commission, we should be considering how we deal with children's issues, how we deal with housing issues. There are lots of functions that I am supportive of individuals being given responsibility for.

4.1.7 Deputy M. Tadier:

May I have a supplementary? It is quite a simple question. Does the Chief Minister think that the good safeguarding of care for our children is more important than the perception of our image internationally?

Senator I.J. Gorst:

As I have said before, it is not that straightforward. They are both important.

4.1.8 Deputy T.M. Pitman:

I would just like to put it to the Chief Minister that far from getting to a position of honing down and making government more lean and effective, given as Deputy Tadier said the need for a long overdue Children's Minister, there has been talk of a Disability Minister and a Justice Minister, which Senator Farnham is bringing, is there not a danger that we end up with a situation with lots of chiefs and hardly any Indians? Does he not agree that that could not lead to very effective government at all?

Senator I.J. Gorst:

I do not think we can say that approach would not be an effective government. It is an approach that the Isle of Man has where they try to ensure that Members across the Assembly have specific responsibility for specific portfolios. I am in a position where I cannot even juggle individual

Ministers' portfolios even though I might think it is in the best interests of Jersey to move responsibilities across portfolios. I cannot do that without the approval of the individual Minister, without the approval of the Council of Ministers and without the approval of this Assembly. There are some things which I believe have to change in the way that we carry out and function as a government currently.

4.1.9 Deputy T.M. Pitman:

From what the Chief Minister has just said, is he not making a case that we need more Members so he can juggle to his heart's content?

Senator I.J. Gorst:

No, simply that I can try and get the best person to do the best job in any particular portfolio requirement for the best interests of Jersey.

4.2 Deputy R.G. Le Hérissier of St. Saviour of the Minister for Social Security regarding steps to prevent over-prescribing by G.P.s:

What steps, if any, are in place to prevent over-prescribing by G.P.s (General Practitioners) and how many such cases have been identified by the department in the last 5 years?

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

I can confirm that the general principles that apply to hospital-prescribed medicines also apply to G.P. prescriptions and that community pharmacists check all prescriptions to confirm they are safe and appropriate before they are dispensed. In addition, the Health Insurance Law includes statutory limits on the number of days of supply that can be provided on a single prescription. The Social Security Department provides a Medicines Management Team which works very closely with local G.P.s. All prescribing data is analysed and a number of key prescribing indicators are published quarterly. The team provides regular educational sessions for G.P.s and pharmacists and has recently organised a software system for G.P. practices which provides guidance to the G.P. at the time the prescription is written. A report of all prescriptions issued by each G.P. is discussed at an annual meeting with a member of the Medicines Management Team and this now forms part of the evidence for the G.P.'s annual appraisal. With the recent appointment of a Primary Care Medical Director and the ongoing changes to health legislation, a much more robust local governance system is being established and any concerns regarding the prescribing habits of G.P.s, including over-prescribing, will be investigated by the Primary Care Medical Director working with the prescribing adviser. Prior to these recent changes, the only formal route in respect of G.P. governance was through the U.K. General Medical Council and 2 cases in respect of prescribing issues have been referred to the G.M.C. (General Medical Council) since November 2006.

4.2.1 Deputy R.G. Le Hérissier:

I infer that the situation was not satisfactory until very recently. I wonder if the Minister could tell me, in cases like alleged over-prescribing for depression where there is the possibility of other therapies being available, to what extent has this issue come to his attention and what steps have been taken to examine whether current procedures are working?

Senator F. du H. Le Gresley:

I officially refute what the Deputy inferred, that we have only just improved. In fact, I have had a number of emails from G.P.s and the primary care body expressing great satisfaction with the systems in place and saying it is a model which other communities might want to follow, so I am very pleased with what we are doing. However, in response to the matter of prescribing drugs for depression, this is one of the business cases that the Health and Social Services Department is

pursuing known as the Improved Access for Psychological Therapies and, in fact, the department will be participating in that and it is all about using other therapies as opposed to drug treatment.

[11:00]

4.3 Connétable P.J. Rondel of St. John of the Minister for Economic Development regarding a projected cost range for the Hanger8 project:

As Members have been given a cost profile for the new police station and other major projects, will the Minister identify a project cost range for the Hangar 8 project to fully inform States Members and if not, why not?

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

Unlike major public sector capital projects such as the police station, the Hangar 8 project is a private sector development with no public sector financial input. Therefore, I am not at liberty to release any financial or commercially sensitive information.

4.3.1 The Connétable of St. John:

Is the Minister telling this House, who are masters of all they survey, that he will not give us this information on the grounds of confidentiality yet he and fellow Ministers can give out confidential information about projects that we are ourselves committed to or going to commit ourselves to as I have already mentioned like the police station, *et cetera*? Are we dealing in the same world with projects? Is that what the Minister is saying?

Senator A.J.H. Maclean:

To be clear, what I am saying is that at this stage and in this forum, it is not appropriate to give commercially sensitive information. There is a process that can be followed should Members wish to investigate an arrangement such as this, a commercial arrangement, and that would be to refer the matter to Scrutiny and ask Scrutiny to have a look at it under the appropriate terms of confidentiality and such like.

4.3.2 Deputy M.R. Higgins:

Can the Minister at least tell us what the estimated cost of the hangar is, the size of the hangar and the length of the lease that will be given for the ground that it is going to be built on?

Senator A.J.H. Maclean:

What I can tell the Deputy is that the existing cargo facility it is intended, subject to planning approval of course, to increase by around about 20 per cent and that would provide something in the region of about 55,000 square feet of hangarage space, the intention being to increase the capacity and services available at the airport to provide growth, job opportunities and so on.

4.3.3 Deputy M.R. Higgins:

Following up the question about the length of the lease for the grounds, is it going to be 50 years, 100 years, or whatever?

Senator A.J.H. Maclean:

The exact details are still subject to negotiation and I cannot give any further details.

4.3.4 Deputy J.H. Young:

Would the Minister confirm or otherwise that public expenditure is involved with this project and if so, would he confirm that there are in place proper tendering procedures and accountability arrangements to ensure that those decisions in respect of that contract are subject to property review?

Senator A.J.H. Maclean:

Yes, I can. In fact, a process has been followed to get to this stage as Members would expect; a process of expression of interest, a tender and a short-listing process. Of course, concurrently with that, the Property Holdings Department oversees such transactions as well.

4.3.5 Deputy G.P. Southern:

When all the dealing is done and the deal is signed, sealed and delivered, will the Minister commit himself to come to the House and reveal the details of what is proposed for this particular project?

Senator A.J.H. Maclean:

As I have said, the available details for this particular deal will be available to the Scrutiny Panel should they wish to investigate it at a later stage. I cannot necessarily undertake that other details will be publicised at this stage.

4.3.6 Deputy G.P. Southern:

Will the Minister commit himself to informing all Members of this House what the details of this proposal are and not just Scrutiny?

Senator A.J.H. Maclean:

Not at this stage.

4.3.7 The Connétable of St. John:

The Minister mentioned job opportunities. Will he confirm that the job opportunities will be for local people and local people alone and we will not be bringing in a load of (j) cats to cover many of the jobs that will be required for servicing all the special aircrafts that supposedly we are going to be bringing in to this Island and possibly house here?

Senator A.J.H. Maclean:

I am pleased that the Connétable mentioned that. This is one area that the new operator is proposing, which is a facility for maintenance for largely heavy jets. This is a service that is not currently available at the airport. It is an opportunity for growth and I think it is potentially an exciting opportunity that we should embrace. The company itself is one of the largest if not, I believe, the largest corporate aircraft operator in the United Kingdom with a global network and that in itself brings further opportunities. As far as jobs are concerned, yes there will be on-Island jobs created for local people. I cannot guarantee at this stage that there will not be some expertise in the initial stages brought to the Island if that expertise is not currently available here but what it will do is it will produce local jobs for local people and that is really important.

4.3.8 The Connétable of St. John:

The Minister mentioned there is a likelihood we will be bringing people in from off-Island. That being the case, what term contracts will they be and will they be fixed term contracts, i.e., if it is 5 years, it is 5 years and they go back and they cannot move off that job into some other part of industry. Secondly, will they be bringing their families so that we have to educate the children as well?

Senator A.J.H. Maclean:

The Connétable is jumping ahead a little bit. An application would need to be made clearly to Regulation of Undertakings and given the due consideration which each and every application for a business, new or existing, is given. In this climate, there is a very heavy emphasis on local employment and not, unless there is no other option or there is not available talent in the Island, to give opportunities for businesses to bring in people to Jersey. We want to ensure that we create job

opportunities for locals and I would hope that the Connétable will be satisfied that when it goes to that process, that Regulation of Undertakings Law will provide the safety net and, if necessary, it will go to the Migration Advisory Group for further oversight and decision.

4.3.9 The Connétable of St. John:

A final supplementary has come out of this. The Minister mentioned heavy jets. Is our airport designed to take heavy jets on our runway?

Senator A.J.H. Maclean:

They land every day but, in fact, what we are referring to here is business jets and so in that respect, it is heavy business jets as opposed to the large commercial ones I think the Connétable may be concerned about.

4.4 Deputy M. Tadier of the Minister for Home Affairs regarding an estimate of the cost incurred by Department in respect of the surveillance, arrest, security and conviction of Curtis Warren and associates:

Will the Minister provide an estimate for the costs being incurred by the department in respect of the surveillance, arrest, security and conviction of Curtis Warren and Associates and the cost to date of the investigation and subsequent disciplinary action being pursued against 3 of the officers involved in that said case?

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

I cannot give an accurate figure because I do not have any figures for normal police time with their normal salary so the figures I am going to give will be extraordinary expenditure over and above normal salaries. I also, in these figures, cannot answer for the Law Officers' Department in relation to legal costs but I note that the Attorney General will be answering a question on that. Subject to those caveats, the figure which I have in relation to the initial case of unusual expenditure is £1,116,000 and the figure which I have in relation to the disciplinary investigation and subsequent disciplinary hearings to date is £217,674.

4.4.1 Deputy M. Tadier:

If I might ask the initial supplementary, although in an ideal world there would be many, would the Minister explain what the extraordinary spending means for the most part of that £1,116,000 figure?

Senator B.I. Le Marquand:

Yes I think the main breakdown there is between the expenditure on the case itself, that is the *Warren & Ors* case, which was £344,352 and the expenditure on the security. There was a very high security risk, which I am prepared to talk about now that the case is completely over, and I was not prepared to talk about before, and the figures for that were £771,648. So you will see the bulk of those extraordinary costs in relation to the case related to the special security arrangements that had to be put in place.

4.4.2 Deputy T.M. Pitman:

Some of these costs the Minister has confirmed obviously related to the 3 officers being provided with public funds towards their defence in the disciplinary instance. Could the Minister for Home Affairs clarify whether this provision of public funds is standard procedure, given that the former Police Chief was afforded no such assistance?

Senator B.I. Le Marquand:

No, it is not standard procedure and it is not a procedure that I would generally want to follow. The general position in relation to officers is that the Police Association has an insurance policy which covers them in a year up to a certain amount. That was exceeded in this particular case and the senior police officer who was conducting the process, the judge, if you like, for want of a better word, of the disciplinary expressed great concern at the fact that there was a danger that the money would run out. It was therefore decided in an exceptional case to authorise an amount which, in fact, was agreed as £10,000 maximum towards the defence legal costs. That is not the normal process and it is not a direction I want to go down in the future. My view is that the Association should carry appropriate levels of insurance cover.

4.4.3 Deputy T.M. Pitman:

I am aware that the Minister said that this is not standard procedure or one he would want to repeat. However, I am told that the former Chief of Police had in his new contract, which was removed from his safe, that he was entitled to some financial support. So why did that not kick in in the same way as we have seen here?

Senator B.I. Le Marquand:

I am not sure I have understood the question. Is the Deputy asking about the former Police Chief or the present Police Chief?

Deputy T.M. Pitman:

The former Police Chief.

Senator B.I. Le Marquand:

I am certainly not aware of any financial arrangement of that nature. My understanding is that he chose not to be part of any scheme in relation to insurance and therefore did not have any financial provision.

4.4.4 Deputy M.R. Higgins:

Does the Minister not feel that since he has done this in order to give equality of arms to both parties that really this should become standard practice in the public sector in other disciplinary hearings, especially when employees do not have any form of insurance whatsoever?

Senator B.I. Le Marquand:

That would be a matter, I think, for terms and conditions negotiations which the States Employment Board would have to be involved with. I am being asked questions that go beyond my own area. My own personal view is that if that is a route that we are going to go down, it would have to be a route as part of a terms and conditions negotiation because it would represent an additional benefit to employees.

4.4.5 Deputy R.G. Le Hérissier:

Does the Minister consider that the sum spent was value for money, given the considerable doubts that have been expressed and the quite unprecedented move by the officers concerned to express their very deep abhorrence and feelings in public as to the experience which they were required to undertake?

Senator B.I. Le Marquand:

Deputy Le Hérissier likes to ask me questions about value for money in such cases and he always gets the same answer from me, that it is a necessary part of maintaining a credible police force that we have a proper disciplinary process where that was necessary. Now what happened in this particular case, it may help to Deputy to know, is that the Police Chief, anticipating and correctly

anticipating, that local officers would be very heavily criticised in any judgment of the Privy Council, which they were, decided before the decision came out in relation to that to institute an investigation which was conducted by the Hampshire Police Force. That investigation made recommendations in relation to disciplinary action and their disciplinary action has followed. The fact that the outcome has been as it is, in my view, is irrelevant. The fact is that the Chief Officer has followed a correct process in this case and I do not think he could have done anything else.

4.4.6 Deputy R.G. Le Hérissier:

Could the Minister tell the House whether he thinks the procedures followed, which are becoming almost similar to a court of law in the whole notion, have departed so seriously from the normal disciplinary procedure that the whole issue of discipline needs to be revisited and certainly the cost of discipline needs to be revisited?

[11:15]

Senator B.I. Le Marquand:

Yes, I most certainly agree that it does need to be revisited and we seem to have a kind of hybrid model which has developed in Jersey and we need to look and see if we can create a simpler model. Such disciplinary matters, particularly when both sides have lawyers, are very expensive indeed. I am certainly instituting a review in relation to that. I had already, I must say, instituted a review in relation to disciplinary matters generally. I have not seen the outcome of that and I want to extend that so that we look at this. I have said the U.K. model is not necessarily the right model because I have heard of cases in the U.K. involving disciplinary matters concerning officers where the overall costs to the public purse were in the millions.

4.4.7 Deputy J.H. Young:

I wonder if the Minister could clarify for me, is it correct that in these disciplinary proceedings, particularly where they are very, very public, that the person conducting the proceedings does not have the power to award costs in the event of a finding exonerating the persons charged? If that is the case, have people that have been left, as it were, substantially out of pocket, have they got access to the Royal Court to seek redress?

Senator B.I. Le Marquand:

No, that is my understanding. There is no ability of the person to award costs but, of course, that would cut both ways. If you were going to have a system in which costs could be awarded in favour of the person subject to the process, you would also want to have a situation where they could be awarded against them and the situation with such matters is that costs are not awarded either way. That is the current system. That is not just for police; that is right across the board.

4.4.8 Deputy M. Tadier:

There is an idea out there, which may be with merit, which says that although the police officers in question were found guilty and the Minister alluded to the Privy Council ruling which said that they were unquestionably guilty of serious prosecutorial misconduct, they were only acting on the advice of a higher authority, i.e., a senior law officer which was also mentioned in the ruling which says that they acted on that advice, hence why they took the action. Would that perhaps be one of the reasons why the Home Affairs Department was so keen to give some financial assistance to provide some support with this disciplinary hearing which the Minister is no longer willing to provide to other police officers in the future?

Senator B.I. Le Marquand:

No, I cannot speak on behalf of the Law Officers' Department and no doubt the Attorney General will be asked questions in relation to issues relating to his own department members. No, that was not part of it. At the time when the decision was made, I was completely unaware of what the verdict was going to be and that was irrelevant. It was simply that the judge, as I am calling him in this case, was concerned about this and specifically asked that such provision be made. It was agreed as a multi-party provision, in fact.

4.5 Deputy G.C.L. Baudains of St. Clement of the Minister for Planning and Environment regarding the details of a recent fish monitoring exercise undertaken in Portelet Bay:

With regard to the recent fish monitoring exercise in Portelet Bay, would the Minister advise how many staff were involved, the total cost, and what was achieved?

Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment)

The research was carried out by 3 staff from my department, together with a colleague from the University of Hawaii. The fieldwork took 4 days with staff working an additional day on the weekend on a voluntary basis. Preparation of the mooring systems also took one member of staff one day and their deployment involved 2 additional staff for half a day. The writing of the scientific paper was completed mainly in officers' own time. The moorings cost approximately £60 each. There were 4 so that was a total of £240 with some components being provided by our colleagues from T.T.S. (Transport and Technical Services). Monitoring and tagging equipment was provided also through our partnership with the University of Hawaii. Other expenditure related to small operational costs such as the vessel fuel for the Norman Le Brocq and air for diving. This study provides data that feeds into the department's wider research programme looking at marine protected areas. Establishing these areas is an obligation set out in the Integrated Coastal Zone Management Strategy, which the States approved in October 2008 and also in various international agreements, which the Island has also signed up to. I am supportive and pleased that my department has taken this rigorous and scientifically robust approach to providing the best information possible to assist in the management of our coastal waters.

4.5.1 Deputy G.C.L. Baudains:

I wonder if the Minister would further explain on the amount of time taken. Has it, as on my understanding as he has just told me, taken 4 days? I thought the monitoring went on for a longer period of time. It does seem to me that if it took 4 days, then the monitoring was pretty mild. What actual data has arrived from this which warrants the spending of this amount of money in these times of austerity?

Deputy R.C. Duhamel:

I think the Deputy has not probably read the technical report that was revealed on 4th January in a news release to all Members of this House and the general public. It was not a case of officers sitting round for up to 618 days watching fish kind of pass them by and counting them. Indeed, it was an exercise in electronic tagging. A number of fish were caught. Certain transmitters were placed in the peritoneal cavity of the fish or attached to their fins and a mooring cable was attached in 4 different places in the Portelet Bay area and as the fish with the transmitter inside swam past, it triggered responses from a receiver and after a period of time, that receiver was recovered and the data downloaded to computer so that the analysis could take place. Of what use is the data? Albeit that the statistical sample of fish was fairly small and perhaps in my experience should have been a little bit larger, some useful results have occurred. The wrasse is a very important fish for angling, particularly tourist angling. There is talk and work underway to establish certain areas, Portelet Bay being one of them, and perhaps further areas in the open seas as marine refuges to encourage fish breeding and to support both the marine species that are present and, indeed, our tourism

industry. That primarily is the basis of the work that is being undertaken. For the expenditure that was spent, although the Deputy is absolutely right, we are living in hard times, because a number of the costs were defrayed by working with the University of Hawaii and that was done on a free basis and certainly by cadging bits and pieces of equipment from the university and from our colleagues from T.T.S., the costs have been kept to a minimum.

4.5.2 Deputy R.G. Le Hérissier:

Notwithstanding the Minister's love of grass skirts and highly coloured shirts, would he explain why the University of Hawaii has been the partner when we have on the south coast one of Britain's finest fish marine laboratories at the University of Plymouth?

Deputy R.C. Duhamel:

Yes, one of the authors to this report is, I think, doing some work with the Hawaii Institute of Marine Biology and it is only right and proper that Jersey persons who are doing their research studies abroad should offer the opportunity to the Island to participate in local opportunities for advancing scientific knowledge.

4.5.3 Deputy G.C.L. Baudains:

I can assure the Minister I did read the report, which has triggered my concern that this seemed like an enormous waste of money. It took 4 days and the Minister has rightly said there was a lot of work involved in tagging the fish. It does seem to me that that is quite a short period of time to get accurate information. My question to the Minister is while they have monitored rockfish and rays, would he not concede that it might be more important to monitor the problems with bass?

Deputy R.C. Duhamel:

I certainly would and that would be an alternative line of inquiry that I would support but, indeed, if the Deputy's comments are to be taken literally, he is perhaps suggesting that no work should be undertaken because the monies expended so far on these studies is a waste of funds.

4.6 Deputy R.J. Rondel of St. Helier of the Minister for Home Affairs regarding the total births in Jersey in 2012 against deaths:

Given the United Kingdom's unprecedented baby boom, would the Minister advise the Assembly whether the same situation is being experienced in Jersey and also advise the Assembly of the total births in Jersey in 2012 against deaths? Just to be clear, I am in no way suggesting that the Minister may be responsible for any increase. [Laughter]

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

I do bear some responsibility indirectly in 2012 because 2 grandchildren arrived of mine [Approbation] which means, for those who are trying to keep an account of this, that I now have 4 but there we are. The answer to the question is that there has been an increase in recent years in the number of births. We do not have a final figure yet for the year because there is a delay in the registration process for outlying Parishes sometimes but it will not be significant. The figure was 1,160. Numbers have been increasing in recent years but curiously enough, they are now back to just fractionally above the level in the mid-1990s. I can give you some figures: 1994, 1,147 was the peak. Then they dropped away to levels in the mid-90s for a number of years and then have come up. So, yes, in recent years, we have started to increase although it has only just taken us back to the 1990s level. The figure for deaths so far, because there may well be more coming from outlying Parishes, is 752 so we have approximately 400 more births than deaths.

4.6.1 Deputy R.J. Rondel:

I thank the Minister for that answer. My concern really is as Governor of Rouge Bouillon School, the implications ... because I know 2 years ago one was considering doing away with the primary school in St. Helier and now the reverse is potentially being spoken about so would the Minister agree that discussions with the Council of Ministers should take place as quickly as possible. If they do see a trend, the implications for schools are important.

Senator B.I. Le Marquand:

That is the right area but of course I do know of conversations in the Council of Ministers already with the Minister for Education, Sport and Culture who was very concerned to be seeing a substantial increase above what was expected in his talking about the possible need for a new primary school. I am looking at him and he is nodding back at me. But this is not, I think, just related to the numbers of births having gone up. It is also related to the number of children as dependants of other people who have been coming into the Island in recent years.

4.7 Deputy G.P. Southern of the Minister for Housing regarding access to the details of the Housing Transformation Plan:

Will the Minister inform Members when he will bring the Housing Transformation Plan to the Assembly for debate and what provision, if any, will he make to ensure that Members can examine in detail the figures which underpin the business case for the plan?

Deputy A.K.F. Green of St. Helier (The Minister for Housing):

I am presently concluding discussions with my fellow Ministers in respect of the Housing Transformation Programme and anticipate bringing my proposals to the Council of Ministers in February and to lodge as soon as possible thereafter. It has always been my intention to share the full business case and the financial model with States Members when I lodge my proposition. Indeed, the Health and Social Security and Housing Scrutiny Sub-Panel and some States Members have already taken the opportunity to look at the proposals as I had them initially and to give me lots of useful information and feedback on that. That is the reason why I am slightly delayed in bringing it forward. But I will give Members adequate time to examine the full business case, which is a good one but a complicated one.

4.7.1 Deputy G.P. Southern:

Does the Minister not accept that the reason for his proposed rise in the States rental levels to 90 per cent of the private sector levels is solely or largely due to the continued payment of up to £24 million annually into the States Treasury under the H.T.P. (Housing Transformation Plan) proposals in order to make the scheme viable?

[11:30]

Deputy A.K.F. Green:

In a word, no, I do not. I am committed to a number of different principles. Firstly, I do not wish to subsidise people who no longer need to be subsidised in their rent. Secondly, as a member of the Council of Ministers, I support fully, as this House did, the Medium-Term Financial Plan and, thirdly, is that people keep saying about this return. Yes, the return does happen but that return is part of a legacy and most of that goes to paying the housing component at Social Security so I do not accept it is as simple as the Deputy is saying.

4.7.2 Deputy M. Tadier:

The Minister talked about a hidden subsidy and he also mentioned that some of the money of that goes towards Social Security to pay private landlords. What joined-up thinking is the Minister doing with his department and the Minister for Social Security to make sure that any of the

increases in social rents do not simply end up being handed over to Social Security and go into the back pockets of very wealthy local landlords?

Deputy A.K.F. Green:

That is an interesting question but we have to separate the rent component that is paid in the private sector from the rent component that is paid in the States sector. We have to keep that separate. The private sector is a matter for Social Security. The social sector is a matter for myself and I have had tremendous support, not only from the Minister for Social Security, in working my way through some very sound advice and guidance from the Scrutiny Panel and members that have been to see me and the Minister for Treasury and Resources. That is why I have taken slightly longer but I am close to concluding my thinking on them.

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

Could the Minister advise whether the social housing will be defined by this House before anything is decided going forward so that we will have an in principle decision made by this House as to what social housing is in the 21st century?

Deputy A.K.F. Green:

I will be defining when I bring my full business case forward what social housing is and, of course, it is up to Members to amend that if they think it is different.

4.7.4 Deputy G.P. Southern:

Can the Minister attempt to justify, which he has failed to do in 2 written questions, his logic which says that the continued payment of £24 million into the Treasury, which has handicapped the building of housing and the state of repair of housing for the last decade, why he is planning to continue that set-up under his new system and why does he not do something about that which has crippled social housing on this Island?

Deputy A.K.F. Green:

Because I live in the real world. If we are going to stop that and if you gave me a choice, do I want to spend that money on housing or do I want to contribute to the housing component of Social Security, the answer would be I would like to invest it in housing but I live in the real world. If we are going to lower that component or stop that component, what are we going to stop doing? Are we going to not give Health the money they want or perhaps give Education a bit less or are we going to put G.S.T. (Goods and Services Tax) up? I live in the real world. I am committed to the Medium-Term Financial Plan and I am working with my colleagues to come up with an acceptable system that will work for social housing.

4.7.5 Deputy G.P. Southern:

Does the Minister not at least accept that the continued drain of £24 million-plus given to the Treasury is likely to make more difficult the provision of sufficient housing of sufficient quality by the H.T.P.?

Deputy A.K.F. Green:

I will come up with a plan that takes that into account.

4.8 Deputy S.G. Luce of St. Martin of the Minister for Transport and Technical Services regarding the current condition of the Island's roads:

Is the Minister satisfied with the current condition of the Island's roads?

Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services):

Transport and Technical Services is responsible for approximately one-third of the Island's roads with the Parishes being responsible for the remaining two-thirds. This answer relates to the 267 kilometres or 166 miles of States of Jersey network for which T.T.S. is responsible. The last survey of the States of Jersey network indicated that in 2010, there were 45 kilometres of very high to high priority roads requiring maintenance. My department is working through this priority list with a predicted spend of £3.2 million on resurfacing projects in 2013 and to answer the Deputy's question, I am not happy with the condition of the roads but my department and I are doing everything possible to maintain the roads to the best of our abilities with the available funding.

4.8.1 The Deputy of St. Martin:

In response to a written question I posed to the Minister for this sitting, he has given me 2 answers. One is a very big number and one is a very small number. The big number is £3.2 million which is the amount of money he intends to spend this year on road resurfacing but the small number is 4 which is the number of roads which he intends to fully resurface in some sections and another small number is 3 which is the number of roads in which he intends to form some sort of large panels as a smaller scale of resurfacing. Can he not do better and does he regard this as good value for money?

Deputy K.C. Lewis:

As I mentioned previously, we are doing what we can with what we have. We are spending approximately £4 million per year on the roads. If we had an additional £3 million, £3.5 million, we could do much more. T.T.S. is in discussions at the moment with our colleagues at Treasury to get additional funding.

4.8.2 The Connétable of St. John:

Could the Minister give us an indication how many miles of road get resurfaced for £3.2 million? Also will he tell us the last time, and I notice one of the roads is La Route De St. Aubin is to be resurfaced, when that was last done - given I am aware when it was done and how it was re-engineered - and why it needs to be done again? Finally, will he go back to Treasury and ask for additional funding because there is additional funding he can have from Treasury, given we are aware that the Minister could find X number of million if Plémont went through. So therefore will he put another application into the Treasury for some more funds?

Deputy K.C. Lewis:

I will need to get back to the Constable regarding La Route De St. Aubin but as mentioned previously, T.T.S. are in discussions with Treasury regarding this very thing.

4.8.3 The Connétable of St. John:

The answer to the first question, how many miles of road are surfaced with £3.2 million?

Deputy K.C. Lewis:

I will need to get back to the Constable on that.

4.8.4 Deputy R.G. Le Hérissier:

Could the Minister tell us the roads which, to his department, are the highest priority in terms of needing major repairs?

Deputy K.C. Lewis:

Yes, I have the schedule for 2014. Rue Des Prés Trading Estate, La Grande Route de St. Jean will be in 2014. In 2015 the ring road portion of St. Saviour's Road, Gasworks Gyratory, the North Road from Trinity to Gorey including La Rue es Picots, Profonde Rue, La Rue de la Maitrerie, La Rue de la Croix au Maitre, La Grande Route de Faldouet and Le Mont Cambrai. In 2016, La

Grande Route de St. Laurent, La Grande Route de la Trinité, La Grande Route de la Côte, a portion, La Rue Du Huquet, Green Street and Le Mont à La Brune.

4.8.5 Deputy T.A. Vallois:

The Minister stated in his first answer about maintenance. Could he explain exactly what the maintenance is on the roads and the fact that there have been many re-dos over the past 2 years in particular?

Deputy K.C. Lewis:

Any re-dos are guaranteed, I believe it is up to a year, where the contractor will come back if it proves to be in an unsatisfactory condition.

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

Can the Minister tell us how the priority list is compiled? Is there consultation with the Parishes although they are States roads?

Deputy K.C. Lewis:

I believe the Transport Officers do consult the Parish and the Roads Committees and other interested parties.

4.8.7 The Deputy of St. Martin:

I was under the impression that in the Medium-Term Financial Plan the monies allocated to T.T.S. for road surfacing were enough to maintain the current state of the Island roads. I would just put to the Minister that the list that he has furnished us with this morning is basically not maintaining the current state of Island roads and there is a storm waiting to happen in a few years when our roads literally start to fall apart.

Deputy K.C. Lewis:

Indeed, which is why T.T.S. are talking to Treasury regarding additional funding.

Deputy G.C.L. Baudains:

On a point of order, I did have my light on from the very beginning of that and yet I was never called.

The Bailiff:

Deputy, I can only apologise then. I did not see your light until right at the end and by then I felt that there were sufficient questions and we had to move on.

4.9 Deputy R.J. Rondel of the Minister for Transport and Technical Services regarding the printing of the new bus timetables:

Would the Minister advise the Assembly why the new bus timetables were not printed in the Island?

Deputy K.C. Lewis (The Minister for Transport and Technical Services):

The sourcing of materials is a matter for the contractor, CT Plus. However, to assist, I can inform Members that they have advised me that CT Plus will always invite Jersey companies to tender or quote for work where suppliers are available. They will prioritise Jersey companies in their procurement as long as suppliers' price and terms are competitive, providing comparable value for money. CT Plus Jersey conducted a full and rigorous 2-part tender exercise for the design and print of its winter timetables and 10 design print agencies were invited to submit quotes, 5 of which were Jersey-based. The first part of the tender was for the compendium timetable. Unfortunately, no

Jersey tender was competitive in relation to the winning quote. The nearest Jersey quote was 27 per cent more expensive. The second part of the tender exercise was individual route timetables. A Jersey company was selected as they submitted a highly competitive quote. They were not the cheapest but their price was sufficiently comparable, thus triggering CT Plus's procurement policy of prioritising Jersey companies wherever practical. CT Plus will continue to give Jersey design print companies the opportunity to quote for design and print work in the future.

4.9.1 Deputy R.J. Rondel:

I thank the Minister for his very detailed answer and just to say that my concern was whether the local companies were given a chance to tender so I thank him for that. Does the Minister agree that when I went to get the bus a week ago, there were no bus timetables available because they were all given out and I was told that because they were printed in the U.K., there was quite a severe delay in the time factor getting them to the Island so there was a disadvantage due to that situation?

Deputy K.C. Lewis:

Indeed, and CT Plus have apologised for that but it was a rush print so that they would have the reprint done.

4.9.2 Deputy M. Tadier:

The Minister obviously started off by saying that the matter of sourcing printing was for the company themselves and not for him and then he proceeded to read out an answer which is presumably the justification from the company. My very simple question is does the Minister agree with the statement from the company that he just read out and more concisely, is it better when there is a 27 per cent differential to buy products from the U.K. rather than from Jersey?

Deputy K.C. Lewis:

Indeed, other printed materials such as the posters, shelter vinyls, sundry information sheets, have all been designed and printed locally. During the first week of operation, 5,000 compendium bus timetables were issued to the public which exhausted CT Plus's stock. The problem has now been addressed and compendium bus timetables are now available again.

4.9.3 Deputy M. Tadier:

Obviously the Minister talked about some posters or some fittings that had been purchased locally but that is probably purchased by the T.T.S. Department. Is that correct or can he clarify whether they would be purchased by CT Plus?

Deputy K.C. Lewis:

Those will all be CT Plus Liberty Bus.

[11:45]

4.9.4 Deputy J.H. Young:

Would the Minister confirm or advise the Assembly whether or not CT Plus, since they are receiving very substantial public funds by way of subsidy, are required in their procurement policies generally to follow that of the Minister for Treasury and Resources in terms of local versus off-Island contracting, recognising that local contractors have a lot of disadvantages? Would he please confirm that is the policy?

Deputy K.C. Lewis:

Absolutely, wherever possible, everything will be done locally. It might be interesting for Members to know that most if not many of the Island's Parish magazines are printed off-Island so before we start throwing rocks at the new boy, maybe we should get our own house in order.

4.9.5 Deputy R.J. Rondel:

Just to ensure whether the Minister was completely satisfied with the tendering process and that local people were given a fair opportunity and if it did go to local tender, whether they would have paid G.S.T. and whether the off-Island companies paid G.S.T. as well.

Deputy K.C. Lewis:

I would believe so but I need to get back to the Deputy to clarify that.

4.9.6 The Connétable of St. John:

Could the Minister give that reply to the whole House when he does come back, please?

Deputy K.C. Lewis:

Certainly.

4.10 Deputy M. Tadier of the Attorney General regarding an estimate of the prosecution costs in respect of the conviction of Curtis Warren and associates:

Will the Attorney General provide an estimate of the prosecution costs in respect of the conviction of Curtis Warren and Associates, including the appeal case, and advise what steps, if any, have been taken to recover the court and case costs?

Mr. T.J. Le Cocq Q.C., H.M. Attorney General:

Since the case against Curtis Warren and others started in July of 2007, the prosecution, up until 31st December 2012, has incurred expenditure of £1,963,619. This sum covers all hearings up to and including the Privy Council and expenditure incurred preparing for confiscation proceedings which it is anticipated will take place later this year. The confiscation proceedings are still before the court and there are other matters upon which the Royal Court has been asked to adjudicate. I am not therefore in a position to provide more details about these matters as they are before the court and *sub judice*. As is the normal practice, issues relating to the costs of the proceedings and whether those who were convicted should pay all or part of the costs of the prosecution have been adjourned until the conclusion of the confiscation proceedings.

4.10.1 Deputy M. Tadier:

If I might be permitted a supplementary, can the Attorney General advise whether there were any cost implications for the Law Officers' Department in the related disciplinary case of the 3 police officers which we found the result for on Thursday?

The Attorney General:

No, there were not. All decisions relating to the police disciplinary proceedings and expenditure were incurred by the police.

4.10.2 Deputy M.R. Higgins:

I am just wondering if the Attorney General can elaborate on what other matters, other than the confiscation order, are before the court and which will be incurring costs?

The Attorney General:

No, I am afraid it would not be appropriate for me to do so in this public forum.

4.10.3 Deputy R.G. Le Hérissier:

Notwithstanding the fact that the disciplinary procedure was handled by the police, could the Attorney General state categorically to the House whether he was involved at any point in giving

advice, directly or indirectly, to the police as to the advisability of disciplinary proceedings and thereby increasing the cost?

The Attorney General:

Contrary to the report that appeared in the newspaper of yesterday, I did not make any complaint of misconduct or anything else against any of the officers. It was not my decision. I was neither a party to, nor did I participate in, the disciplinary proceedings in any way.

4.10.4 Deputy M. Tadier:

The Attorney General will be aware of the Privy Council ruling of 28th March 2011 which said that a senior member of the Law Officers' Department in Jersey advised the police that despite the French and Dutch refusals, he did not think that a Jersey court would be likely to exclude any evidence and therefore a link was made whereby police officers acted inappropriately, ostensibly on the advice of a senior Jersey law officer. On that basis, does the Attorney General think that there was likely to be any cost arising from a potential investigation into the Law Officers' Department and if so, what would that cost likely be?

The Attorney General:

No, I do not.

4.11 Deputy G.P. Southern of the Chief Minister regarding the schedule for negotiating Foreign Account Tax Compliance Act agreements with the United Kingdom and United States:

Will the Chief Minister outline for Members the schedule for negotiating Foreign Account Tax Compliance Act agreements with the United Kingdom and the United States and advise what implications, if any, the Isle of Man's agreement to a F.A.T.C.A. with the U.K. has for Jersey?

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

I refer the Deputy to my answer to his similar written question tabled today.

4.11.1 Deputy G.P. Southern:

Fine, thank you. That gives me plenty of opportunity to ask my supplementary then. Further, what implications for Jersey does the Chief Minister see in the E.U. (European Union) pressure now being exerted on certain E.U. Member States, such as Austria and Luxembourg, over the granting of Most Favoured Nation status by their agreement of a F.A.T.C.A. with the U.S.? Does that not mean that automatic information exchange is on the way, certainly within the E.U.?

Senator I.J. Gorst:

As I have said a number of times, Jersey is signed up to the E.U. Saving Tax Directives, in effect reserving its position with regard to automatic exchange on those bases until the E.U. itself has got common agreement across all its jurisdictions. Ministers have said in this Assembly that we recognise that automatic exchange of information is the standard which many jurisdictions are starting to consider and work towards and we are supportive and comply with all relevant international standards and will continue to do so.

4.11.2 Deputy J.H. Young:

Would the Chief Minister either confirm or deny whether it is correct that the U.S. position in these negotiations is that their agreement is dependent upon Jersey entering into the agreement with the U.K. and in the event of the U.K. agreement not being signed, then the U.S. agreement will not be ratified? Could he confirm or deny that?

Senator I.J. Gorst:

There are 2 separate pieces of work. Officials are well advanced together with Guernsey and the Isle of Man towards the culmination of a signing of a F.A.T.C.A. with the United States Government. Officials are equally side by side continuing to meet and discuss and negotiate with the United Kingdom Government with regard to helping them address their concerns around tax evasion of U.K. resident non-domiciled citizens.

4.11.3 Deputy M.R. Higgins:

Just following on from the Chief Minister's answer to that, has the U.K. Government threatened not to allow Jersey to sign the U.S. F.A.T.C.A.? That is what it comes down to. As part of their negotiations, are they saying: "You cannot sign with the United States unless you sign an agreement with us?" Yes or no?

Senator I.J. Gorst:

The United Kingdom Government ... I do not wish to speak on their behalf because I have no mandate to do so but it is my understanding that they believe or are convinced that F.A.T.C.A. will become an international standard and they wish to sign F.A.T.C.A. agreements with other jurisdictions and they are making that case to us and we are negotiating with them because we have said, and we will continue to say, that the U.S. F.A.T.C.A. agreement is global in its application and therefore creates a level playing field and that is what we are concerned about.

4.11.4 Deputy M.R. Higgins:

The Chief Minister has not answered the question. The question was have they threatened to prevent us entering into an agreement with the United States until we enter into an agreement with the U.K. on the same issue?

Senator I.J. Gorst:

We see no reason why we should not go ahead and complete the U.S. F.A.T.C.A. It seems to us to comply with the Letter of Entrustment that we have with regard to signing international agreements and therefore we expect to follow the normal course of affairs when signing these types of international agreements.

Deputy M.R. Higgins:

Sir, could you instruct the Chief Minister to answer the question he has avoided yet again?

The Bailiff:

Are you willing to answer the question about these negotiations, Chief Minister? The question was whether the U.K. has threatened or not to sign a F.A.T.C.A. with the U.S. unless we sign one with them.

Senator I.J. Gorst:

I have outlined exactly what I believe the process is and our interpretation of the Letter of Entrustment with regard to the signing of the U.S. F.A.T.C.A. and therefore I believe that that does answer the Deputy's question.

Deputy T.M. Pitman:

I have exactly the same question as Deputy Higgins. I am happy to ask it again and see if we can get a yes or no answer but otherwise I will just sit down and be quiet.

4.11.5 Deputy M. Tadier:

That is a kind of nuanced approach. It was simply a yes or no question. That is what we were asking for, so that is beyond the Chief Minister. The next question has to be has any legal advice been taken and is the U.K. able to block the signing of the agreement between Jersey and the U.S. if it so chooses to? That is the fundamental question and if he can answer a yes, no, maybe, or it is likely that something to that effect, I would be most grateful.

Senator I.J. Gorst:

I am pleased that the Deputy recognises that negotiations are not straightforward yes and no, and that Members of this Assembly would not expect me to put it in any way to the detriment of Jersey's best interests by being asked to simplify what are important but complex issues. I think I have answered the Deputy's question. As I have said, what Ministers and I believe is the appropriate process with regard to the completion of the U.S. F.A.T.C.A.

Deputy M. Tadier:

I thought this was question time not negotiation time.

The Bailiff:

What was the question, Deputy?

4.11.6 Deputy M. Tadier:

The question is that I appreciate that negotiations are not simple yes or no answers but question time in the States Assembly can be and often are simple yes or no answers but it does require an element of co-operation from our Ministerial colleagues.

Senator I.J. Gorst:

I seem to have answered a great number of questions on this particular issue over the course of a number of months and I have made our position, I believe, quite clear. Jersey is in alignment with the United Kingdom when it comes to tackling tax evasion and therefore it is right that we negotiate and consider with the United Kingdom how we can help them achieve that aim.

4.11.7 Deputy G.P. Southern:

My question is a 2-part, I am afraid. The first was what is the timescale for signing with the U.S. and it has not been answered, but secondly ...

The Bailiff:

I do not think it has been asked

Deputy G.P. Southern:

Pardon?

The Bailiff:

I do not think it has been asked.

Deputy G.P. Southern:

It was the original question, Sir.

The Bailiff:

Was it?

Deputy G.P. Southern:

Yes, the schedule.

The Bailiff:

The schedule for negotiations, right.

Deputy G.P. Southern:

That could be months or years, Sir, or weeks. The second half, just for clarification really, the Chief Minister has explained that while he is co-operating fully with the U.S. over signing a F.A.T.C.A., he is now refusing to co-operate with the U.K. and not negotiating but blocking the signing of a F.A.T.C.A. with them, thereby allowing Jersey to continue to act as a conduit for evaded tax.

Senator I.J. Gorst:

I have got to say I could not disagree more with the Deputy. I have been absolutely clear that our interests with regard to tackling tax evasion are absolutely aligned and our record in this regard, I think, stands second to none. In fact, our legislation is a lot stronger than many other jurisdictions around the world and we should be proud of that fact. So we are in conversation and negotiating with the United Kingdom around how we can help in that regard and we are not blocking. So with regard to the United States F.A.T.C.A. agreement that, in actual fact I understand from my officials, will be ready for approval in the next number of weeks and months, so in very early course.

[12:00]

4.12 The Connétable of St. John of the Minister for Treasury and Resources regarding the above the cost of living charges made by the Jersey Electricity Company:

Would the Minister, as a shareholder representative, investigate the above living charges made by the J.E.C. (Jersey Electric Company) and ascertain why profits were used to provide some homeowners with thermal insulation grants when these funds could have been of benefit to all householders by lowering the electricity costs?

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

I will do my very best to be as open as I can. The Channel Islands Competition Regulatory Authority has reviewed in depth the recently announced tariff rise by the J.E.C. and they concluded the prices charged were broadly fair and comparable and compared favourably with Guernsey, the Isle of Man and Ireland and other European States, including Malta. The J.E.C. provides advice to customers on energy efficiencies directly through its customer care team and indirectly through occasional media releases. They also visit vulnerable customers in their own homes to assist them with energy efficiency and tariff advice where possible. Members will recall that in 2008, the J.E.C. provided seed capital of some £500,000 for the Energy Efficiency Service, a scheme which aims to help vulnerable Islanders and different sections of the community, community organisations and not-for-profit organisations to improve energy efficiency of their own homes and community buildings and, indeed, added to the States funding of over about £900,000 in recent years, this has been a real success in reducing the energy costs for many vulnerable Island households. J.E.C. have not contributed any funds since that £500,000 although some still remains unspent. The States continued with the Energy Efficiency Service; therefore the J.E.C. do not currently provide any direct grants to customers and the States of Jersey is in a much better position with the Planning Department to assist in the Energy Efficiency Service which is not only just for electricity but all energy uses.

4.12.1 The Connétable of St. John:

Given that the States own 62 per cent of the J.E.C., would the Minister please influence or try to influence the board that more money should be returned to the user instead of to the shareholders, given that we are in times of constraint across the Island and across the world and we should be

looking after the people who are giving the J.E.C. all their profits, although the profits are down by 50 per cent this year?

Senator P.F.C. Ozouf:

The Constable, I think, raises a number of important issues in his answer and he probably knows how to answer the question as well as asking it. The States does not have 100 per cent control of the J.E.C. There are other shareholders so it is a different relationship with those other utilities but I can say that we do have ongoing an appropriate amount of interaction with the board which is appropriate because they are, of course, a publicly quoted company. I think the Assistant Minister and I have one of our regular scheduled meetings next week with the board. I think it is important and I do not know whether the Constable has read the report by SICRA (Singapore Credit Rating Agency) - and I am going to send him the internet link for that report published in December 2012 - because it did indicate that the J.E.C. is, in fact, comparing very well, notwithstanding the very difficult times. We all understand the price rises that we have seen but the J.E.C. is an extremely good benchmark to other electricity companies in comparable jurisdictions, much better, may I say, than perhaps Malta or Guernsey or even Ireland and indeed the Isle of Man. So I think we must recognise the good performance and efficiency of the J.E.C. I just draw the Constable's attention to the huge benefit that the Energy Efficiency Service seedcorn funded by the J.E.C. has made. They have reduced the costs of hundreds of homes in the Island and that is the way to reduce electricity costs, not just simply trying to inappropriately perhaps influence the tariff.

4.12.2 The Connétable of St. Martin:

I am not sure really if it comes under the Minister for Treasury and Resources but is he aware of what appears to be long delays in the waiting lists for those seeking surveys of their homes and the grants and if so, is this being addressed so that the improvements can be done far more quickly and so that elderly people see them through this winter?

Senator P.F.C. Ozouf:

I am not aware of that and I will take it up with the Minister for Planning and Environment who, in 2013, has £886,339 in order to do that. The Energy Efficiency Service has already assisted 735 homes, on average reducing costs of £160 a year, and if we need to strengthen the waiting list to put more resources into that, not only does this service reduce costs but it is employing more people engaged in an otherwise very difficult job market but I will take that up with the Minister for Planning and Environment.

4.12.3 Deputy G.P. Southern:

Will the Minister go further and confirm his openness to examine all means to increase the spend on energy saving on the Island and, indeed, all projects which are 'Invest to Save' in the long term in terms of green initiatives?

Senator P.F.C. Ozouf:

I look forward to receiving the report which the Deputy has indicated that he wants to lodge. Good arrangements between Ministers and Back-Benchers would mean that we could have constructive dialogue. There is no doubt at all that the energy efficiency business of Jersey has some opportunities to create jobs and where we can put more money in and I think that is a very substantial investment in Energy Efficiency Services which is going to employ local people. But if we can do more, as I have said, we will be flexible through these difficult economic times. If this is an area where we can put more resources in, employ more people and reduce energy costs, then we will do so and I will support it strongly.

4.12.4 Deputy M. Tadier:

The Minister said that if Jersey Electricity Company reduces the amount of electricity they sell by making homes more insulated, or the inference at least is that less electricity will be used, he seemed to suggest that that would lead to prices coming down. Does he not acknowledge that there is a contradiction and a potential conflict of interest in Jersey Electricity Company advising people to use less electricity when they make their profits from selling electricity to the public? Does he also acknowledge that if less electricity is used in order to maintain the same level of profitability for the company, the price per unit of electricity will have to go up?

Senator P.F.C. Ozouf:

Can I encourage the Deputy to read the report from the Channel Islands Competition Regulatory Authority? Indeed, electricity represents some 38 per cent of fuel consumption in the Island and, indeed, is rising in terms of its market share. The overall units sold by the J.E.C. has increased from 581 gigawatts to 651. Quite apart from the J.E.C. reducing the amount of electricity, they have been successful in securing a greater market share and they are also a very responsible organisation. They take their responsibilities of advising customers seriously, I think, exhibited by the fact that they were the only energy company to put forward money for the Energy Efficiency Service. I think they are a good example of a company well run, efficiently run, but also helping consumers and giving advice to cut their own costs. They are doing all of that and I fully expect electricity consumption in Jersey to rise as standards of living continue to rise as more people use things like energy-consuming devices and the J.E.C. itself, in line with the energy policy, takes a greater market share of energy in the Island.

4.12.5 The Connétable of St. John:

I was concerned when I saw that the funding for the new sea cable that had to be replaced was basically being funded, shall we say, on a needs basis instead of coming out of funds that should have been put aside into a fund to pay for this. Can the Minister explain why certain funds have not been collected as any good housekeeping would do?

Senator P.F.C. Ozouf:

I will also send, if I may, the link of the J.E.C. accounts to the Constable so that he can see just how well run and how efficient this business is. They are well capitalised. They have planned. It is not the J.E.C.'s fault themselves for some of the difficulties that they have encompassed into securing more cable connections to France. I have to say if he reads the Annual Report and accounts of the J.E.C. and if he reads the SICRA Report, I think that he and other Members who have understandable concerns about price rises will get considerable comfort by the transparent information that is there and by the conclusions of SICRA.

4.13 Deputy T.M. Pitman of the Chief Minister regarding the cost of supporting four individuals bringing actions under the Data Protection (Jersey) Law 2005, relating to the Internet:

Will the Chief Minister clarify how much taxpayers' money has thus far been spent in support of the 4 individuals bringing action on to the Data Protection (Jersey) Law 2005 relating to the internet?

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

Could I ask my Assistant Minister, Senator Routier, who acts as political liaison with the Data Protection Commissioner, to answer this?

Senator P.F. Routier (Assistant Chief Minister - rapporteur):

As has already been confirmed in previous answers, there are proceedings that are ongoing. Therefore not only would further discussion be *sub judice*, there is an order in place that all hearings in relation to this matter are held in private until a further order of the court and that no party may disclose information to any one party. At this point in time, while matters are ongoing, it is not appropriate to comment on any fees incurred.

4.13.1 Deputy T.M. Pitman:

The Attorney General in the past said there was a limited amount of taxpayers' money that would be available in such cases. Can the Assistant Minister at least confirm to the House a figure that is the ultimate that can be used from the taxpayers' purse and who is monitoring this because I think that is very important to the public?

Senator P.F. Routier:

Every year in the accounts of the Data Protection Office, there is an amount set aside for the running of their department. They keep within that budget and that is publicly known. I do not have the figure with me here today but it is a figure which has been advised to this House in the past.

4.13.2 Deputy T.M. Pitman:

Sorry to push that but from what the Assistant Minister is saying, he is suggesting that it is entirely down to the Data Protection Commissioner's discretion. Do I understand that correctly?

Senator P.F. Routier:

The Data Protection Commissioner is an independent person who has responsibility for the budget and as long as they keep within the budget, we should be satisfied.

4.13.3 Deputy G.P. Southern:

The Assistant Minister has just said that we should be satisfied. If he expands that to "we" in this Chamber concerning public spending, can he justify in some way his linking of the sum spent on this case with an injunction that says we cannot talk about the proceedings? Surely there is no link between the amount spent and the actual proceedings going on. How can he justify not informing Members how much public money has been spent on this particular case to date?

Senator P.F. Routier:

In the opening answer, I did say that the court has put an order in place to not talk about any matters in relation to these cases so we are bound by that.

4.13.4 Deputy G.P. Southern:

Is the phrase used in the document in front of him "matters relating to these cases" in which case possibly one might justify not talking about how much has been spent. Is that the actual wording and, if not, will he tell us what the wording is because I cannot believe it encompasses the amount spent by the States on pursuing these cases?

Senator P.F. Routier:

I do not have the court order in front of me. I can certainly look at that to see what the court has decided but my understanding is that the whole relates to everything relating to the case.

4.13.5 Deputy M.R. Higgins:

Can the Assistant Minister tell us whether the person who is on the receiving end of the Data Protection's action receiving equality of arms? Are they also being funded by the States or is it just the 4 individuals who are bringing the action?

Senator P.F. Routier:

I have no knowledge of the cases at all so I cannot answer that.

4.13.6 Deputy M.R. Higgins:

Do you believe the person should receive equality of arms?

Senator P.F. Routier:

I have no knowledge of the cases at all so I cannot comment on that at all.

4.13.7 Deputy M. Tadier:

It seems that the Assistant Minister has been chosen to answer the question specifically because he does not have any knowledge about any answers that he can give which is convenient because we are not allowed any information on the question which has been approved by yourself, Sir, but I am sure it is more complicated than that. The question I have to ask is: is the Assistant Minister concerned that taxpayers' money is being used for a case which ostensibly could or which could possibly use the defamation law because this is a case about defamation, not necessarily about data protection, which would not have to be funded by the taxpayer. Does the Assistant Minister have any concerns that taxpayers are being used to fund a secret case which we cannot even find out what the costs are at the moment when perhaps the best use of procedure would be for a civil defamation case to be brought against this individual so that taxpayers would not have to fund it.

[12:15]

Senator P.F. Routier:

The Deputy's understanding of what cases are going on is greater than mine. It is not part of the responsibility of the Chief Minister or myself to be involved in any particular cases and I would respectfully suggest to Members that when there are cases which are *sub judice*, that politicians should not really think about being involved in it and I maintain that position and as long as the Data Protection Officers are working appropriately within the law, that we should be satisfied with that.

4.13.8 Deputy G.P. Southern:

If I may, can I ask the Assistant Minister to circulate the documents he has not brought with him today, the 2 items that he has mentioned in his answer?

Senator P.F. Routier:

I am not sure what the Deputy is referring to. All I have is an answer to the question that ...

Deputy G.P. Southern:

I refer to the wording of the injunction from the court and the sum allocated to data protection issues within the budget, both of which he mentioned and said: "I do not have them with me." Can he circulate them before day's end?

Senator P.F. Routier:

The Data Protection Office budget is publicly known. It is available to anybody. Regarding the court's order, I presume that would be on the court's website if there is such a thing. I cannot find it.

4.13.9 Deputy G.P. Southern:

Effectively, he has not answered the question and said he is not prepared to do anything to elicit the answers. Can the Assistant Minister be more co-operative?

Senator P.F. Routier:

Certainly, I will have a look to see what can be provided but as I have said previously, these cases are *sub judice* but I will do whatever I can.

4.13.10 Deputy M. Tadier:

May I have a supplementary simply to be helpful? I appreciate that this is a *sub judice* case so would the Assistant Minister make an undertaking to look into a policy area which relates to the use of defamation cases as opposed to the use of data protection law because they are fundamental issues which border on the right of freedom of speech versus the right to not be defamed and it is critical that there is not an abuse, first of all, of taxpayers' money being spent or an abuse, potentially, of the wrong law being used when another law should be used. Would the Assistant Minister undertake to take that away and discuss that?

Senator P.F. Routier:

In preparing to answer this question, I looked at Hansard when the Chief Minister answered a very similar line of question previously and it was suggested to Members that if they have a concern with the Data Protection Law, that they should consider bringing forward an amendment to that law. I certainly do not have any concerns about the way it is currently being used but if other Members do, I would suggest that they bring an amendment to the Data Protection Law.

4.13.11 Deputy T.M. Pitman:

I am tempted to ask if you can apply retrospectively to use this law but what I will ask the Assistant Minister is: is he really happy and content that here we apparently have taxpayers' money being used and yet no one in this Assembly is allowed to know how much is being spent, what that limit is effectively or who is monitoring it. Is that a good way to handle taxpayers' money?

Senator P.F. Routier:

We have put in place a system to provide protection to the public through the Data Protection Office and when it was established, it was established in a way that gave the authority and the backing to the Data Protection Officer to use the funds available to them wisely and I have no reason to believe that it is not happening in any of these cases and I maintain that we have sufficient protection for public funds because the Data Protection Officer is using the money within their existing budget.

4.14 Deputy G.C.L. Baudains of the Minister for Transport and Technical Services regarding the consultation and expenditure to date for the abandoned harbour cycle track project:

With regard to the abandoned harbour cycle track project, would the Minister advise what consultation took place, with whom and when, the cost of the project to date, including planning fees, and when the application was withdrawn?

Deputy K.C. Lewis (The Minister for Transport and Technical Services):

In May 2011, T.T.S. began preliminary work to scope possible solutions for a shared pedestrian cycle path on the western side of commercial buildings at English and French harbours which would reduce the potential for conflict between pedestrians and cyclists and the 10,000 vehicle movements to and from La Collette that occur each week day. The proposed concept was initially discussed with the Harbours Department to understand and address any operational issues they may have had and the then W.E.B. (Waterfront Enterprise Board) as the body tasked at that time to look into the development of the former La Folie pub. Following this, meetings were then held with representatives of the St. Helier Yacht Club and St. Helier Boat Owners' Association and the Jersey

Marine Traders Federation in August 2011. The groups were shown drawings and a photo montage and the proposals were discussed to understand and address the concerns of these groups. In parallel to this, the scheme was also discussed in detail with the Planning Department and its Historic Environment Officer. As a result of these discussions, a specialist heritage architect was employed to ensure the heritage impacts of the proposals were mitigated before the planning application was made. The cost to the department of the work relating to the development of the proposals and preparation of the planning submission has been £8,915, including planning application fees. The application was withdrawn on 7th January.

4.14.1 Deputy G.C.L. Baudains:

Withdrawn on the same day that I lodged my proposition. Would the Minister advise what alternatives he is now considering to replace the previous scheme and will he be announcing those options before work is started?

Deputy K.C. Lewis:

Indeed. Apologies to Members. There was a delay in withdrawing the application as my Transport Officers were otherwise engaged at Liberation Station at that time. Yes, I am more than happy to discuss any future plans with Members.

4.14.2 Deputy J.H. Young:

Would the Minister please confirm or advise the Assembly whether the savings left after meeting the cost as he has explained of £391,000, however that will be used for improvements in other cycle routes throughout the Island, including alternatives to this particular one?

Deputy K.C. Lewis:

The figures that were provided were a ballpark estimate only. No M.D. (Ministerial Decision) to spend the monies has ever been presented or signed. However, to provide some context, the path's design life would have exceeded 100 years so basically no M.D. was ever signed to allocate the money.

4.14.3 Deputy G.C.L. Baudains:

There are 2 parts to my question. I wonder if the Minister could remind me on what date the Marine Traders Federation was consulted. I would inform him that I am a member of that body and I do not recall the consultation. Would he also explain why he believes that running the cycle track past the harbours would alleviate a danger to cyclists when, in fact, it would only take them down to La Collette where virtually the only vehicles are heavy goods vehicles? I really do not see the benefit.

Deputy K.C. Lewis:

My notes only say that the Marine Traders Federation was consulted in 2011. Basically, this was the last link in the chain which would take the whole cycle track from Corbière Lighthouse right the way round to Havre des Pas as the cycle track runs in front of the J.D.C. (Jersey Development Company).

5. Questions to Ministers without notice - The Minister for Social Security

The Bailiff:

Very well. That concludes Question Time on Notice so we now come to Questions to Ministers without notice and the first period is to the Minister for Social Security.

5.1 Deputy G.P. Southern:

Will the Minister inform Members what measures he has taken to ensure that income support recipients can afford their G.P. bills following the reduction in the award of Household Medical Accounts?

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

The Deputy is aware that I have previously informed him that the Household Medical Account provision is part of the review of primary health care being carried out in conjunction with the Health and Social Services Department. There are no plans to make any changes to the current provision. However, if there is a household that has a high need to visit the G.P. regularly we could, in those circumstances, offer the Household Medical Account, which is basically just a savings account and no more than that.

5.1.1 Deputy G.P. Southern:

Does the Minister accept that he appears to be unaware of what officer practice is and that many people have been refused the establishment of an H.M.A. (Household Medical Account) being told that it is not necessary and that they can look after their G.P.s' accounts without that special buffer provision?

Senator F. du H. Le Gresley:

I refute that I am not aware of what is happening. I am aware but the point is that the Household Medical Account is a savings account. It is no more than that and components are set aside from the weekly benefit to save towards G.P. bills. It is purely a savings scheme and no more than that. Therefore, if households feel that they would like to have that provision that is something they can talk to their officer about.

Deputy G.P. Southern:

May I have a supplementary there because I believe the Minister may be inadvertently misleading the House and I would not want him to do that?

The Bailiff:

All right.

5.1.2 Deputy G.P. Southern:

It is also about clinical components which are extra money that needs to be applied for. He was suggesting that the H.M.A. is only made up of other components. It should not be made up of other components like the living component or the rental component. It should only be made up of clinical components and that is not always happening.

Senator F. du H. Le Gresley:

Here Deputy Southern, as usual, is expressing a view that only clinical components should be used for the Household Medical Account. That is purely his opinion. My opinion, for what it is worth, is that other components, particularly if the household has a high component for impairment, that some of that component can be used to top up the Household Medical Account with the agreement of the household.

5.2 Deputy S. Power of St. Brelade:

My question for the Minister for Social Security is an aspiration to become self-employed as a result of unemployment. A constituent has advised me that as a result of unemployment he may wish to become self-employed starting with 5, 10 maybe 20 hours a week. He advises me that the Social Security Department are inflexible and onerous in the level of contributions that he may have to pay. Can the Minister consider or has he discussed with his officers a sliding scale of

variable contributions so that a person who is unemployed can become self-employed starting with contributions based on 5 hours, 10 hours and so on per week?

Senator F. du H. Le Gresley:

The issue of the self-employed and people wishing to become self-employed was addressed by the previous Minister when he was in office in the view that we would be looking to the income of the applicants 2 years prior to becoming self-employed rather than relying on a forecast of current income for their new business. We have tried to assist new entrepreneurs as far as their social security contributions are concerned. The fact is that people on income support who wish to become self-employed are receiving advice and assistance from Jersey Business as to whether their idea is one that has merit. Insofar as the whole contribution system is concerned, one of the projects for my department is to look at the fact that we only have 2 types of contributions, class 1 or class 2, class 2 being for the self-employed, and whether we should have other classes which might assist in paying a lower level of contribution.

5.2.1 Deputy S. Power:

If I might be allowed a supplementary to that. I am very grateful that the previous Minister has looked at this but I would like the current Minister to look at it again.

[12:30]

If somebody wishes and aspires to become self-employed the system that his department has at the moment is very inflexible and I would suggest to the Minister he needs, as a matter of some urgency, to look at a flexible system of self-employed class 1 social security contributions to encourage people on this Island to become self-employed on a scale fee. Would the Minister not agree that it is now appropriate, and with a degree of urgency, to look at this matter?

Senator F. du H. Le Gresley:

Anybody who pays class 2 not class 1 contributions as self-employed can have their contribution reduced based on historical tax data. At the moment it would be your accounts or your income tax return 2 years prior to the year of the contribution. There is a system in place. I accept what the Deputy is saying that it is not as flexible as we would like and, as I said before, it is a matter that we are looking into.

5.3 Deputy R.G. Le Hérissier:

Has the Minister been able to make any progress in dealing with another group of people who do not seem to fit easily into his bureaucratic categories, namely students who wish to pursue further and higher education but somehow find themselves being dragged into back to work programmes while their official aim or their real aim is to improve their education and thus enhance the intellectual capital of the Island?

Senator F. du H. Le Gresley:

I realise that Deputy Le Hérissier has been away on holiday so he may not have followed the developments in the media with regard to a number of students who were challenging the fact that they might be asked to leave their course. I have come to an agreement that they will be able to finish the current academic year but they will remain job seekers as far as income support is concerned. They would only be expected to seek work outside of their course, the hours that they attend the course, so that would be part-time work, evenings, weekend and also during any holiday breaks from the course.

5.3.1 Deputy R.G. Le Hérissier:

A supplementary. I was able to follow all the developments and the Minister's partially welcome news but would he not accept that this is a very strange situation because firstly, he has only come up with a temporary solution, admittedly other ministries like Education have to be involved, and secondly, if he insists on being quite frankly rigid he is going to do the very opposite. He is going to push people back to income support.

Senator F. du H. Le Gresley:

I need to make it absolutely clear, income support for people who are expected to be seeking work, that is people not looking after a child under the age of 5, over the age of 65 or who have a high impairment component, are expected to seek work and as long as those are the rules for income support that is what we expect of people. Obviously some people will be able to attend courses and work at their job-seeking activities around those courses and we would encourage people to increase their educational attainments. That also can be done by distance learning, O.U. (Open University) and there are other means of improving your educational standards without doing a full time course which would affect your job seeking activities.

5.4 The Connétable of St. John:

Can I firstly say I agree with the comments passed by Deputy Power in relation to self-employed and I sincerely hope the Minister looks at that sooner rather than later. Will the Minister please explain why... and I am referring to 2 of my residents of St. John who have got part-time jobs because they cannot get full-time jobs and yet one is expected to apply for a minimum of 2 jobs a week and have interviews or whatever goes with the application and the other one at one stage had to apply for a minimum of 5 jobs per week. What is going on? People are trying to help themselves, finding part-time jobs... Will the Minister please explain because it is very difficult when you are doing a part-time job to get the time off you need to go to interviews because your employer who has given you basically 20 hours a week, shall we say or 15 hours a week, cannot give the time that maybe the interviews require.

Senator F. du H. Le Gresley:

The only people expected to seek part-time work, which is work less than 25 hours a week, are people who would be looking after a child who is not yet in secondary school and over the age of 5. Each person in that category would normally be working with a personal adviser from the Work Zone and in some cases more time is required for job seeking than for others. Those who have already secured some part-time work close to the 25 hours would obviously not be pressed to increase those hours. But nevertheless the requirement is to be looking for part-time work up to 25 hours a week.

5.4.1 The Connétable of St. John:

Could I challenge the Minister, Sir? These people are doing less than 25 hours a week. One yes, I will accept that he has got some youngsters. Fine, I can accept that one within reason. But the other person I mentioned in fact is over 50 and therefore he has not got any people he is looking after, i.e. children, whatever and yet this person is still expected to apply for 2 jobs per week.

Senator F. du H. Le Gresley:

In the current economic climate we encourage all job seekers to take part-time work if they cannot find full-time work. In fact, of the 1,820 people currently registered as unemployed approximately 300 of them are in work insofar as they have part-time work. But, as I stressed before, unless they are looking after a child between the age of 5 and 11 they would be expected to seek full-time work which is 35 plus hours a week. I cannot talk about the individual concerned because I do not know all the details.

5.5 The Deputy of St. Martin:

In his answer to written question 1, the Minister has given us today considerable amounts of information about the amount of money paid to each G.P. out of the States Health Insurance Fund for visits to the doctor. Given that we all have the same amount of hours in a day and that doctors are very hardworking was the Minister surprised by the variation in these figures and does he realise he has one doctor who seems to work or who has been paid over twice the average of all the others?

Senator F. du H. Le Gresley:

The variation in figures can be attributed to a number of reasons. Some G.P.s have a larger proportion of elderly patients and that would account for increased visits from that particular group or they may be treating people with an ongoing disease or illness that requires frequent visits. I was not surprised with the figures. In reference to the very high perhaps figures that perhaps relate to assigned medical benefit this is something that the Medical Director for Primary Care will be looking into.

5.6 Deputy M. Tadier:

It follows on from the question of Deputy Le Hérissier about mature students who are on income support or who wish to be on income support. The Minister did send me an email towards the end of November which outlined the policy and it does say in the policy that you can be eligible to not work and receive income support if a person undergoing educational training on any course is approved by the Minister for the purposes of this article. Does the Minister agree that there already is something written into the policy guidelines which would enable him to simply approve certain courses if he judges them to be in the best interest of the student, either in the short or long term, in getting them back into employment and that it is perhaps not necessarily as complicated as we have been making it?

Senator F. du H. Le Gresley:

Yes, I agree with the Deputy but the fact is that some courses we would consider inappropriate and therefore we advise people not to enrol on such courses but clearly we have flexibility and we are using that flexibility to assist people.

5.6.1 Deputy M. Tadier:

A supplementary, I do appreciate the attention that the Minister has been giving this recently and we have come to some kind of temporary solution for the students affected which is appreciated. Will the Minister give an undertaking to continue to work with interested parties because ultimately the policy does say it is courses approved by the Minister and I think it is probably time that we just had a rethink about which courses are admissible and also if we can change courses within the Education Department so that they are more conducive to people both studying and working potentially part or full-time at the same time?

Senator F. du H. Le Gresley:

My department are working on a report on this very matter in conjunction with officers at Education, Sport and Culture and now that the Deputy has joined the Education and Home Affairs Scrutiny Panel I am sure he will keep a close eye on developments.

The Bailiff:

Very well. That brings questions to the Minister for Social Security to an end. Can I test the mood of the Assembly? Does the Assembly wish to commence questions to the Chief Minister and see them through or to adjourn at this stage?

LUNCHTIME ADJOURNMENT PROPOSED

The Bailiff:

Yes. The adjournment is proposed so we will have a vote on that then. If you want to adjourn now you vote for it. If you do not, vote against. Those in favour of adjourning please show. Those against. Even my mathematical skills ... the adjournment is carried so we will reconvene with questions to the Chief Minister at 2.15 p.m.

[12:40]

ADJOURNMENT

[14:16]

6. Questions to Ministers without notice - The Chief Minister

The Bailiff:

We come now to questions without notice to the Chief Minister.

6.1 The Connétable of St. John:

I was remiss this morning, Sir, firstly in not wishing you and the Governor and the Dean and the A.G. (Attorney General) and everyone in the Chamber all the best for 2013. **[Approbation]**

Senator L.J. Farnham:

I hope that was the question. **[Laughter]**

The Connétable of St. John:

The question is not to the Chair, it is to the Chief Minister. Currently Members have BlackBerry's, some they own themselves others are supplied by the States, but we can all couple up to the States email system. But I also understand that some Members have got iPads and they also are able to couple up to the States system. That being the case, can we all purchase our own iPads and couple up to the States system, albeit that I presume there needs to be a Standing Order or something similar that needs to be changed? If that is the case will the Minister make sure that we can all have that facility and I might be able to purchase my own iPad and do the necessary? Thank you.

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

Perhaps I could join the Connétable in wishing all Members a Happy New Year even though I have done it of course via email. The Connétable raises a very good point. There have been a number of trials at the end of last year with some States Members, I think mostly Ministers, using their own iPads to access the States sites. It is important to do that trial because of course there are security issues and if there is a breach of confidentiality then those systems need to have an ability to be wiped and that information cannot be accessed elsewhere. I understand that the Information Systems Department is in the process of looking to procure iPads for States employees and in due course getting rid of what we currently have, the BlackBerry monitor, and replacing them with some more up-to-date technology whether it is iPads or whether it is a slate. But I am absolutely convinced this is the way to go. It will not be too many months or years before we do not have P.C.s (Personal Computer) and desktops. We will simply be using slates and access right across there, so it is an exciting development. It is not quite there yet but I will keep the Connétable posted.

6.1.1 The Connétable of St. John:

Supplementary on that. The Minister mentioned that the States themselves were looking at supplying Members with it. I said in my question, I asked whether or not we, Members ourselves, could purchase iPads out of our own expenses and not expect the States to purchase them.

Senator I.J. Gorst:

That is the working presumption. Yes, absolutely, States Members have got their expenses and they could purchase them from that because what we are finding is most individuals and families have already migrated to tablet technology.

6.2 Connétable J. Gallichan of St. Mary:

The Chief Minister will be aware of comments attributed to the United Kingdom Prime Minister that he is currently looking to achieve a fresh settlement with Europe. That will, presumably, have ramifications for Jersey. Does the Chief Minister consider that as part of this potential redefinition process there may be scope to revisit and perhaps later rest the perennial question of the infamous stamp in the Jersey passport?

Senator I.J. Gorst:

Yes, very good question and one which we are keeping a close watch on. Obviously the Ministry of Justice have been keeping us informed that the U.K. Government have instigated something that they call a review of E.U. competencies which between now and I think it is the middle or end of 2014 will be reviewing various E.U. issues. They will be coming to conclusions on them and we await with interest the U.K. Prime Minister's speech, which he is going to give in short order as I understand it, and discuss some of these issues because they may indeed have ramifications for us. We are being kept informed and we will need, or may need, to argue our case and our best interests in due course. A little too early to say yet because we do not know what the results of the competency review will be and we do not quite know what form of any referendum that might be proposed. I think we come to the acknowledgment that all parties are going to be looking at this particular issue as we approach the next election in the United Kingdom as well.

6.3 Deputy G.P. Southern:

Does the Chief Minister accept that his Government's decision to abandon collective bargaining and to impose a below inflation pay award has dealt a serious blow to industrial relations with our employees and has consigned him and his successors to a series of catch-up claims for years to come?

Senator I.J. Gorst:

Absolutely not. We and the States Employment Board, as I have said on numerous occasions in answer to the Deputy and he knows well, had a very difficult pay negotiation and I believe that we negotiated and we amended the offer and I hope that staff side will now accept that and we can move on. It is very important and it has been important for us to deliver a pay restraint. We have got a balanced budget in the M.T.F.P. (Medium-Term Financial Plan) and I think that this Assembly can be proud of that but we must now start thinking and working towards the next M.T.F.P. because we know we have got growing pressures in the health service and we are going to have to provide funding there. We know that we are going to have to provide funding for a new hospital and other capital projects improving our social housing stock so we are all in this together. I hope that we can now say that the pay negotiation is settled, although I recognise that that is not a universal view, and we can start looking forward to how we are going to control expenditure into the future and ensure that we are able to accommodate the growth that we know is coming from within our current budget.

6.4 Deputy M. Tadier:

Thank you. Will the Chief Minister explain why he has found it necessary to delay P.118 the Committee of Inquiry into Historic Child Abuse?

Senator I.J. Gorst:

Obviously you are sitting in the Chair so that question is in order, but it seems to me that I have been asked the same question on a number of occasions and I will today give the same answer. The Deputy knows full well from my previous answer why I have done so, so that appropriate consideration can be given to requests for amendments and then if amendments are forthcoming other Members can amend that in due course should they so wish.

6.4.1 Deputy M. Tadier:

On 6th December the Minister gave an undertaking when faced with a letter from myself and other stakeholders with suggested amendments saying that he would go away, consult with Verita and the Council of Ministers and that should the results of the consultation not meet our approval or my approval then he would defer the date of any debate. Would the Chief Minister inform me and Members why he waited until the eve of the deadline for amendments to this proposition before he replied to my email on that same day in which I asked whether he was going to delay the debate and it was only on the eve of that deadline that he saw fit to inform me that he would be willing to move the date of the debate?

Senator I.J. Gorst:

Because I am in the process of carrying out exactly that consultation. I returned from my Christmas break and had correspondence from Verita. There had not been time arising after the receipt of that correspondence and necessary consideration to then consult with the Council of Ministers. I thought that it was only right as I had given the undertaking to the Deputy that I should consult with the Council of Ministers first and, if bringing forward amendments, still allow time for other Members to amend that amendment or the original proposition.

6.5 Deputy S. Power:

I know the Chief Minister was listening to my earlier question to his successor and my question is this: can the Chief Minister, with the Minister for Social Security and the Council of Ministers, prioritise the ability of people who are unemployed to become self-employed and to change the Social Security Law which at the moment seems onerous in demanding that self-employed people no matter what their income is have to pay £5,600 a year in social security contributions?

Senator I.J. Gorst:

I am sure the Deputy would not expect me to have the figures at the top of my head and I believe that the Minister for Social Security is just going to make a correcting announcement in due course or clarifying should I say. The situation did change while I was Minister for Social Security. Historically all new self-employed people had to look back 2 years and look at their income then and pay contributions based on that or get a low income exception. That was changed. There is still a minimum barrier that an individual has to pay into contributions to the fund because at the end of the day any Minister for Social Security has to balance stimulating the economy and encouraging people to become self-employed but also protecting the future long-term viability of the Social Security fund.

6.5.1 Deputy S. Power:

May I ask a supplementary on that? What possible relevance does a wage or a salary of somebody who was in employment bear in relation to somebody who wishes to become self-employed? Can you clarify that?

Senator I.J. Gorst:

I was not the developer of that rule. I believe it was probably developed back in 1967 so perhaps he needs to consider what the rationale for that was. Suffice to say that it cannot simply be right that an individual decides to go self-employed and perhaps has other employment as well and therefore mitigates contributions into the Social Security fund. Social Security Ministers and departments must always act in the best long-term interests of that fund and we did make some changes to try and perhaps correct that balance. What the Deputy appears to be saying today for his particular constituent those changes have not addressed it in a satisfactory manner for that constituent. I am absolutely sure that the Minister for Social Security is more than happy to consider other changes but he must always have in mind the long term viability of that fund and that means that people have to contribute to it.

6.6 The Deputy of St. Martin:

We already have in the Channel Islands positions involving the areas of civil aviation, environmental health and data protection. What other senior Channel Island positions can we look forward to being created in 2013? Thank you.

Senator I.J. Gorst:

The Deputy asks a question which I am not in a position to answer with regard to specific individuals. I have very clearly laid out my view and vision for faster and more working with our sister isle. I believe that our destinies are aligned, that we should be working together and that we should be considering areas which perhaps we have shied away from considering in the past. If we are to do this faster and further working with our sister isle then we cannot shy away from creating confederated bodies to oversee and ensure the appropriate creation of cross Channel Island bodies. The Minister for Treasury and Resources has, subsequent to my speech last week, met again with his counterpart in Guernsey.

[14:30]

They will shortly be talking further about some of the programmes and plans that they have right across the departments to continue joint working and making efficiencies.

6.7 Deputy M. Tadier:

Would the Chief Minister indicate whether he would be in favour of a voluntary living wage for the Island and perhaps outline how that might work if so?

Senator I.J. Gorst:

That is a difficult question. It depends, I suppose, what the Deputy means by voluntary. As the Deputy knows, because we have had correspondence on this matter previously, in the United Kingdom, specifically in London, some businesses find that it is a mark of differentiation that they offer a living wage and it becomes a marketing advantage for them. I have got to tell the Deputy, as he well knows, that one of the most difficult consultations, which is undertaken more or less annually and certainly has been since the economic crisis, is that undertaken by the Employment Forum with regard to setting of the minimum wage and they always have to balance the creation and sustainability of jobs with an appropriate wage for employees who receive the minimum wage, so it is difficult for me to answer that.

6.7.1 Deputy M. Tadier:

Does the Minister acknowledge that there is a differential between, or at least a potential differential, between the minimum wage which specifically has to take into account effects on an

employer and the economic effects with a living wage which is basically how much it costs on average for a reasonable standard of living in Jersey for the person in receipt of that wage?

Senator I.J. Gorst:

There is the emotive issue. It is quite difficult without research to say exactly what a living wage is or what any differential might be between that and the minimum wage. Of course there was work done previously in the Social Security Department by C.R.S.P. (Centre for Research in Social Policy) but inevitably one gets into asking the questions of individuals: "What do you need to live?" and then you cost that up. It does not necessarily help you in managing the balance between the creation and sustainability of jobs and an appropriate minimum wage.

6.8 Deputy R.G. Le Hérissier:

A few weeks ago the Chairman of the Appointments Commission suddenly resigned. Nothing has been put in the public domain about this. Would the Chief Minister tell us whether he has been informed fully of the reasons for this resignation and what does he intend to do about those reasons?

Senator I.J. Gorst:

Yes, as Chairman of the States Employment Board I am fully aware of those reasons and as far as I am concerned there is nothing untoward. I do not think it is right for me necessarily to publicise an individual's reasons for resigning.

6.8.1 Deputy R.G. Le Hérissier:

Could the Chief Minister confirm whether or not those reasons are directed to the actual manner in which the person was trying to perform his or duty?

Senator I.J. Gorst:

No, they were not.

The Bailiff:

Very well. That brings questions to the Chief Minister to an end. No matters under J or K so we now come to Public Business. First, the Tourism Shadow Board establishment P.113 lodged by the Minister for Economic Development. I will ask the Greffier to read the proposition.

Senator F. du H. Le Gresley:

Sir ...

The Bailiff:

Thank you very much, Senator Le Gresley. Yes, before we come to that the Minister for Social Security had asked if he could elaborate an answer he gave earlier. Minister, yes.

Senator F. du H. Le Gresley:

This is in response to Deputy Power's question about new self-employed and the changes that were made to the Social Security contribution scheme which came into effect from 1st January 2012. If you allow me I will just read it because it is easiest to do so: "From 1st January 2012 if a person becomes newly self-employed they can opt to pay a deferred rate of contribution for a maximum of 2 full calendar years which is one-third of the rate set for the standard earnings limit. This means in 2013 they would pay £159.75 per month. To take advantage of this deferred rate the applicant must not have been self-employed within the last 5-year period. The applicant is required to produce their income tax assessment as soon as possible for any year in which they pay a deferred rate of

contribution. The contribution rate will then be recalculated using the actual income from that assessment and any under or overpayment would be addressed.”

Deputy S. Power:

Can I thank the Minister for that and can I ask him to circulate that to States Members please.

PUBLIC BUSINESS

7. Tourism Shadow Board: establishment (P.113/2012)

The Bailiff:

Very well. Now the Greffier will read out the proposition P.113.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to refer to their Acts dated 1st February 2011 in which they approved ‘Shadow Boards and Ministerial Boards: approval by the States (P.170/2010); and 17th July 2012 in which they approved the ‘Economic Growth and Diversification Strategy’ (P.55/2012); and to approve the establishment of a Shadow Board for Jersey Tourism.

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

This proposition seeks States approval for the establishment of a Shadow Board for Tourism. In the next few minutes I hope to lay out exactly why I believe this to be such an important step. In July 2012 Members will recall that they approved P.55 the Economic Growth and Diversification Strategy. That strategy states and I quote: “Jersey Tourism will, in future, benefit from the appointment of a Shadow Board, drawn from the private sector, to oversee strategy and the day to day operation of the Island’s destination and marketing programme.” It also makes it clear that existing sectors such as tourism, the rural economy, retail and construction are an essential part of our economy if we are to meet objectives of economic growth and job creation. As I am sure Members will recall, in 2010 a proposal to establish a tourism private-public partnership, commonly known as a P.P.P. was published by my department. This followed years of research and discussion together with industry that in part predated the global financial crisis of 2008. The final proposal was reviewed by the Economic Affairs Scrutiny Panel of the day that was chaired by Deputy Higgins. In essence, the Scrutiny Panel concluded that it was not the right time to pursue a fully independent P.P.P. In my comments to the Scrutiny Report at the time, I agreed with this conclusion, commenting that the economic climate had deteriorated to such a degree that the cost of moving to a P.P.P. was now questionable. It had become clear that in a weak and uncertain economic climate it would be more sensible to target all available funds allocated to Jersey Tourism towards marketing and promotional activity and not to the set up costs that would be associated with a P.P.P. The last few years have been challenging for the hospitality sector, like many, but I am really proud of what all those in the industry, including everyone at Jersey Tourism, have achieved during this period. While acknowledging the very real difficulties faced, we have performed well against our competitors. I am sure that I do not have to remind Members that our tourism industry continues to provide a vital contribution to our Island, providing significant employment in hotels, restaurants and bars, to mention a few, and £242 million to our economy. In addition - and this is often underestimated - it plays an important role in sustaining our transport infrastructure, maintaining the environment and the facilities that support Island residents and businesses. Jersey Tourism has played a pivotal role in this through its product development, P.R. (public relations) and marketing activities. In 2010, we set up the Tourism Marketing Panel to advise and scrutinise proposals to market the Island. The marketing programme in particular has benefited significantly from the strategic advice provided by the Tourism Marketing Panel. I would

like to take this opportunity to publicly thank the panel for their considerable efforts and applaud the very positive impact they have had on our marketing activity. The knowledge and expertise that these industry and marketing professionals have brought from the private sector illustrates the value that can be added by the public and private sectors working in close partnership. Sir, would you like me to pause while you ...?

The Bailiff:

I think so. **[Laughter]** While we identify the guilty party, who is owning up. Deputy Rondel. Yes, the fine no doubt will find its way to the Greffier's fund.

Senator P.F.C. Ozouf:

Sir, has the rate gone up this year?

Senator L.J. Farnham:

I hate to point it out, Sir, but that is at least a second offence.

The Bailiff:

I will give consideration to the Greffier as to whether the fine should be upped. For the moment, Deputy, you will pay the existing fine. Very well. Senator?

Senator A.J.H. Maclean:

Sir, before I continue, I might add that perhaps snitches should also be fined. **[Laughter]** **[Approbation]** Moving back to the rather more serious matter of our tourism industry and, in particular, the Tourism Marketing Panel that I was just referring to. I was saying that the knowledge and expertise that these industry and marketing professionals have brought from the private sector illustrates the value that can be added by the public and private sectors working in close partnership. The Scrutiny Report of June 2010 stated: "The Tourism Marketing Panel should be given time to establish itself and its experience used to determine whether full P.P.P. proposals require reassessment in the future." It is my strong belief that now is that time. Not, I should emphasise, to progress imminently with a P.P.P. but to reassess what governance structure best suits the delivery of tourism in the global marketplace of today and to use what we have learned through the marketing panel to help deliver our strategy during the years ahead. The proposition before Members today, to establish a shadow board, will formalise a structure to fully capitalise on valuable private sector contribution to the evolution of support for tourism in Jersey, effectively building on the success of the Tourism Marketing Panel with a more formal structure and broader remit. Jersey's visitor economy is the businesses that form the sector and their support for this proposition is of course essential. In this regard, I would like to take this opportunity to thank Senator Farnham and the Jersey Hospitality Association for their support in developing both the original P.P.P. proposal and this proposition to establish the shadow board. Greater private sector input and broader oversight into the future of our tourism sector is critical and the proposed structure of the shadow board does just that. It will bring together and independent chair and industry professionals from Jersey and hopefully the U.K. and beyond. The relationship between the Minister and the shadow board will be based on a Memorandum of Understanding that closely follows the successful Harbours and Airport M.O.U. (Memorandum of Understanding). If Members approve its establishment, the shadow board will play a pivotal role in the delivery of 2 significant tasks. Firstly, overseeing the development of a new tourism strategy. There were over 1,000 responses to the recent Green Paper demonstrating both industries and the public's interest and passion for our tourism industry, an industry that is vital to the Jersey economy and in so many ways is part of the very fabric of Island life as a whole, and an industry that has the potential to provide many more jobs and exciting new career opportunities for local people. Secondly, it will look at all operational aspects of Jersey tourism. As I stated earlier, I am proud of the team's

achievements but I am never complacent. We need to ensure we organise ourselves into the best possible way to deliver support in an increasingly challenging, competitive and price sensitive global marketplace. Based on experience with the Harbours and Airport Shadow Board, I am confident that a shadow board for tourism will be able to deliver strong advice on both of these issues. The Harbours and Airport Shadow Board have been an invaluable resource. Without them, the integration of Jersey Airport and Jersey Harbours into the Ports of Jersey, delivered in just 6 months, would not have been possible, not to mention the significant and thorough work undertaken on proposals for incorporation, which would not have been possible without their advice, support and expertise that such a strong board delivers. Therefore, to those who are uncertain as to how such a structure would operate, I ask them to look to the ports to see a working example. I will maintain political responsibility for tourism and indeed my Chief Officer will maintain a counting officer responsibility but we will be advised by a strong board as to the direction of both strategy and operations.

[14:45]

I will seek advice on all aspects of Jersey Tourism's activity. As with the Harbours and Airport Shadow Board, I will not pre-determine the outcome of their considerations. The Jersey Tourism Shadow Board would have the freedom to consider the future of destination marketing of Jersey into the U.K., Europe and other international markets. They will have the responsibility of working with and overseeing Jersey Tourism as an organisation to deliver what I believe can be a strong and important future for the sector, be it within or outside of the public sector. I would now like to turn to our current Scrutiny Panel chaired by the Deputy of St. Martin, who has reviewed this particular proposition. I would firstly like to thank the panel for the timely and efficient and professional manner in which they have undertaken the review. I welcome their support, specifically the endorsement that the establishment of a shadow board at this time is a sensible and prudent step, which will help to improve oversight of the industry by better harnessing the wealth of private sector expertise in the Island and in our main U.K. market. I also welcome their comments around the requirement to ensure that although the shadow board will operate in an advisory capacity, it will maintain independence, a facet as demonstrated with the Harbours and Airport Shadow Board and a point that is vital to the ability for them to perform their role effectively. I did not quite appreciate the small slap across the wrist for giving the panel such little notice to this particular review but I think it was probably justified so I take it in that sense. To address the Scrutiny Panel's immediate priorities in turn; for the avoidance of any doubt, I am wholly committed to taking a clean slate, I think the term was, approach to the board recommendations regarding the future of Jersey Tourism. Assuming Members approve the proposition today, I will be moving immediately to appoint the members of the shadow board and once formed, I will be asking the board for advice on 2 key priority areas. Firstly, they evaluate options and define a recommendation regarding all aspects of Jersey Tourism's activity and in particular with an emphasis on the 2013, 2014 season. Secondly, and this is related to the first priority, to work with the Jersey Tourism staff and industry to bring forward a new tourism strategy that should include recommendations regarding the optimum operational and governance structure for Jersey Tourism. Tourism is a vital and enduring element of Jersey's economy that has, contrary to what some may think, significant growth potential. That is why in 2013 and beyond, my Economic Development Department will invest between 30 and 40 pence of every pound of our budget in the sector. It is also why, through the recent Comprehensive Spending Review process and more recently the Medium-Term Financial Plan, that I protected the tourism budget. If approved, the shadow board will represent a major change in the way we look at marketing the Island as a destination for visitors from the U.K., Europe and other international markets. It will also represent a major change in the level of support and oversight for the sector. I hope Members will join me in

wholeheartedly supporting this proposal and, by so doing, give a strong and much needed vote of confidence to our valuable tourism industry.

The Bailiff:

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

7.1.1 Deputy R.G. Bryans of St. Helier:

I support this proposition; I believe it is long overdue. Tourism plays an important role in the economics of this Island. Everyone is aware of how necessary it is in our economy and the concern for its survival has plagued both previous Assemblies and those in the industry itself for years. How we position ourselves in the future will be crucial and having a team of professional practitioners has to be a step in the right direction. You cannot put your foot in the same river twice, so to keep looking over our shoulders at the halcyon days of the 1970s and 1980s serves little purpose. Some of the reasons tourists came back then have long gone; cheap booze, cheap flights and no V.A.T. (Value Added Tax) have all washed away. Equally, the concept of a bucket and spade holiday disappeared as the growth of cheap packaged holidays to foreign climes, where the weather was assured, grew. But the Island still has much to offer and yet the message described by decreasing numbers of tourists does not seem to be getting out there. I spoke recently to one of the McKinsey people, employed to look at the finance industry. Born in Hungary, educated in Singapore, he has worked in New York, London and now here. He has a global perspective. This is one of the reasons these people are so important to us. They spread the message once they have learnt it. He said: "You are a best kept secret." He described all the things we take for granted and equally strive to preserve but he said: "If you want people to come here, you have to let them know. You have to shout louder." He added a warning note that when they do come, you have to make them feel welcome. He said: "Jersey does not do it as well as the rest of the world." There lies one of the dichotomies facing this new board; how to make the rest of the world know we exist while preserving and maintaining the very thing they have come to visit. Add to that a weak global economy, reduced spending, growth of the internet, changes in peoples holiday habits ... it is a tough call to any group to create a vision or a strategy with so many variables but I think creating a shadow board of practitioners with a vested interest is a good move. As someone with a responsibility to culture and creating events for event-led tourism, we will have bumper crop of attractions in 2013, so I am fully supportive of this new board. My only question to the Minister is a matter of conflict about the role of Senator Farnham as President of the J.H.A. (Jersey Hospitality Association). It seems to weaken the notion of real independence and it does not seem to have been addressed in the Scrutiny Panel. So I support the idea but would wish for some clarification about the Senator's role. Thank you.

7.1.2 The Connétable of St. John:

Over recent times, I have been critical of shadow boards in certain areas of government, mainly Telecom, Postal, Property Holdings and Harbours and Airport, whereby this Chamber have put in place boards at great cost to the Island to do what elected Members historically did in an honorary capacity. In more recent times, Members got paid in part. But of course, under Ministerial government, a Minister has to shoulder all the responsibility and in some cases a Minister's shoulders are not broad enough to carry that responsibility. So by setting up a board the Minister can pass the buck when things go wrong; and they do. Look at the number of C.E.O.s (chief executive officers) we have had on one board since 2005. I have been around some time and have sat on Postal, Harbours and Airport, Tourism among many other committees of the day and warned of the folly of adopting Clothier in principle without putting the meat on the bones prior to adopting a Ministerial system. As usual, the Members did not want to listen to the plumber from St. John, so here we are, about to go for yet more government reform in the way of a referendum being

proposed by the group led by Senator Bailhache. We could see our Senators out of the Chamber and also the Connétables reduced to a Parish role, not unlike Guernsey. **[Approbation]** These outgoing men and women could have been running these former committees, which are now going to be boards or shadow boards at no additional cost to the Island. In most cases, this should have been the way forward but, and there is a big but, in this case I believe it is the correct thing to do. That must be a relief to the Minister for Economic Development and his Assistant **[Laughter]** to find he has got at least one Rondel on board. I hope that will not affect the outcome of the vote. I give the reasons as having been a member of the Tourism Committee over a number of years in the days prior to ministry. It became apparent that even at the time when the Berlin Wall came down in 1989 that the world was going to grow, or did grow, a third bigger, because all the Eastern Bloc countries became open to tourism, as did other parts of the world and tourism in fact around the world declined, whether it was in the West Indies, whether it was here, at the turn of the 1990s by approximately a third, virtually overnight, because you had other places you could visit which were out of bounds prior to that. But, unfortunately, because tourism in Jersey is shackled to government, the industry could not react fast enough and it became apparent in the early 1990s, because at that time we had something in the region of 25,000 bed nights. We started the decline at about that time and it has declined right down now to something in the region of roughly 10,500 - 11,000 bed nights. So it has really shrunk and obviously because of the advent of our finance industry, believe it or not, the flights in and out of Heathrow, when we had our 1 million-odd tourists a year, we could interline on all sorts of flights in and out of Heathrow but we were putting too much emphasis on our finance and we were letting our tourism industry fall. One in fact was supporting the other. We gave people the opportunity of flying from all sorts of destinations to this Island on the back of tourism because we had all these flights interlining into Heathrow and other city airports. But that started to fall away, so much so that we lost the Heathrow flight and we had to use Stansted and Gatwick and London City, *et cetera*, but they were no good for interlining. One area of tourism was supporting finance and vice versa, but that fell away and it has been a worry to me because government could not work fast enough because of the committee system, then because of the Ministerial system. It takes so long to get anything through this Chamber that things needed to change within tourism. Tourism should have been allowed to have been master of their own destiny many years ago and to me this shadow board, yes, it should be a full board, and allow the industry to get on because they are all playing with their own money, unlike other departments, whether it is Harbours and Airport in general who are playing with our money. Tourism; they are all individual business people who are putting their own money out there building their hotels, advertising their products. In part it is 99 per cent all their money, apart from the small bit we put in for advertising. I think we should be allowing them to be masters of their own destiny and supporting them in every way possible and therefore, unusually for me, I am supporting this particular board. Thank you.

7.1.3 Deputy S. Power:

I just have 3, I think they are simple, questions for the Minister when he sums up. The first one is, can the Minister make it clear for Members that Visit Jersey, the logo Visit Jersey, will now be a complete identification change? So in all respects, the Tourism Department will have a new tourism identification and, I presume, an appearance programme, to be called Visit Jersey and that everything will be known as Visit Jersey. If that is the case, does the department have a budget to change everything to Visit Jersey? The second thing is, on the bullet point on page 6, the constitution of the board, will the Chief Executive of Visit Jersey be the same Chief Executive that exists at the moment and can he tell me if the financial amend power implications, the remuneration of the Chairman and the non-executive directors, if that is 3 years' remuneration as linked to the Nolan principles? Could he give an idea as to what the expenses of this board are likely to be in the

next 3 years? Finally, there is a fourth one, Sir, I know that the domain name, jersey.com is widely accepted and easy to use, are we going to retain that or is it going to be visitjersey.com?

[15:00]

7.1.4 Deputy G.C.L. Baudains:

Yes, since the demise of the committee system, one of the most noticeable disadvantages possibly was the loss of a champion for agriculture and fisheries and for tourism and, in my view, tourism is very important. It is possibly the only other viable industry after the financial industry, which in my mind is getting on dodgier ground every day. I also find it somewhat ironic that in doing away with the committee system, the main argument seemed to be that committees were not efficient, here we are forming them left, right and centre, only calling them “boards.” But the main difference, really, is in days of old we had a committee for Jersey Telecom, for Jersey Post, for Jersey Harbours. I know that Harbours and Airport never had a place in Ministerial government and the whole idea was to incorporate that before Ministerial government came into being but that never occurred, but we have dealt with that just recently. Where I am headed is that I am on similar ground to the Constable of St. John. I think I will agree with this but I am concerned about these shadow boards being formed because they seem to be more boards than shadow boards. I mean, I do agree that the expertise this board will bring will be a major step forward and an advantage, but I also realise that by creating these boards, what we are really doing is creating a substitute for committee but with far less political accountability than we previously had. To find out what is going on and hold people to account becomes more and more difficult as time passes with these particular structures. That is my concern but I think, on balance, I may support this.

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

I do support the proposition but I am a little bit uncomfortable with the report to the proposition. The final line says something like: “The full costs of this board can be found in the Medium-Term Financial Plan for Tourism”, so I have been trying to find it. I cannot find the figures associated with the shadow board. So I looked up the M.D. for it to see what was contained in there and found the same statement in the M.D. which was signed off on behalf of the Minister for Economic Development by the Chief Minister and then I also looked at the report to the M.D. and I find the same statement there again. I find it very difficult to stand here and agree to spending public money when I do not know what that money is. Looking at the outline figures that we have already got, it does appear that the expenses are reasonably modest and therefore I am going to go with it on this occasion. I think it will be worthwhile noting that; please do not point me to have to go round the House somewhere to try and find a figure when it really should be in the Ministerial Decision or and in the report.

7.1.6 Deputy T.A. Vallois:

I will start on page 7 of the report on the proposition where it discusses consultation in terms of P.A.C.’s (Public Accounts Committee) involvement and I think it is important for me to clarify this. I was a bit perturbed by the Minister only contacting us very shortly before he intended on lodging this proposition in October and to find out not long after that the Economic Affairs Panel were placed in exactly the same position as P.A.C. However, I would like to inform Members that we did not in fact comment on the proposition as Public Accounts Committee because we do not hold the Minister to account and we referred comments that were made at that committee meeting to the Economic Affairs Panel. So it is to inform the States Members how that particular process was carried out. My other comments with regards to the report, and I am glad the Constable of St. Peter stood up before I spoke because it is relation to numbers again on the report. On page 3, we talk about 18.5 F.T.E.s (Full-Time Equivalents) plus seasonal staff and I referred back to the M.T.F.P. where it states that there are 24.3 F.T.E.s. I just would like the Minister to confirm that

the additional 5.8 F.T.E.s are in fact seasonal staff or whether they are staff of the department. On page 4, we have a table from the reports and accounts in 2011 of which the Chief Officer for Economic Development was questioned about in a P.A.C. hearing for the reports and accounts in ... I believe it was November or December last year. There was no clarity established around the final net revenue expenditure for 2011 because the tourism report stated the different amounts to that of the reports and accounts. So I would just like to make the Minister aware of that and we were provided with the apology from the Chief Officer because the discrepancy was established during that hearing and the response back from the officer and it is apparently due to allocation of overheads by 2 different methods, which concerns me slightly, and 2 different amounts in publications to the public rather worries me, especially when it is over £6 million. I would like to say other than concerns over the report, I do support the proposition but I have concerns surrounding the information that is provided on the report because the Constable of St. Peter rightly says about the budget... and I did try to find it on the M.T.F.P. and I assumed that it was the overall budget for tourism that they were talking about. Then I found on page 83 of the M.T.F.P. something referring to tourism, which mentioned under note 54 that there was a request for £250,000 that was not funded by Economic Development, so I just want clarity around that from the Minister before I put my finger on the “pour” button, please. I think the Minister needs to provide clarification.

Senator A.J.H. Maclean:

I am sorry, I did not get the last point the Deputy made. She wished for clarification on something. I did not quite hear what she said... if she could kindly repeat it.

Deputy T.A. Vallois:

It was about the budget, the same as the Constable of St. Peter, I was assuming that it was referring to the whole budget of the tourism area, however, when I looked at the M.T.F.P. I found another part which referred to tourism, which was asked for by the Economic Development Department on page 83, but it was not funded and that was for £250,000. So I just need clarification from the Minister as to what the budget refers to.

7.1.7 Deputy J.M. Maçon:

Yes, I sat on the review of the tourism P.P.P. proposals under Deputy Higgins several years ago now and at the time, while there were certain elements very strongly pushing for the P.P.P., we wanted evidence to show exactly how they would improve over the offering of the Tourism Department at the time, or indeed how it would be better than the marketing panel that had been established. It was flimsy at best, which is why our recommendations were very much: “Well, carry on how it is because we do not have anything to kind of demonstrate how this will be better if you move from here.” I see very much what is being proposed here is not radically different so in that sense I am kind of relaxed about what is being proposed. It seems a consolidation of the particular panel as it was as opposed to all the nuts and bolts that went along with the P.P.P. proposal. I am thankful for the Scrutiny Report; it was very useful to read through. A few comments though. I do have to say that I was disappointed when the Minister was talking about this proposal because he did not talk about the importance of the role of the Minister in the sense of Minister as regulator and Minister as providing oversight because that is something which we discussed a lot during the P.P.P. proposal and it does apply to this one. If Members turn to page 6 of the report, it talks about the constitution of the board and something which we were very concerned about was noting that the tourism industry of the Island in itself was diverse and it was the issue of how to prevent certain sections monopolising on that board and therefore designing the business case appropriately in order to suit those particular interests. Now, there is an issue of saying: “Well, if you are growing the economy and you are growing that sector and it is providing

jobs, is that necessarily a bad thing?” but is there not a role, if it is public funds, that it needs to be able to be spread to all the different sections within the industry. Again, I come back to why it was disappointing how the Minister did not labour on the role that the Minister will have in order to make sure that that particular aspect is addressed properly and that the capture which could potentially happen, does not. Although I am sure he will comment on that when he sums up. That is all I wanted to say. I do not think it is something which would prevent this particular move but I do think it is something which needed to be drawn attention to.

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

I am grateful for the Scrutiny Panel in reviewing this particular proposition but I am still struggling with why we need a board to deliver a tourism strategy. It must question whether the Minister and his department are up to the task because when I look at the key aims of the shadow board, it is: “To define the optimum operational government structure, to strengthen governance and good practice, to challenge and support the executive teams, to develop strategy and business operations, to ensure the optimum performance of the sector.” Well, surely that is traditionally and always has been a responsibility of the Minister. If that does not happen we know where to look. We have got someone that is absolutely accountable. In this case, it seems that we are going to create a board and basically pass all of that responsibility from the Minister to the board. It might be that that is the best way forward but I cannot understand why the Minister is not able to do all of the things and meet the aims and objectives that he set for this shadow board. What is the difficulty with the current system? Is it that we have not got the right staff? Is it that the Minister chooses to ignore all of the advice and comments that are freely given on basically a daily basis from those involved within the industry? Then I ask myself: “Well, okay, what is going to enable this board to make a difference? Is it that they are going to have access to more money? Well, no. In fact, the basic overall sum, which pays for all the staff as well, I hasten to add, is about ... well, it starts this year at about £6.3 million and it grows to £6.6 million in 2015. So the money is not increasing dramatically. Okay, well what other funds are available? Ah, let us not forget we have a Tourism Development Fund. That is great, what is in there? Well, £500,000. That is hardly going to light up the world. So I think when the Minister sums up, perhaps he can explain to me why his department cannot deal with all of the issues and aims that he believes the shadow board can. Thank you.

7.1.9 Deputy J.H. Young:

I think the move from committee government, when the sort of tasks that are set out in this paper, the aims, purpose of the body who will be leading the government interventions and government strategy on one of our major industries ... the proposals in the paper reflect elements that I think has to be recognised are very much more difficult for Ministers to fulfil under the Ministerial system themselves when compared with how things were when there were more people than one having to wrestle with difficult problems. So I think in our journey, as it were, in terms of how we do things, how we organise our government, I think there is very substantial merit in having more minds brought to major issues, more ideas are likely to come forward, more initiatives. It is not a question of criticising individuals, it is just that when you have a group of people, 2 plus 2, at least usually, equals 5 and I think that is the whole basis of people working co-operatively.

[15:15]

Of course, the assumption I make, though it is not covered in the paper, is that the 6 members of the board that we have will be very knowledgeable and expert people who are chosen with care. Very in touch with the way tourism and the business needs are changing fast. So as a principle, I go along with that. I have to admit, I am a little bit puzzled about a shadow board. What is a shadow board compared with a real board? I think the paper says is that the board will advise the Minister.

They will not act in a supervisory capacity. I think that leads into this question of: “What arrangements are going to be made in the board for better governance and accountability, which are definitely necessary ingredients in terms of structure?” Of course, we should bear in mind that the body of people within the E.D.D. (Economic Development Department) team at the moment have a budget of around £6.6 million of public money and clearly the board will be highly instrumental in where and when and so on, how that money is used to best effect. The paper says that the Minister will produce a Memorandum of Understanding between the board and the Minister of how it will work in practice and he will approve that. I would very much like to see that coming back to the States. I would also like to see further details of the governance arrangements also referred to in page 6. The only other point that I flag up, I see that sub-committees are going to be formed. I very much hope this is sub-committees of the people who are board members, rather than a proliferation of new people appointed by the Minister that creates a kind of a long-chain structure that, in the end, is not good governance and we do not know where decisions are being made. Having said that, I think it is the right way forward now and I very much look forward to hearing the comments of the Minister on those few points that I think are important in this paper on the governance and accountability.

7.1.10 Senator P.F.C. Ozouf:

I am strongly supportive of this proposition but I rise to briefly respond, if I may, to the remarks of the Connétable of St. John, who I hope is listening in the coffee room and also to the, if I may say, challenging remarks of the Deputy of St. Ouen. To respond to the Connétable of St. John, he was critical of the setting up of boards for Jersey Post and Jersey Telecom. While this of course is not similar, I think that this is obviously a much more similar body to Jersey Finance and the recently created, exciting Digital Jersey. There are some similarities. I need to say to the Connétable that boards have worked. J.T. (Jersey Telecom) and Jersey Post, at which I spent the morning last Thursday visiting, would never have achieved the kind of transition, the kind of changing environment and service improvements, I am afraid, with a political committee. It is difficult to say to fellow parliamentarians that our job is not effectively to stand for public office and to be de facto micromanagers of organisations, whether that is Jersey Post or Jersey Tourism. That is not what we are good at. We need to put in place the right people, the right government structures in order to achieve those objectives. I know some Members will not like hearing that, particularly some Members that - I know that I cannot see anybody in this Assembly that wants to do that - want to kind of justify their elected position in having lots of seats on lots of committees. The public interest is not best served by, if I may say, amateur boards of directors with their seats in this Assembly on different boards. This Assembly is best served by a focus on insurance that appropriate governance is in place and there Deputy Vallois is quite right to ask and to focus on her remit within the P.A.C., which will of course have an oversight role on implementation, just as the P.A.C. and the Comptroller and Auditor General have an oversight on all owned entities and boards that have been set up. So best interests of taxpayers and indeed the industries themselves are certainly, without question, served by boards which also have carefully selected non-executives. Non-executives are absolutely vital and are frankly better than Ministers or chief officers in challenging individual decisions. In not only challenging decisions but assisting the good people that work in these organisations. We have got some fantastic public sector employees who work within Jersey Tourism. I know many of them because I worked, as the Minister did, with his department and those individuals are going to be better served and they are going to be freer outside of direct political controllers. Some Members, I think, are in danger of suggesting that is best served. Accountability is best served with a clear separation of duties with a Memorandum of Understanding between the Minister and the board just as is in place for Jersey Finance. I ask Members to just think about whether the highly performing Jersey Finance would really have been best served by effectively an arrangement with a Minister and a government department. I do not

think so. I think that Jersey Finance has been a remarkably performing organisation. It has been nimble and small and with non-execs on a board, with a clear separation of duties, where the Minister holds the organisation to account for their budget to achieve certain targets. That is the best way to secure a positive, dynamic future for our tourism industry, which is so important as an employer of local people, which provides vitality in the Island with a portfolio of restaurants, hotels and other attractions that we would never have. We need to continue to see tourism grow and I agree with the Minister when he says there are growth opportunities for tourism and there are some exciting investments that have been made in tourism. This board is going to ensure that that future is better and going to be more dynamic and to secure more local jobs in a very competitive environment. That is all I have to say.

7.1.11 Connétable D.J. Murphy of Grouville:

I would just like to say to the Minister that when he is choosing his board, would he please be bold and look for new faces? We do not want the tired old timeservers back on this board. **[Laughter]** We want people who will put us into a brand new way of thinking about tourism and I cannot resist while I am up here saying that the initiative that they took on supporting the rugby club with the £75,000 ... I go to virtually every home game up there and I hear the people who are coming over and we see hundreds of supporters coming over to support their clubs over here and virtually all of them say: "Gosh, we did not realise Jersey was like this. We have had a huge welcome. We have really enjoyed ourselves. We will be coming back." That is the most terrific investment they ever made. So please come up with the new ideas, come up with the new faces and let us get on with it.

7.1.12 Senator L.J. Farnham:

I feel compelled to spring to my feet and respond because while my views on tourism are particularly well known, I hope the Constable of Grouville was not referring to me as a potential old timer. Not yet, at least, although I feel like it at times. I was particularly pleased to follow Senator Ozouf who has shortened my speech by a good 5 minutes **[Approbation]** and I think most of the valuable points he raises about the opportunities and benefits that this board could produce. I also felt a bit like when I went into bat in Guernsey against the Guernsey cricket team when Deputy Bryans stood up and bowled a googly in my direction and I am surprised, I had hoped that perhaps Deputy Bryans would have had a chat with me beforehand and I would have explained why I feel that I am not conflicted. Unless, being particularly passionate about tourism, being a strong believer in tourism, a strong supporter of tourism, believing that tourism can be turned around and it can be brought back to growth, both in a political capacity and in my capacity as President of the Jersey Hospitality Association, which I would add I held before I was elected back to the States and I have been a member of the association and on its committee for some time. I do not see any conflict. For the avoidance of doubt, I have no ambition at all to be a member of the new tourism board. The hospitality industry largely supports this move and I want to thank Senator Maclean for, at long last, doing something about it. That is not meant to be a criticism but there has been some impatience from within the industry because, as Senator Ozouf will remember, it was a plan of the Economic Development Committee that this was a preferred route for the business of marketing tourism and marketing Jersey. So I would like to thank Senator Maclean and of course I would like to also thank Deputy Lewis and the Scrutiny Panel. I think the Scrutiny Report, which they did not have a lot of time to produce, was thorough and did hit the nail on the head and it covered some really key points and they grasped the nettle, for example, by saying the board must be independent and the tourism industry, as I do believe, that should be the case. Of course, I want to also make it clear that by supporting this board we mean no disrespect or criticism of the Tourism Department who have, and I have said it before and I will say it again and again, worked extremely well in challenging times but the bottom line is tourism has continued to decline, so without wanting to, we have done nothing more than manage a slow and gradual decline in the

industry and this simply has to stop. Tourism is a growing industry around the world. It is one of those industries that the growth of the internet is helping and can help further and we simply must now do something to halt this decline and turn it around. I am not talking about expectations of going back to the 1970s and 1980s; that is unrealistic, but we do have capacity, especially in the shoulder months to do something really special and different. As the Constable of Grouville said, let us be bold. Let us push the boundaries. Let us try new ideas and exciting things that perhaps would just be a little too much for a politician to put his or her name to. In summing up, I thank the Minister for bringing this and both I and the Jersey Hospitality Association and the majority of the industry are in favour.

7.1.13 The Deputy of St. Martin:

Tourism is hugely important to Jersey. It is hugely important to Jersey for any number of invisible benefits that members of the public may not realise they have on the Island. But when you look closer and realise that the transport links, the destinations and the frequency of those links, the fuel that we put in our cars, the hotels and restaurants that we enjoy at weekends and the facilities that we enjoy around our wonderful Island are all linked to tourism, we realise just how important it is. Tourism has been on the up in Europe and the surrounding areas over the last couple of years, but in Jersey we have not enjoyed that small resurgence and while the 2010 Scrutiny Report might have indicated for the P.P.P., the time was not right then. But I feel now that the time is right for this move that the Minister is proposing to us today. I would like to thank him for mentioning in his opening remarks rather than his closing remarks, the acknowledgement of the Scrutiny review. I would like to thank him for mentioning the small, medium and large participation from not only locally on the Island, but also off-Island, which might be required when it comes to the setting up of the shadow board. I would like to thank him for reminding us that he is still, as Minister, going to be responsible for overseeing this industry, but he will take independent advice that he will be looking for from the shadow board. He has also told us, and I am thankful for that, that he will listen to them in regards to strategy, the operation and the marketing side of the industry in the future. The one question I would have for him in response to the question from Deputy Power. I would like the Minister to clarify that the rebranding and any expenses on rebranding will not occur until he has a recommendation that he can listen to from his shadow board.

7.1.14 Connétable S.A. Rennard of St. Saviour:

I think this is a wonderful idea because there is more to this Island than wonderful restaurants. I have worked in tourism indirectly; I did shows for Dick Ray down at Caesar's Palace, The Watersplash ... I worked with the Fort Regent when they used to have lovely shows there. We do have a lot more to offer, which is not being offered. I have worked for Jersey Heritage Trust for nearly 19 years up at Hamptonne, the Country Life Museum and the people who used to come there used to say: "Oh, we have walked and it has been a lovely walk through the valley. We have ridden our bikes, we have got lovely bikes." There is a lot more to this Island, as I said, than just restaurants because we could offer so much more.

[15:30]

I go to America a lot and when I go into Nashville, which is the music city of America, bless its heart, you have buskers on every street. The music is sometimes wonderful, sometimes you think to yourself: "Oh my God" and you walk past but here, the town sometimes, when you go through it in the summer is absolutely dead. There is nothing here and I believe that to have a busking licence here you have to pass an audition and you have to pay to get a busking licence. This is ridiculous. If you are bad and you are playing on a street corner, no one is going to give you anything and you will walk off. But you laugh. When we used to walk through to Nashville and some people were really, really bad, it brought a smile to your face as you were walking up the street and a bit further

along was somebody who was great. But it brought your town alive and I am very, very pleased that things are being taken into hand. As I say, it is no disrespect to the Tourism Committee and Board that we have now. They have worked hard and they promoted us but we need a lot younger people, somebody with a bit more drive and a bit more ... to see things which happen in different places and bring them here. As I said, we are more than the Battle of Flowers and the restaurants. There is so much that could be done with this Island that could push it and I think that having a new board and somebody with some new, fresh ideas will just kick us into the next century, which will be fabulous.

7.1.15 Deputy M. Tadier:

I know the main debate has been had on this, really, and we are just in one sense rubberstamping the decisions that have already been made, but very briefly, just to pick up on something that has partly been said and something in the report and then I have a technical question to ask of the Minister, which hopefully is straightforward. It has been acknowledged that our industry has seen a decline in the last decade and it is a decline which represents 30 per cent of footfall of visitors visiting the Island but 20 per cent in profitability, if you like, or in the take, which tends to indicate to me that the price of coming to Jersey has gone up and it is more difficult to attract, certainly in the conventional sense of the way we have done it in the past, visitors to come over to Jersey and to spend their money. This is an area I think many of us feel passionately about and it is certainly an area that I have concerns about. I think what we have to acknowledge here and it is not going to be an easy thing for us to do is the fact that ... I think part of the reason that Jersey is so different culturally from what it was 20 years ago is that when you have a vibrant tourist industry, almost to the point when you have as many tourists as you can take, certainly in the summer months, where you cannot move in town, where you have saturated capacity in all the guest houses and beds in the town area but also throughout the rest of the Island and you are almost turning tourists away, it has the effect of the wider public knowing in their heart and in their mind that Jersey is a tourist Island. At some point in our past we did make a decision to invest, I will use the metaphor, all our eggs in one basket. That was in the finance industry. That may have been the incorrect thing to do, it may not have been and it certainly has had an effect on the Island and it has given some, certainly a lot of affluence to a certain amount of the population which would not have necessarily have been there. Perhaps in some people's minds it was misjudged to the extent that we did it and we did perhaps underestimate the fact that it does have unintended consequences and so it is good to grow the cake but obviously in a small and finite economy the cuckoo in the nest syndrome can have an effect. So these are the issues that we need to be looking at and I suspect ... of course, on the other hand, there is always a synergy between finance, between business and business visitors to the Island in particular and tourists, because there is a symbiotic relationship, as we well know, between restaurants, *et cetera*, which could not survive solely on finance workers and tourists but which cannot survive solely on visitor and leisure tourists either. I think that is a very exciting way forward to look at the business opportunities with investing in China, India with Jersey Dairy, for example, which are expanding out there. Some very exciting opportunities, hopefully, which will be longer term not just short term, and engaging with our oriental counterparts. Not simply on a financial and business level, but also to promote the Island's beauty and tourism when we get out there. I would hope that it is not so relevant whether we call this a shadow board or not. It is really important that we have policy direction, which must always remain with the States Assembly. It is simply unacceptable to have policy driven by non-politicians. That is just the way it works. Of course we can have people contributing ideas, but the buck stops with the Minister. The buck stops with the Assembly and if there has been a downturn in tourism it has to be because of decisions that have been made in this Assembly combined with the unintended consequences of the economy outside. So we do have to take responsibility and I have no reason to think that those 2 cannot be married, but it is important that we all play our parts. Just a very small anecdote before I ask the

question, I was visiting the U.K. and I was in Glasgow and in Edinburgh, which are 2 beautiful cities in the north and the weather was not too bad, over Christmas and New Year. As the Constable of St. Saviour said, you did wander around, you would hear people playing various types of instruments, not solely bagpipes incidentally, although that was the customary instrument in Edinburgh and people were doing that out there. As a former busker myself in Jersey, I know that there was a phase where you would go and do a short test and it was at the Art Centre. I did not really have a problem with that and I think in one sense there are arguments to be made for that. You make sure that the people have got a reasonable standard, although I think it is self-policing anyway. I do not see anyone who is going to want to stand outside on the street in town playing an instrument if they are incompetent, they are going to be ridiculed and not win any money. The other point is, gradually, it was free initially and then a charge started to come in, I think, of £20. It does not sound like a lot of money but if you are a student and you are perhaps only back in Jersey for a few weeks or a month and you are a very good artist - you may be studying at the Royal Academy - are you really going to go and spend £20 to go and do an interview to be able to play your instrument on town or are you going to think: "I might as well just go and do some photocopying work for the local trust company" and that does nothing to enhance the tourist industry in Jersey or that particular student's passion for creating a vibrant town. So we do have to be very much more, I think, enterprising and we have to cut a lot of the nonsense red tape which does not simply relate to busking in Jersey but putting on events, for example; I think questions need to be asked around that. Is it still the case that permission for events in the Island has to be sought from the Bailiff's Department? I know that there was a review that went on with Deputy Le Hérisier and Senator Farnham quite a while ago which looked at the whole issue about how we put on events in the Island. When young people want to put an event on which is going to attract both locals and tourists to come and spend money, are we creating too much ted tape? These questions, I am sure, will be looked at hopefully by the new board as well when it is established. The technical question is simply relating to the finances. It says that the board will be subject to expenses and they will be payable to the board; can I just ask what format that will take? Will it be a fixed amount of expenses that will be given as is the case for States Members - which is a taboo subject - or will it be simply that any travel will be done on a receipts basis? Thank you.

7.1.16 Senator S.C. Ferguson:

The Connétable of Grouville said that we should be bold and I asked the Minister: should Government be running tourism marketing? Marketing is not an occupation for politicians except in the run-up to an election. Why do we not just let them go? Who knows better how to market the industry than the practitioners themselves? Why should it be a shadow board? Why should it not be an independent board? I was going to say give them the seedcorn and let them go but I am sure that the financial arrangements can be worked out quite easily. But stop Government interfering where it has no competence whatsoever. Let them get on with it. Like Senator Farnham, I do have an interest in the hospitality industry; I am the director of a hotel - or one of the directors certainly - and we do our own marketing effectively. We get some benefit from the overall background marketing but we go out and get business so I think the people in the industry know best how to market themselves. Let us give them the backing and let them get on with it. Let Government get its sticky fingers out of marketing.

7.1.17 Deputy G.P. Southern:

It is always bracing to hear Senator Ferguson on the sticky fingers of the States and it is always good value to listen to the Minister for Economic Development. Time after time I enjoy many of his speeches, in fact, I am reminded of when I stood on the hustings with him and on occasions thought: "Oh gosh, he has my vote as well, I think", because the words flow out, all the right key phrases are all hit in the right rhythm, it is positively mellifluous. Then I wake up from my revelry

and I look at the hard facts. So I have looked at the hard facts and the phrase that struck me was: “And here we are committing to tourism with between 30 per cent and 40 per cent of our total budget directed in that direction.” So I thought: “I am going to have a look at that quickly. Fortunately the annex to the Medium-Term Financial Plan 2013 to 2015 is on my desk this morning. I look through the aims and the key objectives in this particular document (pages 42, 43 and 44) and I look for tourism. What I find is: “Key objective 1: encourage innovation, improve Jersey’s international competitiveness, create new, high-value businesses” but no mention of tourism. “Key objective 2: grow the financial services sector capacity and profitability.” That is clear; that is more of the same. No mention of tourism there. “Key objective 3: create new businesses and employment in high-value sectors.” Ah, the key there is “high-value sectors” looks like what is measured there. Oh yes: “Gigabit Jersey”; it does not look like that is attracting more people. That is not tourism either. “Key objective 4: raising the productivity of the whole economy and reducing the reliance on inward migration.” Very laudable, that sounds very good. There we have, under (iii) “Tourism and rural sectors.” At last, a mention, and it says: “Link continued support for the tourism and rural sectors to increase local employment and reduce reliance on inwards migration.” So it is not just about investing in tourism; it is about getting local people to work in tourism. So it is an immigration issue and a training issue but not one about supporting tourism particularly. “Key objective 5: continue to improve efficiency and effectiveness across the department.” Hear, hear, hear. There is one mention of tourism, between 30 per cent and 50 per cent of our budget. So we look at the figures on the budget and lo and behold, back in 2012 we find that the spend on tourism destination and marketing was £5.9 million, which is 37 per cent of the overall spend of £15.9 million that Economic Development spends as a total, 37 per cent. Come 2015 this investment - this continued support - is at £6.6 million. As a proportion of £19.9 million it has been reduced from 37 per cent of the total spend to 30 per cent of the total spend. At the same time this is linked with continued support for the tourism and rural sectors while the rural support sector goes down from £2.1 million to £1.7 million, a 20 per cent reduction. This combined support does not look very strong and indeed the proportion has gone down.

[15:45]

Then we talk of another way of analysing what the real priorities are, what the real meaning behind the words are, and we go to the business cases, the growth bids that E.D. put in to the Medium-Term Financial Plan. We look down it and it totals £4.5 million of growth bid; very good. J.F.L. (Jersey Finance Limited): “increase in grants J.F.L. £800,000; J.F.L. additional, another £730,000 by 2015; J.F.L. Saudi and G.C.C. (Gulf Co-operation Council) Financial Services £350,000; Financial sector legislative development, £200,000.” Of that £4.5 million spent over £2 million (£2.1), almost half of it is finance sector; again, yet more concentration, specialisation and less diversification. Looking down the list we have “Inward investment, Digital Jersey”; that is not going to bring more people. “Inward investment, non-financial services”; it might be there, I might take a look at that in a minute. Then we have: “Jersey business, skills and workforce development” and here we have, at the bottom of the list: “Tourism Development Fund, £500,000 flat across the 3 years”; a very small percentage of the growth bids going towards tourism. I then looked at the latest press release that has just come from Economic Development and, lo and behold, here we have a new inward investment policy that has just been set up and their 2012 figures. You look down, 30 companies attracted to come to Jersey as inward investment to set up businesses in Jersey. Look down the list of those 30 companies. How many of them are finance companies? Fourteen. How many of them are tourism companies? A big, fat zero. The words sound very fine and apparently we have this tremendous commitment to growth in the Island and particularly of supporting our tourism industry but I do not think the words mean much, because what you always have to do is *chercher* the money, look for the money. The reality underlying the fine, mellifluous words that come from the Minister for Economic Development’s mouth is that spending

proportionately is going down on tourism in the next 3 years and not up and there is going to be more specialisation and less diversification in the Island in 3 years' time and I can probably guarantee that with or without this initiative. I will wait to hear some more of the Minister for Economic Development's magnificent phrases to see if he can swing my vote but otherwise I do not think I am supporting this.

The Bailiff:

Deputy, you have managed to make a speech on this subject without mentioning the board once, I think. **[Laughter]** Very well, does any other Member wish to speak? Then I call upon the Minister to reply.

7.1.18 Senator A.J.H. Maclean:

Many Members have spoken. I will try to cover the salient points. I do thank all Members for their contributions. Deputy Baudains started off and raised a point which is raised on many occasions and that is with regard to a champion for tourism. I hear it time and time again, certainly since I have taken office, and I know that it has been around since we moved to Ministerial government. I consider myself, with the avoidance of any doubt at all, the champion of the business community including tourism. I say that on numerous occasions but nevertheless we still get the comment: "There is no champion of tourism." I had hoped today, in my earlier remarks, I had demonstrated my views about the tourism sector, the importance of the tourism sector and the fact that as Minister for Economic Development I am the champion and will remain so, even on the basis that the Assembly Members support this proposition, because even with the introduction of a shadow board, which is a major step in the right direction as you will have gathered from my earlier remarks, it is in fact an advisory board to the Minister and the Minister remains accountable. This is a key point. The Minister remains accountable. I should also make it clear that the Chief Executive of Economic Development, who is the accounting officer, also remains accountable. So those are 2 key points. The Deputy also talked about the old days of committees, which I know he holds together with the Constable of St. John, and I am going to be jolly nice about the Constable of St. John because he nearly knocked me over with a feather with his support earlier on, which I welcome greatly and I do not want to say anything that might get him to waver in the opposite direction. I will make a few additional remarks about the Connétable in a moment. But with regard to committees versus the Ministerial system and indeed boards that Deputy Baudains was referring to, the simple difference is that committees were clearly populated by Members of this Assembly, some of whom had had experience no doubt in the tourism sector but nevertheless you cannot, with the best will in the world - and I include myself in this - possibly hope to replicate the expertise that the private sector in a particular industry has to offer. That is the simple reason and basis behind the move towards a shadow board. What I want and what a Minister acts upon is advice, good advice, the very best advice. That is how we are going to have the right policies as we move forward, the right strategies and hopefully the success that will return the economy to growth in the future. I believe these boards move us in that direction and certainly a shadow board for tourism will I am sure, if we can get the right expertise on the board, which I have every confidence we will, will help to do that. The Constable of St. Peter made a valid criticism and it was meant in good spirits, I know; I know the Constable well. He is right, it was not clear enough in terms of the figures but to be absolutely clear about that, there are 2 points. First of all the cost of the board. The chairman is £12,500. The figures are contained - I am sure the Connétable is aware of it but just for the record - and each N.E.D. (non-executive director) will be paid £5,000. There are expenses; that is a question that was raised and that is on a receipted basis incidentally. Usually, as far as N.E.D.s are concerned, that would be relevant to a non-local N.E.D., for example, travel expenses across to the Island or something similar. Administrative expenses will be met within the existing budget of Jersey Tourism and that is all wrapped up as the support mechanism that the

board would need. I also had criticism and again I have to, although I am loathe to say so, admit that it was fairly placed from Deputy Vallois, with regard to the late contact that she as chair of P.A.C. (Public Accounts Committee) got with regards to this proposition. It was the same point for the Economic Affairs Scrutiny Panel. It was quite simply our fault; we had not taken on board in the preparation of this the decision by this Assembly as a result of a proposition brought by the former Deputy Le Claire to bring such structures forward and, as such, it had not figured in our planning process and consequently we were late in picking up on this. So I apologise both to the Economic Affairs Scrutiny Panel, who rapped my knuckles in their report over this, and to Deputy Vallois who sought to do exactly the same thing and very successfully, I might add. She also raised the point about staff and she was absolutely right in terms of the differential and seasonal staff. She also raised the point about £250,000 which was not funded. Deputy Tadier will be disappointed at that because I know he has an interest in the German market; he has made some recommendations in the past. We had put a bid in as part of the Medium-Term Financial Plan for some additional funding to support the activity in the German market. The German market has been very successful for the Island, as I know the Deputy has raised that point with me in questions before. He will be interested to know that we took on board what he said in the past and we sought some additional funding. Sadly it was not successful but we are still looking at ways in which we can do more with the German market. So that was why that was not successful, nevertheless, within the resources a total of £73,000 has been allocated for dealing with the costs in association with the board. Deputy Maçon asked his points about the role of the Minister and the board and I think his main thrust was concern about industry capturing the board. He is right in the respect that the industry is very diverse in the Island and in the past we have always had situations where different particular component areas of the tourism sector ... those that have shouted loudest feel that they have had a better return than those that perhaps do not have quite the same voice. But it comes back to the point I made before; the board is there as an advisory body to advise the Minister. I am looking forward to the advice. I hope, regarding the comments of the Connétable of Grouville, that we will get some bold suggestions from the board but I do not feel that there is going to be any capturing of the board and a failsafe mechanism is that they are an advisory board and the propositions and proposals that they put forward will ultimately come for approval to the Minister. I thank Deputy Bryans for his comments. He made some very interesting comments, in particular in relation to McKinsey and I have heard this point raised many, many times by friends that I have had who visited the Island and others that Jersey is the best-kept secret and these are people who come from London and major cities in the U.K., have never thought of coming to the Island before and been surprised by what we have to offer here in terms of the sheer beauty of the Island but also the diversity of the restaurants, the quality and all the other things, the beaches, and so on. It is a valid point that he makes and certainly the gentleman that Deputy Bryans spoke to. I was struck with the other point that the Deputy made about making people feel welcome when they come here. I think generally people are made to feel welcome when they come to Jersey but I have to say, when I recently had the opportunity to visit Dubai I was amazed by the step change in welcome and the quality of service and I do believe we have something to learn here in the Island. It started right from the beginning with immigration where you are welcomed with a smile; you are engaged with, all the way through to hotels, taxi drivers, the whole remit. There is a tremendous warmth and I think competing in a competitive world we have to continue to raise our standards and look very carefully at what competing jurisdictions are doing and make sure we at least match, preferably surpass, that. That is the type of analysis that I hope and expect the board to bring to the equation from their position of expertise and that is why I am quite keen and hopeful that we will get the right expertise on to the board and some of it will be from outside of Jersey, outside of the Island. I said I would come to the Constable of St. John; I would just like to thank him for his support. He is not always terribly keen on boards; he made the points himself. He does feel he does not get listened to. I am not sure about that; I think it is hard not to listen to him. But I am just pleased

that he started the year off in such good form. I hope this is setting a new trend in his support for Economic Development and I am delighted that hopefully he is going to be on the winning side this time. Perhaps I had better not say that too loudly or I will tempt fate. Deputy Power asked a range of questions. First of all I need to make it absolutely clear with regard to Visit Jersey and this is somewhat confusing. It does appear like it is a *fait accompli* that Visit Jersey is the new brand and consequently the Deputy then asked: "What is it going to cost?" He is going to be bearing his mind back to previous rebranding exercises. I should make it clear that the decision to rebrand to Visit Jersey has not been taken; it is an idea and certainly the papers give that impression and there was confusion. The Scrutiny chair, the Deputy of St. Martin, asked me to clarify this point and I will and I am hopefully doing it now. The decision has not been taken to rebrand Jersey Tourism as Visit Jersey; it is an idea, it is a concept and it is certainly a point that I will be asking the shadow board to look at. They will have to make the decision as to whether indeed there is value bringing us in line with, for example, Visit Britain, Visit Guernsey and a number of the other similar brands that exist but that is a matter that I will be looking forward to receiving advice on. In that regard his further question about the chief executive officer clearly falls away because the status quo remains at this time. The board does operate under the Nolan principles contained within the report and I have covered the cost which hopefully will satisfy him as well and his other question about jersey.com would also fall away. I would imagine, just as a point, that with the amount of investment over the years in jersey.com, I would find it hard to believe that - from a personal point of view but I wait to be advised by the principles - it would dropped. The Deputy of St. Ouen stood up and spoke passionately. I was hoping he would speak passionately in favour but he seemed to be speaking passionately with an opposite view and, if I may say so, a rather cynical view about why would we get somebody else to do it when we can do it ourselves? I made the point earlier that I am no expert in tourism.

[16:00]

A Minister operates and can make decisions based on advice and the Minister needs good advice. The purpose of this shadow board is to ensure we get the very best advice possible and that is the underlying principle behind this decision. On top of that, and it is an important point, the industry in the past has made quite a significant investment together with Jersey Tourism in joint marketing initiatives, for example. The industry has often said that if they had more say in where the money was going to be invested, where the marketing was going to be used, then they would spend more money. This was one of the underlying principles of the public-private partnership that we were considering initially; more involvement, therefore more investment. This is one step. It is a shadow board which means that we do not have the same cost as a formal structure that you get with a public-private partnership but you get a lot of the advantage of the private sector expertise to advise and you get, importantly, the independent oversight that such individuals will give to an organisation. We have seen it very strongly - I certainly have seen it with regard to the Ports of Jersey which I referred to earlier on - and I am confident that we would get a similar position here. The Minister talked about accountability; I hope I made the point that the Minister is still accountable. Even with a shadow board the chief executive as accounting officer is still accountable so that does not change. What it does change is the oversight, what it does change is the quality and flow of information and advice that I believe we will receive as a result of the decision if the Assembly decide to take it. Deputy Young asked a valid point about governance and again that is something that I will be looking to the board to advise on; that is one of the key points. One of the areas that I think is really important and it works well with regard to the Ports of Jersey, is with regard to the Memorandum of Understanding that will exist between the Minister and the board to lay out exactly how that relationship will work. But what I will be looking for the board to do as part of their remit is to look at the governance structure and advise accordingly to make sure that it is appropriate. I thank the Constable of Grouville; he was one of several Members who said

be bold. The last time I was bold, and he mentioned it, was the £75,000 investment that we made in sponsoring the rugby. Sometimes you make bold decisions and you get slated for it but that is just part of the territory, I am afraid. I believe it was the right bold decision to make. We will see in due course. Certainly the feedback I have had to date is, as the Constable was saying, we are getting a significant number of visitors coming to the Island as a result of the rugby sponsorship. Not only are they coming to the Island in numbers in excess of what we anticipated when we did the original figures but the other interesting point and of value is that they are staying for longer. We had anticipated they would stay for one or 2 nights; they tend to be staying for 3 or 4, taking the opportunity to stay for a long weekend. Many of them are coming up with exactly the same point that Deputy Bryans made; they think Jersey is a best-kept secret. They have never been here before but these are new people, hopefully they are spreading the word and I think that is really encouraging. But moving forward; new ideas from the board hopefully and hopefully bold ideas. Again, it is a point probably relevant as much to the Deputy of St. Ouen and that is that there are always going to be limitations on how bold a politician is going to be, if I may say so, and how bold the public sector is going to be. If you can get that mindset with the private sector who, by nature, have to be a bit bolder, have to look at new and exciting ideas, those are the types of proposals that I would want to see coming forward. Certainly, as I know one member of the public suggested: "Well, the Minister is simply doing this so he has somebody to hang the blame on if it all goes wrong"; I am afraid that will not wash. Members know that will not wash, they know who is responsible; I remain responsible. I am responsible now and I will continue to be responsible for the foreseeable future so if it goes wrong it is my fault and I will have to hold up my hand and take appropriate responsibility. Senator Farnham, I thank him for his support - I have mentioned it earlier on - in his role with the Jersey Hospitality Association. It has been a constructive dialogue that we have had. I have known that the Association have wanted this move to happen earlier. We have stated the reasons why there was a delay - principally around the economic climate - and indeed the introduction of the marketing panel bridged the gap in the interim period. I think they have done a fabulous job and I paid tribute to them earlier. I would like to just repeat that again, that they really have added significant value to the decisions with regard to marketing and I believe they are one of the reasons why Jersey's figures have held up over the last few years much better than our competitors. It is still very difficult for the industry in terms of profitability - margins have been shrunk in the climate that we are in - but nevertheless the actual performance has been quite strong. I thank the chairman of the Scrutiny Panel, the Deputy of St. Martin, for his summing up of my speech and I have covered the point about the brand. The Constable of St. Saviour, I thank her for her comments. The important point that she made was that we need to make sure that to do business in Jersey is as easy as possible - she was talking about licences and costs and so on - and that is something that I feel very strongly about. Red tape, bureaucracy; we need to make business life as easy as possible for businesses in the Island. It is all about sustaining their profitability, sustaining jobs and creating job opportunities and we will not give confidence to businesses to do that unless we make it ... I am sure we have the right protections in place but nevertheless that things happen swiftly and effectively. It was a point I think Deputy Tadier made about red tape. I have covered the point to Deputy Tadier about the cost of the N.E.D.s and the receipted basis of the expenses. Senator Ferguson, I have covered the point she raised with regard to the tourism marketing - why we are having a shadow board. She said: "Why do we not just go the whole hog and get on with it" and I was rather worried she was going to pick that stick up next to her and beat me over the head with it. But the reason is quite simple, that it was deemed, as I have said, during the more difficult trading conditions that we are in at the moment we did not want to spend the cost involved in setting up a private-public partnership at that time. We wanted to ensure that money went into frontline marketing and advertising and that is exactly what we have done. I believe that was the right decision. This decision for this shadow board is inexpensive. It is a halfway house. I believe it will give a significant vote of confidence to the tourism industry. I really hope that

Members will support wholeheartedly, as I said originally, this proposition because the industry, like all sectors of our economy, need the confidence and to have the confidence of this Assembly fully behind them will add considerably to the difficult task they face as we move forward. I maintain the principles of the proposition and ask Members to support. Before I forget, I am terribly sorry, I do not know how I could have forgotten him, Deputy Southern. **[Laughter]** This is very remiss of me. He was so kind saying that I have always been such good value and he enjoys listening to me. I was bowled over. I was also made aware that recently when I was unfortunately out of the Assembly he very kindly quoted at length from an email of mine and said that we were virtually joined at the hip on that particular issue. I think it was probably the first and last time but I nevertheless thank him for his kind words and also for his kind words in relation to listening to me at the hustings. Perhaps he would like to pay more attention. He did, though, to be fair, raise some points that need to be addressed and I will seek to do so. He talked about references to innovation, competitiveness, productivity. His main thrust was that there was not enough reference to tourism, the word “tourism”. In all that I say continuously, in terms of supporting our important tourism and hospitality sector, is that that sector itself needs to improve its productivity and has been doing so. It needs to innovate and it has been doing so, and it needs to be more competitive and it is beginning to do so. It has to be more competitive in terms of the global economy, the global marketplace that we are in. People can go over the world now; Jersey has to be ensuring that it is a competitive offering in all respects. “It is about jobs”; the Deputy talked about the fact that I was referring to more jobs for locals. Yes, I would like to see more local people in tourism jobs. I think job substitution of that nature is going to help dramatically in addressing some of the very sticky issues that we are faced with in this Assembly with regard to population. The reality is that a lot of the people coming into the Island - and have been over the last few decades - have been coming in to service tourism, agriculture, retail; those are the people who have been filling those jobs. Now, with higher than we have seen before unemployment in Jersey, I would like to see and find ways, working together with colleagues on the Council of Ministers, the Minister for Social Security and I have had discussions and indeed are formulating policies, and with the Minister for Education on the Skills Executive, to try and get, encourage and incentivise more local people to go into jobs in those sectors and in tourism in particular, and indeed to incentivise and encourage more businesses in those areas to look to employ local. It is really important and I think we have to work hard to deliver it. **[Approbation]** The Deputy also talked about the figures and the numbers clearly can be twisted any which way you like. A good accountant will always make a statistic sound more interesting than perhaps it is. The point I made in my opening remarks is that I have protected, through the Comprehensive Spending Review and through the Medium-Term Financial Plan, the budget for Jersey Tourism. That was done specifically and it was done for a reason as we go through this change programme. The Deputy talked about the fact that what has happened is that new money has gone into Economic Development as part of the approval by this Assembly of the Economic Growth and Diversification Strategy. It was right to invest in the economy. It is right to try and invest to save, maintain and create job opportunities but just because our overall budget is rising and the percentages in terms of our spend have been readjusted in order to meet those overall and overarching objectives, it does not mean that we have not maintained the baseline figure for tourism. We have, and in fact in recent years, as issues have arisen and challenges have been faced by the industry, additional money has been found within Economic Development to support specific marketing and advertising campaigns that have been requested. Members will remember the volcanic ash incident and various airline strikes; when the Island has faced those sorts of situations additional funding has been put in. But the funding for tourism has been maintained and rightly so and will be through the period of the Medium-Term Financial Plan. I have now finished with Deputy Southern and indeed all Members and I would like to maintain the proposition and call for the appel.

The Bailiff:

The appel is called for then in relation to the proposition of the Minister for Economic Development. I will ask Members to return to their seats and the Greffier will open the voting.

POUR: 48	CONTRE: 1	ABSTAIN: 0
Senator P.F. Routier	Deputy G.P. Southern (H)	
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		
Senator P.M. Bailhache		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of Grouville		
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 Hérisier (S)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy 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 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)		

8. Connétables and other Parish officials: explanation document and new legislation (P.119/2012)

Very well, we come next to the Connétables and other Parish officials: explanatory document and new legislation, Projet 119, lodged by Deputy Higgins and I will ask the Greffier to read the proposition.

The Greffier of the States:

The States must decide whether of opinion (a) to request the Chief Minister in conjunction with the Comité des Connétable to produce within 6 months of the adoption of this proposition a document setting out for the benefit of all Islanders the legal powers and roles of the Connétables, Centeniers, Vingteniers, Constable's Officers, Procureurs du Bien Public, Chefs de Police, Parish Roads Committees and all other officers and bodies associated with the administration, governance and policing of Parishes; and (b) to further request the Chief Minister, in conjunction with the Comité des Connétables, to take the necessary steps to bring forward for approval by the Assembly new legislation in English to consolidate by re-enactment all existing legislation, and to codify customary provisions where necessary, in relation to the roles and responsibilities of the Parish officials and bodies referred to in paragraph (a).

8.1 Deputy M.R. Higgins:

I would like to start this debate by stating why I have brought the proposition to the Assembly. It is not, contrary to the belief of one or more Connétables, an attack on their ancient office, the Parish Hall staff or the honorary system. I happen to be an admirer of the honorary system in Jersey and commend and pay tribute to the many men and women who give up their free time in the service of the community. I also believe that by and large the Parishes are well-served by their full-time staff and I especially admire the Honorary Police for turning out day and night in all weathers throughout the year in the service of all Islanders. **[Approbation]**

[16:15]

More controversially, while I personally do not believe that the Constables should sit in this Assembly simply by virtue of being a Constable, I also believe, perhaps to the surprise of some of their members, that they do a good job running their Parishes. So what then is the purpose of this proposition and why is it targeted at the Parishes? The purpose of the proposition is to highlight and hopefully to put forward a solution to what I believe is the unsatisfactory nature of legal information available to States Members and the vast majority of Islanders. I would add right at the very beginning this is not criticism of the Jersey Legal Information Board, which I think is an excellent site, but a statement that I would like to see it correct one or 2 of its deficiencies; one being translations of laws in French and the other restricted access to case law. Another reason why I have brought the proposition is I am trying to highlight and point out how I think we should improve the way in which the Assembly enacts and amends legislation. Also I want to highlight the possible failure of some public authorities to take sufficient notice of the Human Rights (Jersey) Law 2000 which came into effect in 2005 and the rights contained in the European Convention on Human Rights. The proposition is targeted at the Parishes in the first instance because of the deficiencies that I believe were highlighted in the debate in P.36/2012, the Draft Constables (Miscellaneous Provisions) (Jersey) Law, which the States debated in May 2012, but I sincerely hope that if either or both parts of this proposition are successful that it will lead to similar changes in all other areas of the public sector. During that debate, which was primarily concerned with repealing the policing function of the Constables, and enabling a Procureur du Bien Public to deputise for a Constable in certain circumstances, we amended a number of laws including the code of 1717, the laws of 1797, 1842, 2 laws in 1852, the law of 1864, 1884, 1905 and 1937, all of which were written in French. Not only were we not given marked-up copies of the laws we were

amending so we could not satisfy ourselves that the amendments achieved what was intended or would not cause some unintended consequences, we were not even given English language translations of the laws written in French. While this was all right for Members of the Assembly who could speak and read the French language, it was not satisfactory for those Members who could not (me included). A trawl through the Jersey Legal Information Board website to look up copies of these laws in English also proved abortive. To my mind this is unsatisfactory as those Members who could not read French were not able to effectively scrutinise the law and there is a danger in such circumstances that bad laws could be enacted. It also destroys the public's confidence in the States' ability to scrutinise legislation. Because I could not fully understand what we were amending and its effect, I voted against the proposition and not, as I put erroneously in the report saying I abstained. I was one of 3 Members to do so. The Constable of St. John voted against it because he felt that the proposition effectively reduced the Constables' role to that of chairing the Parish Assembly, being responsible for the administration of the Parish and issuing dog licences and firearms certificates. I do not know why Deputy Trevor Pitman voted against it but I am certain that I am not the only Member of the Assembly who is not able to read or speak French and did not fully appreciate the changes they were voting on. This experience caused me to carry out some research into how many other laws were written exclusively in the French language and to discover what translations were available. I discovered a wide range of civil and criminal laws that were in the French language, including a number relating to the officers and activities of the Parishes. I also discovered that neither the States Greffe nor the Law Draftsman's Department have a complete English translation of the Code of 1771 or some of the other pieces of legislation drafted in French. I discovered that the partial translations of the Code that have been made are primarily relating to the oaths of office of the Constable and other Parish officials. I found that the translations that had been made had been done so in a piecemeal and uncoordinated fashion. Also, while some translations are reliable and are a reliable guide to the law in French, some others are less so and some may not be fully up to date. The last 2 of these discoveries have been confirmed by the Council of Ministers in their own comments paper on this proposition. To my mind this is unsatisfactory. If I, as a States Member, have difficulty in discovering what the law is, what chance does the ordinary man and woman in the street have? While some of you may think or say that this is not such a big deal, it does have a number of implications, not least to the rights of our citizens. It means that people who cannot read French do not know what the law is and therefore cannot know or exert their rights or conduct their affairs in such a way that they are in conformity with the law, something I shall elaborate on in a moment. It also means that those officers and officials in States departments, Parish Halls and all other forms of public authorities who cannot read French may not be applying these laws correctly and may, as a result, deny people that interact with them their rights and entitlements. Now this latter group - public authorities - could also include paid, voluntary or charitable organisations contracted by the States to deliver services on its behalf, something that is going to be very important as much of the health provision will be farmed out to doctors and to primary care proposals and to the third sector who may provide home care for the sick and the elderly or the Parishes who run housing schemes for the elderly. The failure to translate all the laws written in French into English so that all members of our society can understand them also goes against the principle of legal certainty, which is at the core of the rule of law, which according to the United Nations refers to: "a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards." Legal certainty is also a fundamental principle of the civil law and common law legal systems found in Europe and in our own common law system in Jersey. While it cannot be achieved absolutely, it is stated as a general principle that the laws should be sufficiently precise to allow people, if need be, with appropriate advice to foresee to a degree that is reasonable in the circumstances the consequences of their

actions so that they can organise their affairs in such a way that they do not break the law and so that official actions are predictable to the maximum extent possible. To me the high cost of access to legal advice and the courts that we have in Jersey means that our citizens need as much help and support in advance to assist them in today's world and I believe that translated laws and consolidated or codified legislation is one way of doing this. Legal certainty is also one of a handful of legal concepts recognised by the European Court of Human Rights, which brings us on to another important implication. As most of the laws written in French were enacted long before the advent of the European Convention on Human Rights or before such rights were even contemplated, there is a danger that these laws and especially the way in which people interpret and/or apply them will lead to the Parishes or other public authorities breaching parishioners' or Islanders' human rights. Human rights can either be absolute, limited or qualified: absolute rights such as Article 2, the right to life or Article 3, the right to be free of torture, inhumane and degrading treatment cannot be restricted or infringed in any way; limited rights or those that can be limited to a degree permissible in the wording of the article, such as Article 5, the right to liberty; qualified rights are rights that the State can lawfully or justifiably interfere with in certain circumstances. Generally in such Articles the right is set out at the start and then qualified by certain criteria such as whether the interference is in accordance with or prescribed by law, depending upon the Article in question, and whether it is in pursuit of a legitimate aim and whether it is necessary in a democratic society. Examples of qualified rights include Article 8, the right to respect for private and family life, the home and correspondence. I am sure Members will be pleased to hear that I am not going to go through all the rights contained in the Human Rights Convention but I want to illustrate a few examples of why our laws need to be clear and accessible from a human rights point of view, 2 in particular, that have specific relevance to the Parishes and to other areas of public life. I am going to take Article 8 to start with, which is the right to respect for private and family life. It starts off by saying that: "Everyone has the right to respect for his private and family life, his home and his correspondence." Part 2 says: "There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others." While these exemptions that I have just read out, all the 6 areas, sound very extensive, they are much less so when you read the case law of the European Court. But what do these terms mean? For an interference to be justified it must be in accordance with the law and this means that there has to be a clear, legal basis for an interference and that the law should be readily accessible. A public authority which intends to interfere with a person's rights under Article 8 must be able to show that what they are doing pursues one of the 6 legitimate aims that I just mentioned, however, this is rarely a problem as the legitimate aims are also widely drawn. The crucial issue, however, is the third: "necessary in a democratic society." There must be a good reason for the interference of the right and the interference must be proportionate which means that it should be no more than is necessary. If there is an alternative, less intrusive way of achieving the same aim, then alternative measures should be used. Under Article 8 the European Court of Human Rights has been particularly consistent in requiring that no laws breach the principle of foreseeability and accessibility, especially in surveillance cases. Foreseeability means that the law must be laid out in enough specific detail in order that individuals can regulate their conduct accordingly. The court refers normally when addressing these 3 main principles. Firstly, the public authority must have a legal basis for their actions. Secondly, citizens must have access to the law and this accessibility to the law must give adequate guidance as to what circumstances are covered by the law. Thirdly, the law must be constructed with sufficient clarity to allow citizens to reasonably foresee how this law will affect him or her should they act in a certain manner. That is one example where the court is laying down quite specific criteria in terms of knowledge of the law. Another Article contained in

the law is directly relevant to the Parishes and that is Article 1, Protocol 1 of the Convention, which relates to property. It reads: "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law." It goes on to say: "The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties." So, in other words, it is another qualified right. It protects your rights to the peaceful enjoyment of your property but there are certain exemptions to those rights. The Article refers to possessions and I would say this is where it has a wider relevance to everything we do virtually in the Island because "possessions" has a wider meaning more than just land and property interests. It can also include shares, a pension, contributory welfare benefits, social security benefits that are dependent on the claimant having made National Insurance contributions and it is also the only article in the Human Rights Convention that mentions "legal persons" and thus extends these rights to companies. The court has held that it is not sufficient for the law on which basis the States limited the enjoyment of the possession to be a formal legal source within the meaning of domestic law but that it must furthermore contain certain qualitative characteristics and afford appropriate procedural safeguards so as to ensure protection against arbitrary action. In the case of *James v The United Kingdom* it took the view that: "... the law must be accessible (published) and its provisions formulated with sufficient precision to enable the persons concerned to foresee, to a degree that it is reasonable in the circumstances, the consequences which a given action may entail and to regulate their conduct."

[16:30]

They also state that: "This does not require complete precision, which would exclude the necessary interpretation in the application of the law. However, it requires a certain level of foreseeability, which depends on the content of the instrument in question, the field it is designed to cover and the number and status of those to whom it is addressed." Basically I am telling you this in 2 aspects, however, what I would like to do is to stress once again that the ultimate purpose of this proposition is not Parish bashing, Constable bashing or anything else; it is to safeguard the right of our citizens to help them avoid abuse by public authorities. To give you 3 actual examples of why we need safeguards such as this let me give you 3 examples from my own experience. I went into a Parish Hall - I cannot even remember what the issue was at the time - and I asked if I could do something and I was told by the officer concerned: "No, you cannot." So I said: "Why can I not?" and the answer was: "It is against the law." Many people might have been turned away at that but my reaction was: "What law? What Article?" and the official concerned did not have a clue. It was just a way of not dealing with the question or trying to sort of appear that they knew. They did not know what the legal situation was and there was no basis for what they were saying. On another occasion I contacted a States department and again had a civil servant tell me that something was not possible because it was against the law. Again I challenged him and I said: "What is the legal basis for that statement?" After a lot of waffle he said: "I will have to get back to you." Anyway, I received a phone call from the head of the department to apologise for his member of staff and he said: "No, there is absolutely no restriction whatsoever by law or any other means." The final one was the police and this was an infringement of my own Article 8 rights. A police officer once entered my property without lawful cause. He did not have a search warrant, he had no legitimate reason for being on the property and when he was challenged he came up with a thing about parking tickets - it was not my own parking tickets, I might add - and some other issues. I complained down at the police station. I went in and I said: "This is totally unacceptable behaviour on the part of the officer." I was told by the people at the counter: "They have the power to do it." It turned out that they did not and a complaint was brought with the Police Complaints Authority and the officer, although he denied any wrongdoing, eventually admitted his guilt and was

disciplined by the force. Those were 3 examples where people can quite easily be fobbed off by officials telling them it is against the law and people do not know what their rights are. Another point I would like to make here is imagine how difficult it would be if the law was in French. I would not have a clue what the law was and what the various rights are and neither would anybody else. I would also like to point out that my own Constable mentioned to me on one occasion he was not even sure that everything his own Roads Committee did was within the law. In fact I have started looking through the Jersey Legal Information Board to look at the powers of the Roads Committees. It is in French. I do not have a clue. I am going to stop at this point. These are my reasons for bringing it. I think it is important that people do have an understanding of the law and that, for example, where it is written in French we should translate those laws into English so that people have an understanding of it. Before I forget I will mention it now, I would also like any of the Constables or members of the Council of Ministers to advise me and the Assembly what type of human rights audit was conducted on the laws that govern the Parish? Before the law came in all States departments had to do a review. What did you do to ensure that the law was compliant with the Human Rights Law? Finally, I would just like to say 2 things. One, what am I seeking? I am seeking that within 6 months the Comité des Connétables for the Chief Minister request the Chief Minister of the Comité des Connétables to produce a document setting out for the benefit of all Islanders the legal powers and roles of the various Parish officials and the committees and bodies. That is all I am asking in the first stage; let us just get it down on paper so people see, and that in English so we can understand what is going on. The second part of the proposition goes a stage further. What I will stress from the beginning, because there is much written in some of the comments, it does not stipulate a time period. I have said that: "... to further request the Chief Minister, in conjunction with the Comité des Connétables, to take the necessary steps to bring forward for approval by the Assembly new legislation in English to consolidate by re-enactment all existing legislation" and that is, if it is in French turn it into English so that we have one document which is all in English: "... and to codify customary provisions where necessary, in relation to the roles and responsibilities of the Parish officials and bodies referred to in paragraph (a)." If you try going on the Jersey Legal Information Board you will get access to some ... initially, members of the public may not get access to them all but if you do go to some of the judgments you will find out how the law has been uncertain with relation to Parish officials and committees and so on and how it has evolved over time. Anyway, I will leave it at that and listen to hear what Members have to say.

The Bailiff:

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

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

To be fair, I think I am going to attempt to speak on it. Could I just say that I have nothing prepared on human rights at all on this which the Deputy requested if I would have to talk on human rights I will request the views of the Attorney General on these because some of these laws, quite correctly the Deputy has said, were drafted in the 1700s so I am pretty sure there were not human rights in those days as we know them today. So I cannot clarify to him one way or the other whether they have had the human rights from the ancient laws.

Deputy M.R. Higgins:

If the Constable would not mind, I will just explain. Sorry, in 2005 all States departments were required to go through every law, every regulation, every guidance note, every piece of information they put out to the public to see if it was human rights compliant. All I am asking is did the Parishes do the same and did they ...

The Connétable of Trinity:

I believe it was Island laws not Parish laws. I am not too sure if I am correct. I think it was Island laws. Anyway, I will try and keep to the proposition. This request, I think it is fair to say that translation is a fair comment from the Deputy. What we have to be very careful of is that the actual translation is a correct translation of the existing law. There are some, I think, translations at the moment which are maybe not perfect and if this was to be done it has to be translated. Of course then it should go to the Law Officers' Department to check that the translation is also correct. As you all know, the official languages of the States are French and English. So one could say there is no inconsistency in having legislation in French, as was drafted in the olden days. I think the biggest problem is where the Deputy did not mention the word re-enactment. On his part (b) of his proposition he also says: "... to re-enact all the law." That is a major piece of work to be undertaken. He uses also in his proposition the word "trawl". The secretary of the Connétable has had a little trawl and we found 40 at least that would need to be translated into English. Also, going through the re-enactment would mean bringing them back to this House where you could have amendments brought to them and then once they were accepted they would go on to Privy Council. I know he says 6 months is the original amount of time. I am afraid to say that 6 months is just unacceptable. It is not possible to get this work done. No one has allowed any time. This has come out of the blue. There has been no law drafting time, no Law Officers' Department time allocated to this, let alone the secretary of the Connétable. The Connétable's secretary is a part-time secretary. This is a major piece of work to keep going with all of the other things that we have running at the moment. I am pleased Deputy Tadier is back into the House. Last year he asked for information on the Parish and the municipality. We drafted this booklet which you all have on your desk today. I hope it is helpful to Members in the House. They will be in the Parish Halls for you to pick up, laying out the different parts of the municipality which are part of the Parish life. This is all what he collects. He goes through all the roles of Connétables, Centeniers, Vingteniers, Constable's Officers, Procureur du Bien Public, Chef de Police, Parish Roads Committees and all other bodies. Do we go into rates assessors which their laws are said? How far do we go? I am sorry to say, Deputy, this is a very nice thing to bring but logistically it is a major piece of work. I know where the Deputy is coming from, unfortunately he is not converse with the French language but of course there are people who can translate these laws. I have no problem with it. I think it is a good idea that some of these laws could be translated so that the general public would have a better knowledge of them. Although, I would say I very rarely know many people who read the laws before they break them. It is usually after they have broken the law they decide to look up what they have done, but that is beside the point. It took the secretary and the law draftsman a year to bring this booklet to the House. All I am saying is that I know the Deputy has good intentions with this but I am afraid that this is a little bit too far to be undertaken in the time that he thinks it can be possibly done. Obviously we have not spoken to the law draftsman or to any of the Law Department of the amount of work involved. I am sure the Attorney General would be in a very awkward position on the amount of time he would have to allocate some of his officers to work with us. If this gets through, obviously if the Assembly approves it, well we have to go forward. I please ask the Members of the Assembly to reject the proposition due to its time and cost involved. I have not mentioned cost. I would say this is a major cost. I know the Deputy has not put any costings in but it is an unknown subject. Once you start into it I am afraid he will come to realise this will be far more expensive and more arduous than he anticipates. So with those few comments I will ask the Assembly to reject this proposition on (a) and (b).

8.1.2 Senator P.M. Bailhache:

The Dean has just left the Assembly but he did ask Members this morning during the course of his excellent address that Senators should not vote against Deputies' propositions just because they were Deputies' propositions and vice versa. I would like to assure the Dean, Sir, through you that each time Deputy Higgins brings a sensible proposition to this Assembly I shall support it and vote

for it to the utmost degree. Alas, this is not a sensible proposition. I want to say a few words on the practicality, following up on the Connétable of Trinity, and a few words about heritage and tradition. Like Deputy Higgins, I am all in favour of the law being accessible, comprehensible and as clear as possible to members of the public. The Deputy was kind enough to make some nice remarks about the Jersey Legal Information Board, which I had a hand in establishing. It occurs to me that if the Deputy is concerned about a particular law in the French language, which he has had occasion to consult on the Jersey Law website and has not been able to understand, I am sure that the Jersey Legal Information Board or through others involved in J.L.I.B. (Jersey Legal Information Board) would be willing on an ad hoc basis to make available translations of any laws that were really important in that sense. What the Deputy proposes, however, is simply not going to have the effect that he seeks. The proposition, if it is adopted, would in fact cut across important work to reform and modernise the law.

[16:45]

It would in fact slow that particular process because what officials and lawyers would have to do, as is explained in the report of the Council of Ministers, would be to put aside the work on reform which is ongoing at the present time and concentrate instead upon translations of 18th, 19th or 20th century laws, which would not serve the same purpose. The breadth of what the Deputy is asking the Council of Ministers to do is extraordinary. It is not just a question of statutes that are written in the French language. The proposition refers to codifying customary provisions where necessary. I quote: “Customary provisions are to be found in the works of numerous commentators on Norman customary law and Jersey customary law.” To do that would be a work that would occupy several PhD students years, and for what purpose? Legislators and lawyers should be devoting their energies to seeking to reform the law and bring it up to date, not merely to re-enact 19th and 20th century provisions in the English language. Deputy Higgins suggested that the amendment to the Connétable law gave rise to particular difficulties for him. I think he overstated that case, if I may say so. In 2013 the impact of laws written in the French language on the citizen is extremely limited. In the Connétable’s amendment law that was debated last year there was an explanatory note I have just reread, which set out very clearly what the law was proposing to do. It explains in each respect what the amendment to a law in the French language was seeking to achieve. If one looks to the schedule of the law that this Assembly adopted, I am taking one the 1905 law on the subject of Parish Assemblies for example. In the first paragraph of the article in the *Loi (1905) au Sujet des Assemblées Paroissiales*, the words: “ou Chef de Police” shall be deleted. That is not difficult. Then, in the 1937 law on probation, in Article 5(1) for each time the word Connétable appears it shall be substituted with the words: “Centenier chargé d’affaires”. Deputy Higgins may not speak very much French but I would think that most people could understand the effect of that kind of provision. The Deputy made a play about the Human Rights Law and the European Convention on Human Rights. It is true that the European Court of Human Rights is very strong on the accessibility of law to the public. In a union of 40 or more states in the Council of Europe I do not know exactly how many there are where English and French are both official languages. I can assure the Deputy that the fact that a law is written in one official language of a country, French, rather than another, English, would not involve a breach of the convention. I stand ready to be corrected by the Attorney if he disagrees. Our linguistic heritage is another matter to be considered. I am sure the Deputy will know that before 1945 or even a little after all statutes and most judgments of the Royal Court were written in the French language. Until 1995 or thereabouts all textbooks on Jersey law were written in the French language. The Deputy may wish to make our linguistic heritage disappear but rather like King Canute forbidding the tide from coming up any further, I am afraid that it cannot be done. I do not think that in practice most people would want to wish away our linguistic heritage. I do not know whether the Deputy is aware of this or if he consulted with the Attorney General before bringing this proposition. He certainly did not

consult with me. I do not know if he consulted with the only other lawyer in the Assembly. It has been the practice for 30 years or more that whenever a law in the French language is being re-enacted completely, it is re-enacted in the English language. It is only when a law is being amended in a minor way that if it is written in the French language the amendment is written in French. In that event, it is and has been a practice for a very long time that a translation into English of the amending provisions is made available to Members of the States. I think the Deputy does protest too much. If the Assembly does pass a resolution of this kind which diminishes the significance of the French language in this Chamber, what kind of message does that send out and where does it stop? The Dean says prayers to us in French in the morning. Is that to be translated into English for the benefit of Deputy Higgins? Or the roll call, which the Deputy seems to understand, should that be in English as well? Should we take down the sign outside this Chamber which says: “*Assemblée des États*”, in case people are not able to understand what that means? I hope none of that comes to pass. The Dean reminded us this morning of the gifts for which we ask each time this Assembly convenes: “*le don de conseil et de prudence* [wisdom and good sense].” Perhaps Deputy Higgins might reflect that as a Member of an Assembly with a proud bilingual heritage he might do worse than to take himself up to Highlands College or to the Alliance Française de Jersey and improve his knowledge of the French language. I ask Members to reject the proposition.

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

Since one of the objections to this proposition is that of duplication, I do not intend to duplicate the remarks made by the previous 2 speakers. However, it is incumbent upon me to respond to one comment made by the Deputy in his opening remarks about the St. Helier Roads Committee and my alleged complaint to him that I was not sure the St. Helier Roads Committee was acting legally all the time. I apologise if I mislead the Deputy. I do not remember the conversation but if I gave any impression to him that the committee acts *ultra vires*, I apologise. It certainly was not my intention and I would not do that. Clearly, the Roads Committee of all the Parishes are well advised by their officers and by the Parish Secretaries and so on, and they act within the law, whether it is written in English or French. So I would like to certainly distance myself from that remark. The Deputy, being a St. Helier Deputy, also referred to his treatment at a Parish Hall. Clearly, he did not identify the Parish but one might assume that it was St. Helier as that is where he would have gone probably to get information about whatever it was he needed. Again, I would like to reassure any members of the Parish listening and any members of my staff who are listening that I am sure he did not mean to suggest that my officers do not know their job. I am sure he would have been treated helpfully. Even if a particular member of staff did not know every last detail of the law under which they were operating, I am sure they would be prepared to find out for him. I think the thrust of the objection to this really is that none of the Parishes is seeking in any way to cloak itself in secrecy, certainly not in the current climate where the Parish system, if it is to survive and if indeed it is to become stronger, has to be transparent. I know there is a general wish in the Comité des Connétables that we will be transparent. Indeed the matter has already been referred to, in terms of setting out some of the fascinating and rich services and role provided by the Parish Assembly, in the book that has been referred to. The Deputy went to some length to stress that he was not in any way seeking to be seen to be bashing the Parish system. The problem is that he has singled out the system in paragraph (a) and I am a bit concerned about how some of the honorary people in particular who are cited in this list feel about that singling out. Just picking one out at random, the Procureur du Bien Public, for example are being asked to really shake out their pockets in this proposition. I am a bit uncomfortable with that because it does not seem to me to be saying: “Let us look at the governance of the whole Island rather than just the parochial side of it.” So I think it is unfortunate that whatever he may have said in his introductory remarks it does appear to be something less than impartial. I think the rest of the points have been made. Both

paragraphs are directed to the Chief Minister so it is really up to the Chief Minister. So although he has deferred to the Constables, I would like to defer back to the Chief Minister and say it is really up to him whether he wants to do this. As far as I am concerned, any request for information about a Parish practise, procedure, law, whether it is driving licences, dog licences, the branchage, whatever the request, we will really do all we can to find out more to provide the member of the public with the translation, the explanation and so on. Where we find something needs improving then of course we will improve it. No system is perfect and I am not saying for a minute that all of the laws under which we operate are perfect. So that is perhaps what I meant when I said to the Deputy in this alleged conversation that we were acting outside the law, which of course we are not. I welcome the Deputy's interest in the Parish system. I look forward to explaining some more of these matters to him in the future.

8.1.4 Deputy M. Tadier:

First of all, I do need to declare an interest in the unlikely event that this proposition should succeed at this point in time. I do have an interest in a translation company, not that we would necessarily get the work anyway. On the other hand, I hope that also gives me some level of expertise when it comes to talk about the request to translate this and what that would mean. Deputy Higgins has fallen into the trap because he should know by now that there are 2 cardinal sins in Jersey and particularly in the States Assembly. The first is that you do not criticise Jersey outside of Jersey. That extensively means you do not criticise the finance industry or even say that there could be anything remotely wrong. The second is that you do not challenge or be seen to challenge any of the legitimacy of our institutions, which includes the parochial and entrenched Parish systems. So in that sense, I think he is on to a non-starter. But I think there is something in here which we can all agree with. I do not see it as an attack on the Parish system. I think Senator Bailhache was a little bit naughty insofar as I think he was trying to mock the Deputy, saying that this is not a sensible proposition. Of course that is entirely subjective, which I am sure the Senator will agree with. I think that there is something very sensible at the core of this proposition. I am sure that there are those in the public and in the Assembly who think that the recommendations of the Electoral Commission are anything near sensible but we are obviously not here to talk about that today.

[17:00]

He also uses extensively nationalist arguments to try to appeal to our patriotic sensibilities. What was it about Samuel Johnson said about patriotism? Even though this has nothing to do with the argument we are talking about. It is worth noting the fact that Jersey was not always a French-speaking island. Even at the time when Jersey was French speaking, French was the language often of the politically, academically and literary elite of the Island. They would perhaps be bilingual. The language of the ordinary people was for a time Jèrriais, which of course evolved from Norman French and it would have been Norman that was spoken in Jersey for a certain time. Are we suggesting that we should perhaps translate our languages into Norman? French is in one sense no more of an indigenous language to Jersey than English was. At that time no doubt some Old English would have been spoken with a mixture of Norse and who knows what they were speaking in the Neanderthal times. So I believe there are some sensible areas in this proposition. Let us get back to the fundamental of it. This is not about our history. Jersey is predominantly English speaking and languages like perhaps Polish, Romanian and Portuguese have probably far overtaken French in terms of being used on a daily basis. This is about the basic right to be able to access laws in a language that you can understand, which is also an Article in the European Court of Human Rights legislation and Articles. That is fundamental. We cannot get away from that. I think far from opposing this proposition, or at least far from opposing the principles of it, it may well be that this proposition today is not palatable for more than one reason. But it should not be

the basis of this proposition we should all be able to sign up to, that is: is the Parish system important in Jersey? We are told that it is very important. It is fundamental to Island life. Do the Parishes have power? Do they have roles that they carry out which are also important. I think that is commonly understood. Some of us think that there maybe should be some changes to the Parishes but nonetheless they do represent, at least in theory, the basis of our democracies throughout the 12 Parishes in the Island. Therefore, it seems entirely congruent that we should be allowing our Islanders to be able to understand what those laws say. I think we also need to have a joined up approach. I think they should be translated absolutely. I think there is a difference between the States laws and perhaps those which are govern the Parish because there is a point of contact. We have our own Greffier here and if we want a law to be pulled out, if anyone wants it to be translated we can either go to him or we can go to the Judicial Greffe and they are available. There is not necessarily the same central point mechanism for the Parishes, which is perhaps a problem. I stand to be corrected. It is important that people can understand what those laws are. As we go through, I do not understand why we are not getting rid of obsolete laws. If there are laws that are perhaps dating from the 1700s which if we were to translate and find out well there is no point in translating this law because the law itself is nonsense, it either would not be used today or if it were used it would be so riddled with challenges in the Court of Human Rights, or simply it is just a silly law and nobody would enforce it. We should be getting rid of those laws. There is also an issue here; we are being told it would be very onerous to translate these laws for whatever reason. I do not accept the fact that it would take several PhD students several years to do that. It would take qualified translators a lot less time or possibly that time but you would not need PhD students to do it. The fundamental problem is can these laws be understood as they currently stand? The answer to that is either yes or no. There are laws out there in French which are being presumably administered by the Parishes, by the Honorary Police or by other States' bodies. They must be able to be interpreted and understood. When I say interpreted I mean both comprehended but also acted upon politically. If there is a law in front of you which is in French it is necessary that an advocate or those enforcing the law understand what the law says so that they can enact it. When they enact it they do so in an English-speaking context. It is either in the Royal Court, in the Magistrates Court, at a Parish Hall level or some other level to do with the Parish administration. So the laws, which are in French, must need to be understood already. If somebody can understand the laws in order to act on them then it follows that translation is straightforward because the laws are already understood. Also, we are translating from French to English so we do not have the problem of getting the target language and then sending it over to somebody in France asking them to have a look at it and making sure that their understanding of the law is the same as ours because we are the ones who interpret the law. We interpret it in English in our own minds and once the translation is done we make sure that it matches our interpretation of the law: job done. So it is really not as complicated as some people would make out that it is. If this is not passed today I would perhaps suggest to the Deputy it might be interesting to take up the offer of Senator Bailhache and say if there is a particular law which he does not understand, go to your Parish Hall and say: "I would like a copy of this law and I would like it done in English please" and then do that to all the Parishes in the Island and do it for different laws and see where that gets you. I do think that there is a fundamental issue here. If it does require a certain level of funding and manpower, and I think given the States and the Council of Ministers commitment to the parochial system, they should be the ones to find the money in there. Also, the Chief Minister is the one with ultimate responsibility for the Island's responsibility to look after human rights implications and to make sure that we comply with the legislation. So it is incumbent upon him to do this. So what I would say, hopefully to move this forward, is that we are being told why it cannot be done by the Council of Ministers and by the Comité des Connétables. I want to know what their proposal is to move this forward. What is the way forward to make sure that laws that cannot be understood by perhaps 99 per cent of the population, probably even more because I am a French speaker and I

would struggle to sit down with some of these archaic laws that the meaning of many of the words which are different not only because they are legal words but also because they have taken on changes over the course over history, over time. What is the way forward to make sure that first of all we can comply with our human rights, we can also comply with what is sensible. It is completely appropriate that people can understand. Just as an aside, a few years ago one of the jobs we had to take on was to translate a big law for prisoners at La Moye, so that they could understand what their rights were. That was done in Portuguese and Polish. We accept the fact that we have to translate law to give people access to them. If we were still a largely French speaking society those arguments would work quite well. But we are not a bilingual society, so these arguments about Europe which maybe have one or 2 or 4 different languages, I do not think, apply. So, I would hope that even if this proposition is not passed today, we need to really move this forward. I say this as a Francophile and somebody who is starting to learn some Jersey French as well. We really need to be getting rid of those obsolete laws. We need to be translating as soon as we can laws into English, so that everybody can understand them. Also, so we do not leave ourselves open for challenges internationally, which could be embarrassing to the Island.

8.1.5 The Connétable of St. John:

I am sorry that the proposer of this proposition feels that I should not be in the Assembly, along with some of my colleagues who have crossed the floor over the last few years, given that I thought we worked well together with the Deputy over a number of years. Yet, as soon as I have crossed the floor, I should not be here.

Deputy M.R. Higgins:

Would the Deputy just give way?

The Connétable of St. John:

No, I will not give way.

Deputy M.R. Higgins:

Just to explain.

The Connétable of St. John:

No, I will not give way. You can use it in your summing up. Possibly it would have been cheaper for all concerned if the Deputy had taken advantage - and I think the door is still open - for him to join the French classes that we put in place at the start of every Assembly for Members to go and have lessons. Further to this, I am aware that the Deputy is from off-Island. I presume it is from the United Kingdom somewhere. I would ask him when he is summing up if all the U.K. laws are in English or are they in Welsh, Celtic or are they more likely to be in German or in French, given historically all the old families and those in power in the U.K. would be speaking generally in French or in German. In fact, I asked my colleague while the presentation was given, to Google what the language was within the United Kingdom historically. In fact, it came up as Germanic, among others. Therefore, in the United Kingdom I would presume a lot of the very old laws would still be in those languages. Therefore, have the United Kingdom translated all their historical laws from German, French, Welsh, because it is all one union, Scottish or whatever language it was at the time, into English? I would doubt it. I would doubt it. They would probably have experts that they could call on from time to time to give that bit of translation that is required in that particular area. I could not put my hand up to saying I am 100 per cent fluent in French, because I am not, but I get by. I might have to read correspondence 2 or 3 times to make sure I have the right feeling of the correspondence or of the law in my own mind. If I am not happy with it then I will ask somebody who is fluent. But to put the Island and the taxpayer to the expense of reviewing and rewriting all our laws into English, as has been said by the former Bailiff, in my book is

unacceptable, totally unacceptable. Because I believe we can get the translations we need in the areas we are looking at. In my close to 20 years in this Chamber, I have never had cause to not get the information from the person or the department I have been asking where a translation has been required. But to ask the taxpayer to pick up a bill that would run into many millions of pounds, because that is what it would be to have all these documents translated. Some of them, as in fact the proposer said, would need updating and amending. The law drafting time would be ... we already have, I think, 12 or 14 years delay in some law drafting, because I am just thinking when we were looking at all things to do with the Honorary Policy and the Constables powers. That was at the end of the last century and it is only just coming about at this time, some 13 years later. So, we have at least a 14 or 15-year delay. This work would all be at the bottom of the pile. So it would probably never come about in the next 50 years, in reality, because of the amount of legislation that is being drawn up on a weekly or monthly basis by this Chamber that we require updating or putting in place. Really, I think the Deputy is wishful thinking. I had another expression I was just going to use, but it would not be suitable for this Chamber. Therefore, I could not support this proposition and I sincerely hope the Deputy will give me an answer to the question I put to him early on, which he wanted to intervene on, when he sums up. Thank you.

8.1.6 The Connétable of St. Peter:

I just wondered really why the Deputy is focusing on the Parishes and the Parish officers in his proposition. He mentioned in his examples why he was doing this piece of work that it involved a States police officer and a civil servant as well as a Parish authority. So, I wonder why his proposition is not much more expansive and not so narrowly focused as it currently is. I just think: why is that? He did say in his proposal speech that it was in the miscellaneous provisions to do with the Connétable losing their policing powers that prompted him to think about this. If that did prompt him to think about the French laws being translated to English, that applies to every law that stands in our Island. I cannot understand why he does not want to do the whole lot. If he is going to do it, why just do a bit of it? I question that. As a little crumb of comfort - and it is just a crumb of comfort in the scale of what the Deputy is asking - the Comité des Connétables is doing some work at the moment to help, certainly out of the work of the miscellaneous provisions.

[17:15]

There is a very small group with the Constable of St. Martin, the Constable of St. Ouen, the Constable of St. Brelade and myself, the Constable of St. Peter, working together looking at all the necessary legislation regulations underpinning the changes brought about by the miscellaneous provisions of Constables losing their powers. Those will all be done in English and be coming back to this Chamber in the form of regulations. That is the best I believe that we can offer to the Deputy today. At least some Parishes are refining what they are trying to do and put it in a form which he will certainly understand in that. Also, as a subset of work, this sub-committee has decided it would like to continue after it has done this piece of work and look across the Parishes as a whole about the role and responsibilities and accountabilities of every officer in every sort of group within the Parishes and have, for example, what I am calling, please excuse me fellow Connétable, an *Idiot's Guide to Being a Constable*, for example. So, anyone can understand exactly what happens within a Parish and every role within the Parish. Unfortunately we would have liked to have delivered that later on this year, but I think we are going to be rather set aside in the next 2 to 3 months. I think we have a little challenge ahead of us, which is about the Constables remaining in the States. Certainly I hope the Deputy will be reasonably satisfied with my crumb of comfort, because I do not think we can support the piece of working he is asking us to do today. Thank you.

8.1.7 Deputy G.C.L. Baudains:

In a similar vein to Senator Bailhache, I have difficulty, as it is apparent that most Members have, about translation of laws which happen to be in the French language into English. It is my view that if we do not understand a law that happens to be in the French language then it is our duty to learn the language rather than change the law to suit us. Having listened to Senator Bailhache, I was on the Law Revision Board when we revised all Jersey's statute laws except we did not touch those that were in the French language, for a very good reason. That is where I disagree slightly with Deputy Tadier, that it is likely not possible to translate directly and take the nuances that go with it. I mean, the example is that if you take the funniest joke you can think of and translate it into another language, the person of that country will not think it is funny at all. It just does not work. If you translate to another language you could end up changing the meaning, which is why we did not do it. Another example, which the Senator raises, the *Loi (1905) au Sujet des Assemblées Paroissiales*. I have looked at that law a few times. My understanding of it is that a Deputy can assist, but not vote for the powers of Assembly. Other people take a different view. So, where are you? It is too dangerous; I could not go with it.

8.1.8 The Deputy of St. Martin:

I am not going to support this proposition and I cannot really put my objections as eloquently as Senator Bailhache, so I will be blunt. I feel that we all have better things we could be doing with our time. **[Approbation]** I do not like being cynical, especially in this House, and I do not like making light of propositions, but I cannot resist the opportunity to suggest to the Deputy that there is a quick and simple solution to his problems. This solution can be found on a website and it comes in both English and French languages, as well as others. Of course, that website address is www.condorferries.co.uk.

8.1.9 The Connétable of St. Mary:

Just very briefly, following on from what the last speaker said, it is not only that we have better things to do with our time, it is we have better things to do with the resources that this Assembly has at its disposal. I made a resolution. I do not normally make New Year's resolutions, but I am resolved that I would not try and get the rebuilding of Les Quennevais School into every proposition that I speak for, but we could speak for some money on that instead. We are not going to do that, are we? But the point is, as has already been said, when a law is substantially changed, and it is written in French, then the custom has been to bring it back into English. Over time these things will happen. My question to the proposer is: what is the actual benefit that we will gain from this? Where has the groundswell of interest in having these laws translated come from? Because people are not generally banging down the doors of my Parish to say: "We do not understand this." There are a couple of misconceptions. Firstly, we are not talking about Parish laws. We are talking about laws that might regulate certain areas of the Parishes. The Parish did not enact these laws. The States of Jersey enacted these laws. So, you would no more go to the Parish to ask necessarily for a translation of a particular law than you would go to the police and say: "This police law is written in French. Give me a translation." You would look at it holistically from the law body. We have the Jersey Legal Information Board, as it was, or jerseylaw.je. All the laws are listed there. As already has been offered, if there is something that genuinely cannot be translated or cannot be understood, there are avenues you can go to to have that addressed. We really do have better things to spend the money on. The translation is not necessarily the difficult thing. I think that was misunderstood by Deputy Tadier. Although I do completely understand the Deputy of St. Clements, Deputy Baudains' point that the translation is not the thing that you go to. You go to the original language, but you do that in so many walks of life. It is not the translation, it is the second part really that is the real problem, the re-enactment of laws. We are not talking about a small piece of work. That is where the huge resource would be. That is where we would need possibly ... I do not think years of man hours of time is too much of an exaggeration. We would be talking about

drafting, debating, taking to Privy Council. It is a massive piece of work. There was an email today, I think, that said the Discrimination Law was being lodged. We have waited such a long time for that law. When I started in the States in 2005 it was on the horizon. At various times its budgets were taken and given to other things that were deemed to be very important at that time. We have reached the point where that now has been achieved. But, you might as well say: "Well, let us not do that. Let us divert the money to this, because this is going to be a very, very cost dependent piece of work." I really think that we have to be responsible in how we direct the use of resources. I do not think this is the way to do it. If there is someone who has an issue, let us talk about one particular piece of legislation. At random I am going to pick the *Loi (1914) Sur La Voirie*, the Roads Law. This is the law that deals with, for example, the branchage. That affects pretty much every landowner who has land abutting to a Parish or a main road. Every year the Constables Committee puts out notices in the *Gazette* and other places where they are required to do so in English. We produce booklets saying what the responsibilities and duties of the landowners are in English. We already go that extra mile to explain to people what the requirements are. The law is in French, but 95 per cent of the people in this Island never even think about that. They know because the information is given to them in their common language. I think the proposer must understand that already these efforts are made right across the board. That is just one example. We target our resources effectively to give the information. I do not believe that going further to re-enact those laws in English gives the public anything more than they have at present. That is the pure and simple answer to it. I really do not see the cost benefit of this piece of work. I really do not think that the Deputy has thought of where else that money, in these economic times, could be better spent to assist the citizens of this Island, which I think is his stated ultimate aim. I think we are going over time to evolve there anyway and I cannot see the benefit of pushing this through to the detriment of some other very long awaited and very much deserved legislation that this Island is anticipating. Thank you.

8.1.10 The Deputy of St. Mary:

I have been a Centenier for St. Mary for 8 and a half years prior. During the whole of that time I never once had to administer a law written in French or charge anybody with a law written in French. The only law that we used in French was in fact the Port d'Armes, and that was scrapped in 2000 for the Firearms Law. Most laws these days that are administered on a daily basis are all in English, it is only very obscure laws which are not used very much that are still in French. It is our obligation to get that into English should we have somebody that requires it. To change everything into French at this time when we have far more important issues to deal with and far better things to spend our money on, I think, is a bit of a nonsense. Thank you, Sir.

8.1.11 Deputy T.M. Pitman:

I just would like to say how depressing this Assembly can be and we are only in the first sitting of the New Year, the first day. I think my eyesight is failing as well I am so depressed. [Aside] I think it is. I just have to say how sad it is to see excuses made, however light hearted they might be, a proposer mocked for bringing something which just seeks to do what some in this Assembly pay lip service to so often, i.e. becoming more transparent. The proposer should be congratulated on bringing this forward. If he has made a mistake then it is to lay himself open to the opportunity to be accused of attacking the Constables, the Parishes and our tradition. So, what he should have done is go for the whole shebang, because that is where this is needed. The excuses that apparently this is not needed. I have a constituent who wanted to represent himself in our courts and he wanted to be able to understand the arguments being made against him. Could the court help him? No, they could not even provide him with a translation. In fact, initially, after much toing and froing they provided him with the translation of the totally wrong law. How helpful that would have been. So, let us not pretend that this is all easily done and a super Constable or a super law

officer pops up and always helps people, because they do not. That is quite clear. I think some of the points that have just been made about: "Surely the Deputy should have thought we can be spending this on more important things like Discrimination Law." It just makes the Deputy's point for him, because it all comes down to the same thing. Whenever there is something to do with transparency and assisting people, it drags on in these Assemblies for years, Assembly after Assembly, the Freedom of Information Act, exactly the same. Why are some people so scared of people in our Island, ordinary people knowing their rights? What is the problem? We can knock someone for not being bilingual. I think that is offensive. The reality is, and I do not know if any Members realised it, but the vast majority of people in this Island have English as their first language. How bizarre that we celebrate with increasing emphasis each year a minor skirmish called the Battle of Jersey and then at the same time defeating the horrible French and yet we are going to fight like mad to keep our laws in a language which for most people is largely archaic when it comes to knowing their rights, I am afraid. There are countries in South America where they go to the extremes of putting people's rights on packets of vegetables you buy in the supermarket. What a great initiative, so that people do all know the laws. Do not mock Deputy Higgins or attack him for bringing this. I do not see it as an attack on the Constables and the Parish system. But he has laid himself open to that and I think that is what is going to cost him the votes and I think that is ludicrous. I would seriously question why we have to find objections to proposals such as the Deputy's bringing. Yes, it would involve significant sums of money. But if we are hearing that some of these laws are apparently redundant and never used then they should be repealed. They should not be just there to confuse the issue.

[17:30]

What I would suggest to Members is in this year following finally recognising the events of 28th September 1769, Reform Day, I am sure you all have it in your diaries. They are commissioning the statue of me now. Not really. I know it is a shame, as long as they make it slimmer. One of the things that those events led to was the codifying of Jersey's laws for the first time c.1771. When you look into it, what a shambles it was. It was a motley hotchpotch of whatever they could find lying around the kitchen sink. Surely that just tells us it is time to do the job properly. That is what Deputy Higgins is really saying: "Let us get on with it." So, Members, vote according to your true feelings, but please do not do so in mocking the Deputy for bringing this, because I think his intentions are absolutely right. Everyone should understand and have the right to understand what laws they are being perhaps charged with. Why should I go to court and then have to engage the services of some ridiculously overpriced Jersey lawyer? It goes right down, does it not, because if we take this analysis of the laws then we would have to look at why we cannot have English lawyers here and we might be able to have a system where ordinary people could have justice. How terrible that would be. What a communistic, red ideal that would be. So, please, give the proposer some respect for what he has done, because even if he has gone about this the wrong way in going for the Parishes first, the ideal he is striving for is an excellent one and he should be commended for it. I will definitely support him. Thank you, Sir.

Deputy G.P. Southern:

I was going to get up and propose the adjournment, Sir. It is 5.30 p.m.

The Bailiff:

It is a matter for Members.

Deputy G.P. Southern:

We are due back tomorrow.

The Bailiff:

At the moment I have no others waiting to speak. Does any other Member wish to speak? No, I think no one else wishes to speak.

8.1.12 Deputy G.P. Southern:

So, I will speak then to wholeheartedly support the words of my colleague, Deputy Pitman, most of the words of Deputy Tadier and certainly the proposition brought by Deputy Higgins. We are told that we cannot possibly start on this. It is going to cost millions of pounds and take forever, cannot do it. Yet, we are told that there is already a sub-committee of Connétables working on very similar things and beavering away in its own rights. We are told that anyway no Centenier ever charges somebody under a French law, it is all in English and the French ones very rarely indeed get used. We have a proposition here that says: "To request the Chief Minister in conjunction with the Comité des Connétables within 6 months to bring to the House a document setting out the legal powers and roles of a set of bodies associated with a Parish. That is not a million pounds worth of work. That is not forever. We have already seen a document which does not cover the powers, but does cover the names and some of the detail that might be required, but not all of the detail. That has already been produced within the last 4 months, 6 months, certainly in the last year. So, that is possible. The equivalent, going a little bit further, contained in (a) is perfectly possible within that timescale and without costing a fortune. That is undoubtedly possible. The second part of the proposition contains no timescale. Whereas normally I want to see a timescale, in this case it contains no timescale probably because the proposer thought this might take some time: So, I will not put a timescale on it, so we can get on with it in our own time or in Chief Minister and Comité des Connétables available time, and slowly, slowly produce what is required for a largely English speaking electorate and residents. That is the reality. Over time we may catch up with what has happened on the Island in that the use of French has by and large disappeared and that - and I will use the words "human rights" - fundamental human right to be able to get a copy, understandable, of the laws by which you are governed, which belongs to everybody, and to understand them will be achieved over time. First, not a million pounds, not an enormous length of time, could be done within 6 months. Part (b) could be done over time. If necessary, if it is going too slowly, perhaps a Back-Bencher would bring a little hurry up motion say: "Can you get on with it? In particular concentrate on this area, because that is an area of importance." Whatever. These arguments are saying: "This is impossible. It is wasting our time. It is wasting our money." Simply not true. Not accurately focused on this particular proposition. It could be done. I think it ought to be done; the first half within the 6 months, the second half in our own time, as we see fit, absolutely feasible. There is absolutely no reason why we should be voting against this proposition today.

The Bailiff:

Does any other Member wish to speak? Very well, I call upon Deputy Higgins to reply.

8.1.13 Deputy M.R. Higgins:

I might say that many of the comments were predictable. I will try and answer some of the questions and respond to what some of the speakers have said. I must state right from the beginning, again, the purpose of my proposition was to ensure that we guarantee the rights of people that they should have access to the law and understand the law. A number of speakers said that I should not have picked on the Constables. It was not a case of picking on the Constables. The thing that really brought home to me the use of the French language and the French laws that we have was that particular piece of legislation we looked at in March 2012. That is why I have addressed the first part of it to the Constables. I do hope it will go beyond that and to other areas of the public sector. I think one thing that has come out in this debate is that we accept that many of the translations are not accurate. There are not complete translations. I think it is fundamental that we get that sorted. If we have laws on the book and if they can be applied then they must be

accurate translations of those laws, otherwise we are denying people their rights and we could be causing miscarriages of justice. If I just refer to part (b), if I go back to Constable Gallichan, about re-enactment. Basically, re-enacting is what happens. If you consolidate the law or you codify the law you are bringing together all the different laws together on a particular topic and putting it in one document. That is what consolidation is, it is putting together statute laws. Codification is bringing together case law as well. So all you are doing is setting out in one document what the position is. I would love to see one piece of law that sets out the whole of the parochial system. It seems we could have another one with something else. You start from that, you get rid ... in fact going back to the point that some people said about some of these laws being really obscure and that. Well, if they are obscure and are out of date, repeal them. Simple as that. Let us get rid of the clutter and get down to what the basics are about. Now, Constable Gallichan said that 6 months was not enough time to do all this. I did not ask for that. In the actual proposition, I am asking in part (a), which is the translation of the law to be done within 6 months, it is bringing it all together. So, you are bringing it together, so people know what the different roles of different people are and what their powers are. That can be done through the translation. It is not re-enacting the law. As Deputy Southern mentioned earlier on, I never put a timescale on part (b). Part of the reason was that I do not know - nor does anybody else, I might add - the extent of how much work needs to be done. Only when you have done part (a) and you have looked at the laws and you look at the powers of the different people and translated them you get a measure of what is involved. It could be that 95 per cent of what is there is rubbish and can be repealed quite easily. In which case, the rest of it would not take that long. So, the point of it is: do part (a), even if you do not agree with part (b). Let us get those translations and let people understand what the law is. I do not believe that Senator Bailhache will ever believe that I will come up with a sensible proposition, in the same way that I do not always agree with his propositions. Certainly, I must say that the fudge - I know he is only part of the Electoral Commission, but he is chairman - of having 3 options for the people, I will make this point later, 2 of them are to keep the Constables of the States, is stacking the odds a bit, I think. Anyway that is neither here nor there. He also stated that he thought I would slow down the process of reform. I do not accept that. That is an argument that is in the Council of Ministers' paper. The point is if the work is being done already, as the Constable of St. Peter said, on regulations and trying to clarify the law, following the Constables (Miscellaneous Provisions) Law, then together with the document they produced in terms of the leaflet to the Parish, we have the first item to do this, you have that leaflet setting out what goes on. I commend Deputy Tadier for asking for that to be produced. The work that has been done by the Constable adds to that and the translations will add to it a bit more. In fact, some of the translations have already been done or will be done. So, with not having a timescale in terms of changing the law, the first part of it though can be done quite easily and I believe within the 6 months. I will just say that I believe it can be done. I also do not accept what Senator Bailhache said that translations would have to be done by the law officers. There is no reason why they could to be farmed out to suitably qualified people who could do it. It could always be checked with the final translations against it, but they do not have to do the actual translation. He criticised me for saying that when we went through the Miscellaneous Provisions Law that some of the amendments were Chef de Police or whatever. I happen to believe that if we are going to amend the law, I would like to know the law we are amending. Maybe a word here or there, but what did the rest of it say. I did not have a clue. I do not think anybody else did. So, if we are going to be changing laws or modifying laws, let us understand what we are amending. So far as linguistic heritage, I have no criticism of the French language. I will be perfectly honest and say I wish I could speak French. If you have heard my attempts at it then you will recognise the 'Allo 'Allo TV programme of pronunciation. I wish I could speak the language, but I do not. But I would like to understand the law.

Deputy M. Tadier:

Would the Deputy give way? Just to reassure him that nobody speaks the French that those laws are written in nowadays anyway. So, he need not feel bad about it, because he is in the majority not the minority.

Deputy M.R. Higgins:

Thank you. What sort of a message are we sending to people if we do not seek to clarify the law and make the law easier to people? I think we are giving the wrong message to the people of this Island. The Constable of St. Helier I think was slightly upset with me for the fact that I repeated what he said to me. However, the point is, I do respect the officers in the Parish of St. Helier. I will be honest and say the person who did tell me that I could not do what I wanted to do because it was not in the law. I do not hold any animosity against them, but it is really a lesson to be learned that officials should not pronounce on something they know nothing about. I have the utmost respect for the staff at St. Helier. I know how hard working they are. He also says the Parishes should be transparent. Yes, they should. Let us translate the law. That is probably the first step towards transparency. The Constable of St. John, it was not a case of rewriting all our laws; it is just the ones in French. First of all, I must come back, the thing I wanted to interject on was the fact that I may have missed something in my speech when I said it, I do not know, I thought I made it quite clear. What I said was: I do not believe that Constables should be in the States as part of their office. I have no objection to Constables ... if, let us say, the reform goes through and the Constables are not in the States, then if a Constable wished to stand for the States and if I was here I would welcome them with open arms. Anyone should be able to stand for the States, but a Constable should not by virtue of just being a Constable. It should be an election like everyone else to this position.

[17:45]

The Constable of St. Peter, again he asked why I started with the Parishes. I have explained why. Simply because the trigger for me was the Constables' (Miscellaneous Provisions) Law. Okay, it would have probably given myself less grief and possibly some more support if I did not mention this particular area, but I am sorry a lot of the laws in French relate to the Parishes. Deputy Baudains, I agree with you about translation interpretation. It is a very valid point. I was looking at Hong Kong, which has the law in Chinese and English. They have had major problems translating the English into Chinese. So much so that the legislators always look at the English, because no one can understand the Chinese, even the Chinese. Deputy of St. Martin: now the Deputy of St. Martin I found particularly offensive. I found it offensive because it was a new version of "There is always a boat out in the morning." Now, I have been in this Island for 35 years and I believe I have contributed to the Island **[Approbation]** like many other people who have come to this Island. I find: "Anyone who does not toe the line or come up with the same view should get on a boat in the morning" is totally unacceptable. **[Aside]** Not normally, they keep on breaking down, yes.

The Deputy of St. Martin:

Would the Deputy give way?

Deputy M.R. Higgins:

No, I will not give way. You have hurt my feelings enough. **[Laughter]** Constable Gallichan said where is the groundswell coming from, where is he coming from? Well, there may not be a groundswell at the moment, but when people start realising that their human rights are being affected then they will bring actions against the Parishes or public authorities that are affecting their rights. When they do, it is going to be a costly exercise, because they may be entitled to compensation. It may be a painful thing in terms of the costs in contesting some of these actions. I have not really thought where the money is coming from. I have already indicated it should not

really take a great deal of money to do the translations. In terms of codifying or consolidating the law over time, again, yes there will be an expense. However, it can be phased. I do accept there are other pieces of legislation which could be done first which will help with that process. I do not accept that it is going to cost millions and it is going to delay all the legislation. Again, Deputy Southern, I agree with him. The arguments were saying we cannot afford it. We have already seen that the Constables are already working on some of these things anyway with the pack and the other thing. He also mentioned the timescale, which I have just emphasised again. There are some other things that I would like to say. I do hope, no matter the outcome of this - I have a pretty good idea, I think - the Constables will go back to their Parishes and determine whether they have conducted a human rights audit. Because I do not think you have. I do hope that you will do, because it is vitally important you do so. I would also say too that I do find the arguments saying we cannot afford it when we are the sixth wealthiest jurisdiction in the world, that we cannot ensure human rights, does concern me. Finally, I think I will just say I am not the only person who is calling for translation of the laws. I have not had contact with him, but I was listening to the radio yesterday and listening to the President of the Law Society, Advocate Timothy Hanson, who was saying: "Yes, the French laws should be translated into English." He felt that, again, it was to help people and to ensure that their rights were protected. I am going to sit down in a second, but what I will say is the proposition is in 2 parts: part (a), which is calling for a document to be produced, setting out the legal powers and roles of the various officers and committees in the Parishes within 6 months and part (b) going towards consolidation and so on. The first one, I do not think anybody, if you really believe in transparency, should not support this part of the proposition. If you do not like the second part, do not. But the point is bear in mind the second part is over a period of years, there is no timescale on it. With that I will sit down and call for the appel, Sir.

The Bailiff:

Very well. The appel is called for and the Deputy has asked that paragraphs (a) and (b) be taken separately. So, I invite Members to return to their seats. The first vote, therefore, would be on paragraph (a). The Greffier will open the voting.

POUR: 12	CONTRE: 37	ABSTAIN: 0
Senator S.C. Ferguson	Senator P.F. Routier	
Connétable of St. Brelade	Senator P.F.C. Ozouf	
Deputy R.C. Duhamel (S)	Senator A. Breckon	
Deputy R.G. Le Hérisssier (S)	Senator A.J.H. Maclean	
Deputy G.P. Southern (H)	Senator B.I. Le Marquand	
Deputy M. Tadier (B)	Senator F. du H. Le Gresley	
Deputy T.M. Pitman (H)	Senator I.J. Gorst	
Deputy T.A. Vallois (S)	Senator L.J. Farnham	
Deputy M.R. Higgins (H)	Senator P.M. Bailhache	
Deputy J.M. Maçon (S)	Connétable of St. Helier	
Deputy of St. Mary	Connétable of Trinity	
Deputy R.J. Rondel (H)	Connétable of Grouville	
	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. Martin	
	Connétable of St. Saviour	
	Deputy of St. Ouen	
	Deputy of Grouville	

	Deputy J.A. Hilton (H)		
	Deputy J.A.N. Le Fondré (L)		
	Deputy of Trinity		
	Deputy S.S.P.A. Power (B)		
	Deputy K.C. Lewis (S)		
	Deputy E.J. Noel (L)		
	Deputy A.K.F. Green (H)		
	Deputy G.C.L. Baudains (C)		
	Deputy of St. John		
	Deputy J.P.G. Baker (H)		
	Deputy J.H. Young (B)		
	Deputy S.J. Pinel (C)		
	Deputy of St. Martin		
	Deputy R.G. Bryans (H)		
	Deputy of St. Peter		

The Bailiff:

Very well. Then we come to paragraph (b). The Greffier will open the voting on paragraph (b).

POUR: 6	CONTRE: 43	ABSTAIN: 0
Deputy R.G. Le Hérisier (S)	Senator P.F. Routier	
Deputy G.P. Southern (H)	Senator P.F.C. Ozouf	
Deputy M. Tadier (B)	Senator A. Breckon	
Deputy T.M. Pitman (H)	Senator S.C. Ferguson	
Deputy M.R. Higgins (H)	Senator A.J.H. Maclean	
Deputy R.J. Rondel (H)	Senator B.I. Le Marquand	
	Senator F. du H. Le Gresley	
	Senator I.J. Gorst	
	Senator L.J. Farnham	
	Senator P.M. Bailhache	
	Connétable of St. Helier	
	Connétable of Trinity	
	Connétable of Grouville	
	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 of St. Ouen	
	Deputy of Grouville	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy K.C. Lewis (S)	
	Deputy 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 of St. John		
		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		

Senator P.F. Routier:

I propose the adjournment, Sir.

The Bailiff:

Very well. The adjournment is proposed. Just before we do, can I inform Members that the Minister for Social Security has lodged the Draft Discrimination (Jersey) Law P.6. Very well, so the Assembly will now adjourn and reconvene at 9.30 a.m.

ADJOURNMENT

[17:51]