

# STATES OF JERSEY

## OFFICIAL REPORT

THURSDAY, 16th JULY 2009

<b>VOTE OF NO CONFIDENCE IN ECONOMIC AFFAIRS SCRUTINY PANEL .....</b>	<b>3</b>
<b>PUBLIC BUSINESS - resumption .....</b>	<b>4</b>
<b>1. Ann Court housing site, St. Helier: temporary use (P.108/2009) .....</b>	<b>4</b>
1.1 Connétable A.S. Crowcroft of St. Helier: .....	4
<b>2. Ratification of the Agreement for the exchange of information relating to tax matters between the States of Jersey and France (P.94/2009) .....</b>	<b>4</b>
2.1 Senator T.A. Le Sueur (The Chief Minister): .....	5
2.2 Deputy R.G. Le Hérisier: .....	5
2.3 Deputy J.M. Maçon of St. Saviour: .....	5
2.4 Deputy G.P. Southern: .....	5
2.5 Deputy I.J. Gorst of St. Clement: .....	6
2.6 Senator S.C. Ferguson: .....	6
2.7 Senator T.A. Le Sueur: .....	6
2.8 Deputy I.J. Gorst: .....	6
2.9 Deputy P.J. Rondel of St. John: .....	7
2.10 Senator T.A. Le Sueur: .....	7
<b>3. Ratification of the Agreement for the exchange of information relating to tax matters between the States of Jersey and Ireland (P.95/2009).....</b>	<b>9</b>
3.1 Senator T.A. Le Sueur: .....	9
3.2 Deputy R.G. Le Hérisier: .....	9
3.3 Deputy G.P. Southern: .....	9
3.4 Deputy S. Power of St. Brelade: .....	9
3.5 Senator S.C. Ferguson: .....	10
3.6 Senator T.A. Le Sueur: .....	10
<b>4. Ratification of the Agreement for the exchange of information relating to tax matters between the States of Jersey and the United Kingdom (P.96/2009) .....</b>	<b>10</b>
4.1 Senator T.A. Le Sueur: .....	10
4.2 The Deputy of St. John: .....	11
4.3 Deputy G.P. Southern: .....	11
4.4 Connétable D.J. Murphy of Grouville: .....	11
4.5 Deputy J.M. Maçon: .....	11
4.6 Deputy M. Tadier of St. Brelade: .....	11
4.7 Senator P.F.C. Ozouf: .....	12
4.8 Deputy D.J.A. Wimberley of St. Mary: .....	14
4.9 Deputy I.J. Gorst: .....	15
4.10 Deputy R.G. Le Hérisier: .....	16
4.11 Senator T.A. Le Sueur: .....	16

<b>5. Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 3) (Jersey) Regulations 200- (P.97/2009).....</b>	<b>19</b>
5.1 Senator T.A. Le Sueur: .....	20
5.2 Deputy J.M. Maçon: .....	20
5.3 Senator P.F.C. Ozouf: .....	20
5.4 Deputy M. Tadier: .....	21
5.5 The Deputy of St. Mary: .....	21
5.6 The Deputy of St. John: .....	21
5.7 Deputy G.P. Southern: .....	21
5.8 Senator T.A. Le Sueur: .....	22
<b>6. Draft Supply of Goods and Services (Jersey) Law 2009 (Appointed Day) Act 200- (P.103/2009) .....</b>	<b>24</b>
6.1 Senator A.J.H. Maclean (The Minister for Economic Development):.....	24
6.2 Senator A. Breckon: .....	24
6.3 The Deputy of St. John: .....	25
6.4 Senator A.J.H. Maclean: .....	25
<b>7. Oral Questions with notice: revised ballot procedures (P.105/2009).....</b>	<b>26</b>
7.1 Deputy M. Tadier: .....	26
7.2 The Deputy of St. John: .....	27
7.3 Deputy K.C. Lewis of St. Saviour:.....	27
7.4 The Deputy of St. Martin: .....	27
7.5 Senator P.F.C. Ozouf: .....	27
7.6 The Deputy of St. Mary: .....	28
7.7 Deputy P.V.F. Le Claire of St. Helier: .....	28
7.8 Deputy G.P. Southern: .....	29
7.9 Deputy T.M. Pitman of St. Helier: .....	30
7.10 Deputy S. Power:.....	30
7.11 Deputy M. Tadier: .....	30
<b>ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS .....</b>	<b>33</b>
The Connétable of St. Mary (Chairman, Privileges and Procedures Committee): .....	34
The Connétable of Grouville:.....	34
The Deputy of St. John: .....	34
Deputy T.M. Pitman: .....	34
The Connétable of St. Helier:.....	35
Senator T.A. Le Sueur: .....	35
Deputy I.J. Gorst: .....	35
<b>ADJOURNMENT.....</b>	<b>36</b>

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

**VOTE OF NO CONFIDENCE IN ECONOMIC AFFAIRS SCRUTINY PANEL**

**Deputy R.G. Le Hérisier of St. Saviour:**

Before we proceed with this morning's business, I wonder if I could refer to the vote of no confidence that has been laid.

**The Bailiff:**

Nothing has been laid yet, Deputy.

**Deputy R.G. Le Hérisier:**

It has not been laid yet?

**The Bailiff:**

No. As I indicated last night, it was not in order.

**Deputy R.G. Le Hérisier:**

There is a wish that the debate proceed as soon as possible. **[Approbation]**

**The Bailiff:**

We cannot possibly consider that unless or until something is lodged.

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

May I seek an explanation of how the paper was distributed when it was incomplete? How did that happen?

**The Bailiff:**

Yes. I have spoken to the Greffier about this. **[Laughter]** I did not mean it to be taken in that sense. It is a matter which was done at speed. The Greffier, in an effort to help, printed the matter at great speed and because time was running out for that day's hearing it was felt it would be helpful for Members to know of it as soon as possible, but it had not, in fact, formally been approved. It was discovered, of course, that it was defective and, therefore, it was not formally approved and, therefore, could not formally be lodged.

**Deputy G.P. Southern:**

In which case can I, through you, ask the instigators of that proposition to state whether they wish to re-lodge or to lodge properly that proposition? Obviously, I think it is an important matter, a motion of no confidence in a man doing his duty as Chair of a scrutiny panel, **[Approbation]** and I think it is important this is resolved.

**The Bailiff:**

I am not sure that you can ask that, Deputy. There is nothing before the Assembly at the moment. If at any stage the Member concerned wishes to inform the Assembly if she or they are going to lodge anything to help us, that is a matter for that Member.

**Deputy F.J. Hill, B.E.M., of St. Martin:**

I think it would be beholden on the people who moved it to at least tell the Chairman and his panel what is going on. **[Approbation]** Because if they are about to start something then at least they know they can complete it. Otherwise, personally, if I was in their position, I would not start it at all.

**The Bailiff:**

Deputy Jeune, do you wish to assist the Assembly as to whether you will be proceeding or not?

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

Yes, if I may. After a number of requests to the Chairman of the Economic Affairs Scrutiny Panel yesterday not to use his powers to call in the Depositor Compensation Scheme and, in many Members' views, to act in the best interests of the Island, he did so. Many Members were clearly unhappy about this. Yesterday afternoon it was felt the only option open to the Assembly was to bring forward a vote of no confidence. However, after taking advice, it is clear that to debate this and request that Standing Orders be lifted would be an abuse of the procedures of the States of Jersey. **[Approbation]** Moreover, it would run the risk of further delays which would be in no-one's interest and certainly not one that I or the other signatories would wish. I and others have taken soundings from Members. No one wants a split between Members, **[Laughter]** particularly a split between the valuable scrutiny function and Ministers. The only option appears today to again respectfully request the Chairman during the course of this morning ...

**The Bailiff:**

No, I am sorry, Deputy, this is not Question Time. You have to proceed. We are where we are and you either are going to inform the Assembly that you are going to lodge or that you are not going to lodge.

**Deputy A.E. Jeune:**

I will not be lodging. Thank you.

**Deputy S. Pitman of St. Helier:**

Could the Deputy say when she is going to lodge the proposition? Could the Deputy explain is she at all going to lodge the proposition?

**The Bailiff:**

No, Deputy. She has said she is not going to lodge the proposition and there we are; this matter is not before the Assembly.

**PUBLIC BUSINESS - resumption**

**1. Ann Court housing site, St. Helier: temporary use (P.108/2009)**

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

Could I raise a matter about the order of business in connection with P.108/2009, Ann Court housing site? I would like to inform the Assembly that I have had a word with the Minister for Housing, who I believe has given me assurance that the car park referred to in the proposition will not be formalised until the end of the summer. So it is possible for us to work together to ensure public consultation takes place. Therefore, I will not be seeking a debate on P.108/2009 today.

**The Bailiff:**

Connétable, can I just be clear, are you deferring it or withdrawing it?

**The Connétable of St. Helier:**

I think deferring it at this stage.

**2. Ratification of the Agreement for the exchange of information relating to tax matters between the States of Jersey and France (P.94/2009)**

**The Bailiff:**

On that basis we come next to P.94/2009, which is the ratification of the agreement for the exchange of information relating to tax matters between the States of Jersey and France, lodged by the Chief Minister. I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion to ratify the agreement for the exchange of information relating to tax matters between the States of Jersey and France as set out in the appendix to the report of the Chief Minister dated 28th April 2009.

**2.1 Senator T.A. Le Sueur (The Chief Minister):**

Rather like London buses, you do not see any for a while and then along come 3 at the same time. This is the first of 3 propositions asking the States to ratify Tax Information Exchange Agreements with 3 different countries. The procedure for this should not be a surprise to Members. Earlier in the year I brought forward 8 similar matters; one with Germany and 7 with the Nordic countries, all of which are designed to maintain and enhance Jersey's reputation in international affairs. The theme of reputation must be at the heart of Jersey's international policy, and entering into Tax Information Exchange Agreements is a way in which we can demonstrate this. Our commitment is to continue to work to demonstrate our maturity, our reputation, our responsibility and our good regulation. That came to fruition and was seen by the world community when Jersey did appear on a white list following a recent meeting of the international community. That I think was caused by and justified by our commitment not just to signing those Tax Information Exchange Agreements we have done, but to maintain that commitment to sign them and implement them. It is not just a matter of the number of T.I.E.A.s (Tax Information Exchange Agreements) we get, although that is important, but also our commitment to working with the international community. We will continue to do such a thing. I am particularly pleased, in mentioning the agreement with France, to record the presence in the Island last week of the Prefet de la Manche, who is the representative of Mr. Sarkozy in that region of France. I think from time to time there have been disparaging comments about the Crown Dependencies made by some members of the French media and others, and I think his presence and his understanding of our position, if that gets reported back to the French authorities, can only add further strength to the way in which Jersey's reputation is being seen throughout the community and throughout the world. So, I am very pleased to be able to present this agreement for ratification. It does provide benefits to Islanders, particularly those owning property in France, and I am pleased to propose the ratification of the French treaty.

**The Bailiff:**

Is that seconded? **[Seconded]**

**2.2 Deputy R.G. Le Hérisier:**

The Chief Minister finished his remarks by saying it brings benefits to those particularly holding property. I wonder if he could indicate whether indeed we are on the way to a double taxation agreement and, if we are not, what does he mean by advantages to those holding property, of which I am not one, I should add.

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

I am supportive of this proposition. While there are obvious reputational benefits for Jersey, France also will gain from this. Very rarely we are in a position where we might be able to negotiate anything. I was wondering has the Minister taken any opportunity into moving things, like removing the stamps from Jersey people's passports when we are actually in a negotiation point.

**2.4 Deputy G.P. Southern:**

Just briefly, while I welcome this move because it improves the transparency of the activities of the financial services sector on the Island, in this particular case one must recognise, however, that this attempt to stay on what is called the 'white list' is more or less moving the deck chairs on the

Titanic. It is a precursor to a more general move on the part of the E.U. (European Union) to have us far more transparent in our activities in general and a general agreement must be on its way, rather than these individual agreements, which I remind Members are very limited indeed. In order to seek information about the activities of one of its nationals, a government has to provide a wealth of documentation and grounds to seek that information one at a time. It is not a general agreement. A general agreement will be on its way. The days of conducting our business in a secretive manner are gone. Those days are gone. They are leaving rapidly. So while it is to be welcomed as a small move (and it is a tiny move) towards transparency, the big move is yet to be made

### **2.5 Deputy I.J. Gorst of St. Clement:**

Sorry, I cannot let that last speech rest. As I think I have said in this House many times before, there seems to be or appears to be confusion between secrecy and legitimate privacy for families' affairs. Unfortunately, the last speaker, once again, seemed to confuse those. We are not, I remind the Assembly, as the Assembly is only too well aware, a secrecy jurisdiction. Some jurisdictions are and they pride themselves on that fact. We are not. We abide by international standards and the ratification of this agreement proves that fact. What we do, however, is recognise that everyone should be entitled to an element of privacy when it comes to their financial affairs, as you or I would expect our bank to keep our financial affairs private. So I welcome the ratification of this agreement and the others that hopefully we will go on and ratify later this morning, and hopefully we can once and for all lay to rest this myth that there is no difference between secrecy and privacy because there is. We comply with international standards. Of course, the speaker might have been right in that international standards might move in future to general agreements. If that does happen, then we as an Assembly will respond to that in an appropriate and responsible way as we always have done.

### **2.6 Senator S.C. Ferguson:**

In response to Deputy Le Hérisser's comments about the financial benefit, if he turns to page 15 of the proposition and looks at the very bottom of the box, I understand that it means that people in Jersey will no longer have to pay the tax which was due by non-residents owning property in France, which does lead me to wonder if perhaps those people owning property in France, having a pecuniary interest in this, should perhaps declare their interest.

#### **The Bailiff:**

So, it is going to benefit, is it, Jersey residents who own immovable property in Jersey? Is that right, Chief Minister?

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

The benefit is primarily to those properties owned through a Jersey company or a Jersey collective investment fund. I suspect the majority of people own it in their own names and that is not affected by this particular piece of legislation. I think it is quite narrow in its scope. But in any case I think the matter is probably an indirect benefit rather than a direct pecuniary interest of any significance.

#### **The Bailiff:**

If anyone owns through a collective investment scheme or a company then perhaps they should declare it.

### **2.8 Deputy I.J. Gorst:**

I am aware that I have spoken and I thank you for your ruling. As I understand it, the case is as the Chief Minister has just outlined. However, for the avoidance of doubt, my family does own a property in France, but it is owned in a private name, not through any of these schemes.

#### **The Bailiff:**

I understand from the Chief Minister if it is in a private name there is no need to declare an interest.

**2.9 Deputy P.J. Rondel of St. John:**

Oui Monsieur, peux-tu expliquer pourquoi le billet n'est pas fait en français et en anglais aussi s'il vous plait? [Approbation]

**The Bailiff:**

Does any other Member wish to speak? [Laughter] I call upon the Chief Minister to reply.

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

Merci. I thank those Members who have spoken and shown an interest in this important matter. To Deputy Le Hérissier, there is no immediate prospect of double-taxation agreements. I have to say that they would be quite a burden on the Island as well as a benefit, but that is still always under consideration but I do not see it as an immediate likelihood. I think we are getting tangible benefits from T.I.E.A.s as well as the reputational benefits. Deputy Maçon: any change to status of passports? No, this is a taxation agreement. Passport matters are a matter of international protocol from the Treaty of Rome and it is more of a Customs issue. That is not affected. Deputy Southern has largely been dealt with by Deputy Gorst, but I would emphasise to Members that I and others do not see being on a white list as the end, by any means. This is simply an indication of our commitment to being good neighbours, good international members of the international community, and we will continue to do whatever meets the standards set by the community in different areas. The fact is that if we had not done what we had done in respect of T.I.E.A.s we would not have been on that white list and we would certainly have suffered considerable reputational damage. I think Senator Ferguson's question about declarations of interest has been dealt with. As for the Deputy of St. John, the actual agreement is, in fact, in 2 languages. The French language version ...

**The Deputy of St. John:**

Peux-tu parler en français s'il vous plait? [Laughter]

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

The business of the House is conducted in English. The text is published in English for the benefit of complying with that obligation, and I have presented it in a way which Members can hopefully try to understand. So I think, other than that, yes, it is in dual language, but I think the Deputy was probably just having a go as he occasionally does and good luck to him for that. I maintain the proposition.

**The Bailiff:**

The appel is called for then in relation to the proposition of the Chief Minister on the ratification of the agreement for the exchange of information relating to tax matters between the States of Jersey and France. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 45</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				

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

Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

### **3. Ratification of the Agreement for the exchange of information relating to tax matters between the States of Jersey and Ireland (P.95/2009)**

#### **The Bailiff:**

We come next to P.95/2009, ratification of the agreement for the exchange of information relating to tax matters between the States of Jersey and Ireland, also lodged by the Chief Minister. I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion to ratify the agreement for the exchange of information relating to tax matters between the States of Jersey and Ireland as set out in the appendix to the report of the Chief Minister dated 28th April 2009.

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

I am not going to repeat myself from what I said in the previous proposition. The benefits for the Island are rather more limited and are primarily of benefit to companies with activities in both jurisdictions. Nonetheless, it is beneficial for our reputation and I believe it is in our interest to ratify this agreement. I propose the proposition.

#### **The Bailiff:**

Is that seconded? [**Seconded**]

#### **3.2 Deputy R.G. Le Hérissier:**

I am sure the Irish Ambassador will no doubt have a few words of Gaelic welcome to us also [**Laughter**] and a good craic. What I was going to ask, we know that Ireland has done the impossible in the European Union and it does have a finance centre within its boundaries. I wonder if the Chief Minister could identify whether having a finance centre there will be affected in terms of relationships of one finance centre to another.

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

The second tax agreement gives me opportunity to explore the difference - the fine difference - between secrecy and privacy, which seems to be so important to many people who operate in the financial services industry. I wonder if the Chief Minister could state whether the words I should have been using in describing Tax Information Exchange Agreements as a small move towards removing secrecy, whether he accepts that it is a small move to removing privacy, and in particular keeping one's affairs private from one's own government. I seek an answer on that from the Chief Minister.

#### **3.4 Deputy S. Power of St. Brelade:**

I rise to the challenge from Deputy Le Hérissier [**Laughter**] [**Approbation**] just to say that I do not have any income or property in Ireland. [**Laughter**] I always wish to speak to this Assembly in English and I would not dare wish to speak to this Assembly in Gaelic, even though I can speak Gaelic. [**Approbation**]

### **3.5 Senator S.C. Ferguson:**

I do wonder when we have these agreements whether there should, in fact, be a provision for them to be referred to scrutiny, upon which I would say that my panel is planning to look at the operation of these Tax Information Exchange Agreements over the next year or so, so that they will, in fact, be scrutinised by my panel. But I do wonder perhaps it is a matter for Privileges and Procedures that perhaps there should be a provision for referring them to scrutiny before they are finally finished.

#### **The Bailiff:**

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

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

Responding to Deputy Le Hérissier, I think the finance centre activities in Ireland really is a matter, primarily, for the Irish authorities to consider. Certainly, we have always regarded them as a healthy competitor with whom we are pleased to do business and to compete. As for Deputy Southern's ongoing concerns of the difference between privacy and secrecy, I would put it in a much more positive way to say that the Island is committed to transparency and openness in its activities. That does not deny the individual with legitimate reasons for privacy maintaining that privacy. I thank Deputy Power for his contributions, **[Laughter]** which I am pleased to say were in English rather than in any other language. As to Senator Ferguson, the Chairman of the Corporate Affairs Scrutiny Panel, we do have good working relationships between myself and my department and her panel, and I would be happy to discuss the matter of Tax Information Exchange Agreements with that panel. But I think it may be more appropriate to scrutinise or refer to the policy of entering into Tax Information Exchange Agreements rather than the detailed wording of some these documents, which can be a little bit arcane to the layman. I would be happy to discuss that policy, but I think the policy itself has been adopted and agreed by the States now as the correct way forward for the Island. I am happy in due course for it to be reviewed as to how it is benefiting the Island in practice. So I look forward to working with her panel in that respect. I maintain the proposition.

#### **The Bailiff:**

All those in favour of adopting the proposition, kindly show? Those against? The proposition is adopted.

## **4. Ratification of the Agreement for the exchange of information relating to tax matters between the States of Jersey and the United Kingdom (P.96/2009)**

#### **The Bailiff:**

We come next to the third matter of this nature, ratification of the agreement for the exchange of information relating to tax matters between the States of Jersey and the United Kingdom, P.96/2009, also lodged by the Chief Minister. I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion to ratify the agreement for the exchange of information relating to tax matters between the States of Jersey and the United Kingdom as set out in the appendix to the report of the Chief Minister dated 28th April 2009.

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

This is in many ways the most significant of our recent Tax Information Exchange Agreements and was only entered into after considerable discussions with the industry and with interested parties as to whether it was in the Island's interest. Certainly, I believe it is in the Island's interest. In particular, it benefits those people in receipt of pensions from the U.K. (United Kingdom) who up

until now have suffered undue taxation on that pension income. This will certainly help those people. I think, more than that, I would like to pay tribute to those who have negotiated these agreements on our behalf. It is not a matter of simply signing on the dotted line. We have taken something like 2 or 3 years to negotiate the best possible terms with the U.K. The terms that we have in our agreements are, in fact, far more favourable than those received in Guernsey and the Isle of Man in that the U.K. has agreed in the Jersey agreement to recognise Jersey as a member of the community of jurisdictions committed to international co-operation. That means that they will effectively endorse the activities of the Island in our international affairs. So I think that is an important benefit that we get from this agreement, which I am happy to propose.

**The Bailiff:**

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

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

Given the last 3 or 4 propositions are quite heavy documents, I am surprised that we have not had more debate on them. I believe Senator Ferguson is absolutely right that these types of documents should go through some type of scrutiny. Because just passing the documents through on the nod does not bode well in my mind. Not being a financier myself in that respect, I would not be passing comment from the contents of the documents but, that said, I do believe they should be scrutinised.

**4.3 Deputy G.P. Southern:**

Two questions, really, I suppose, at base. This is obviously, as the Chief Minister has said, the most significant of our Tax Information Exchange Agreements to be signed so far and probably among those that will be signed in the future. The first question is, is he aware of any deposits or other investments in the Island having been lost due to the signing of this agreement? Secondly, I have asked him in the past how many times these Tax Information Exchange Agreements have been used by others to investigate foreign nationals' holdings in the Island. I wonder if he could say whether and on how many occasions our own tax authorities have sought information on our own residents under 139(A) of the Income Tax Law or any other about their investments and holdings abroad and have they been used in the other direction as well.

**4.4 Connétable D.J. Murphy of Grouville:**

I see that the Minister said that people in receipt of pensions would now get the benefit of this. Does that apply to dividends also?

**4.5 Deputy J.M. Maçon:**

Again, I am supportive of this ratification. I am delighted that the Chief Minister did cover the negotiations and what was able to be achieved for the Island. Again, it just goes back to my first point that we are in the position where we do have a bit of power to negotiate. It is a pity it did not go further in order to argue other things, such as university fees, but I accept that this is probably the best that we can get.

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

It is a very interesting back and forth about the definition of secrecy and privacy. It seems that, again, sophistry is being used here. So, on the one part we are being told that secrecy is a bad thing and privacy is a good thing, which is to be expected, much in the same way that we are told that tax evasion is a bad thing and that tax avoidance is not only a good thing but is very good and is to be praised because that is how we make our money as an Island. But let us not get too much into that debate because it is a big one. But suffice to say that with the T.I.E.A.s we are sailing very close to the wind. I am sure that the Council of Ministers know that because on the one hand they have had to convince local businesses who have been scared that we are going to divulge too much information and lose business. Of course, the conventional stance has been that while you may lose a small amount of business from being seen to be open with these T.I.E.A.s, which as Deputy

Southern said, do go a little way, certainly you could argue that is little more than tokenism, but certainly is a step in the right direction. While we may lose a small amount of business, what we will gain from being seen to be an open and white-listed jurisdiction, certainly in the short term until the stronger demands come along, we will gain business from that. We always hear this, basically an inherent contradiction about privacy and secrecy and transparency, but of course we know that offshore finance - whether you call it a tax haven or an offshore financial centre - relies essentially on secrecy, because people who invest their money here are essentially doing it to gain a tax advantage over their home jurisdictions, whether they be from the U.K., the U.S. (United States) or often is the case from Third World countries.

**Deputy I.J. Gorst:**

I am not sure if the Deputy would be prepared to give way?

**Deputy M. Tadier:**

I believe that the Deputy who is interrupting has got a speech available, so I would recommend that he use that. Certainly I would have given way if he had already spoken on this occasion. So, where was I? I am sure he has achieved his function, nonetheless. The point I was making, I believe, was about Third World countries. It is perhaps quite salient that the Chairman of the Overseas Aid Committee did wish to interrupt because, of course, one school of thought is that if offshore finance did not exist in the same way that it did, and we know that many blame offshore finance centres for the destabilisation that has taken place in the whole world economy ...

**The Bailiff:**

Deputy, I am sorry, I am going to have to bring you back to the matter, which is whether to ratify this agreement. **[Approbation]** We are not here to have a debate about the general advantages or otherwise of tax havens.

**Deputy M. Tadier:**

I am coming around to that point, Sir.

**The Bailiff:**

Well, can you come round rather more quickly?

**Deputy M. Tadier:**

I thank you for your direction. While it is all well and good to ratify this agreement with the U.K., the question I would ask in direct relation to this is who benefits most from this? Because I would like to know how many tax avoiders we have in Jersey who are hiding their money in the U.K. and how many would be the other way around. It seems to be more beneficial to the U.K. To answer Deputy Maçon's point, I think we have to wake up and be realistic that we have virtually no negotiating power with the U.K. They are a big country, 60 million-plus people, they are in G8, and Jersey is a tiny, small dot on the horizon. So whether it is to do with tuition fees or anything else, we do not set those, we have to jump when the whip is cracked. But the question I would like to ask is we are signing all these agreements with these wealthy countries, but I would say that we have a moral responsibility to initiate T.I.E.A.s with Third World countries and also that we need to be moving down a way where it is ... and we need to be initiating that, by the way. We do not wait for them to come to us because we know that these countries have absolutely no power in themselves to do this in any real terms. Also we should be looking for automatic tax information exchange so that we can have true transparency and not have to apply an unreasonable test so, in fact, it is effectively meaningless. So I would like the Chief Minister perhaps to respond to that. I would certainly welcome a comment from the Chairman of the Overseas Aid Committee, who I am sure can always do with more money and I am sure we can all get behind him on that.

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

Deputy Tadier has moved me - and I will keep to the point of the proposition - from speaking. This agreement is the very symbol of the evidence that Members need that the Island needs to move and evolve and meet international standards. One would not have imagined, I imagine, 5 or 6 years ago signing this agreement. I think the point that Deputy Tadier and Deputy Southern perhaps do not necessarily accept or understand is the need for appropriate negotiation with countries to make and to ensure that the Island is competing with other countries on a fair basis. In other words, the level playing field argument is important. Jersey is a leader and in the way that we regulate trusts, in the way that we have moved quickly to sign such agreements, we show ourselves to be a leader. But we must also place ... and this is the burden that the Chief Minister's Department has in terms of negotiating and ensuring that other countries also comply with international standards and other countries sign T.I.E.A.s. It is clear that the G20 process, which at the heart of this proposition required countries that hitherto had not accepted the signing of T.I.E.A.s, has brought pressure to bear and that is a good thing. Switzerland is now signing T.I.E.A.s and this is a T.I.E.A. on the O.E.C.D (Organisation for Economic Co-operation and Development) standard, which is at the heart of the agreement. Deputy Southern repeats this issue about banking secrecy and he casts aspersions. I think that Deputy Tadier did, too, in his remarks about our finance industry. Our finance industry has never had banking secrecy. It has not been built on the principles that some jurisdictions such as Liechtenstein and Switzerland have had. That is a vitally important but fundamental difference in the message that we need to send out to the international community. I have been working with Ministerial colleagues and the Chief Minister quite extensively in the last months to try and get an explanation of what Jersey is about in terms of tax neutrality, the fact that other countries are not losing out by the use of Jersey in terms of the excellent services and the use of structures in Jersey using our innovative laws. Clearly we have yet more work to do to explain what Jersey does and the fact that we are not the pariah that, if I may say, some organisations, which I am aware that Deputy Tadier and Deputy Southern maybe still have ongoing communications with, will say of Jersey. Many things in the negotiations in the lead-up to the G20, and eventually, thank goodness, signing this agreement, were said about Jersey. They are wrong and they are incorrect. The Chief Minister's Department is going to have to be, with Jersey Finance, further resourced in order to send the message out about what Jersey does and what Jersey does to benefit to the global community. I will say that Deputy Tadier is right that working with the United Kingdom and working with other E.U. states and working with members of the G20, we can do more in relation to explaining to Third World and developing countries. Maybe the Chief Minister will address that in his remarks. There has been, I would say to the Deputy of St. John, I am aware, a substantial amount of negotiation, discussion and review of the agreement that is before Members. It is not an absence of a debate or an absence of an actual scrutiny on this particular agreement that would indicate to members that there is anything that has not been appropriately reviewed and had a detailed examination of. I welcome the involvement of the Corporate Affairs Scrutiny Panel Chairman in the ongoing review of these agreements generally and the positioning of the Council of Ministers because that can only add value to the overall position. In this Assembly's debate today, in passing these agreements, sometimes these agreements are not always passed by the legislative assembly, sometimes they are just simply signed and brought into force by Ministers. It is this Assembly that brings international agreements into place. That was the agreement of the States a number of years ago and quite right, too. In signing this agreement or indicating that we are going to bring this agreement into force with the United Kingdom, this Assembly is sending out a very clear and strong message that we are wanting to lead the international community, that we are transparent and we have a great story to tell in terms of adding real value in the complex world of financial services.

**Deputy G.P. Southern:**

Make I seek a point of clarification from the Minister? I believe he seemed to say that there was no loss to U.K. tax revenues or Third World tax revenues from the activities of the finance centre in Jersey. Was that, in fact, what he was saying?

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

This is a debate about Tax Information Exchange Agreements with the United Kingdom. I hope the Deputy will see and will read the explanations which are being submitted by various different international bodies and organisations and the States of Jersey in, for example, the Michael Foot review, et cetera, to explain what Jersey does and to do away with these myths that we are somehow some sort of pariah in terms of tax, depriving Third World countries. Much of what has been said in recent weeks and months about Jersey and other places is plainly wrong, incorrect and unfair.

**Deputy G.P. Southern:**

So, clarification: in that respect does the Senator disagree with organisations such as Oxfam and Christian Aid, which say that offshore finance centres like Jersey cause death and poverty in Third World countries? Are they mistaken and does the Senator know better than they do?

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

I do not think this is question time, but if that is a clarification which you would accept that I should make, I think that those bodies, we have clearly a lot of communication and explanation of what Jersey does to these bodies. Jersey is a good, well-regulated jurisdiction that benefits the global international community. If everybody had the standards of Jersey, if everybody had the transparency of Jersey, the world would be a better place. I would hope that the Deputy would agree with that and wholeheartedly support this agreement and the negotiating state and negotiating stance of the Island of Jersey. [Approbation]

**4.8 Deputy D.J.A. Wimberley of St. Mary:**

I was going to ask a few questions - I still will - of the Minister, but I would first like to just make a point about what the Minister for Treasury and Resources just said. He seemed to imply that Deputies Southern and Tadier, on their part any communication with critics of the offshore finance industry was in some way to be deplored. It would be strange if Members of this House did not, in researching such matters as, for instance, the impact of finance centres, offshore rather, the offshore global architecture on Third World countries, if that was not explored by Members by looking at different sides of the questions. So there certainly should not be any aspersions cast if we look at different sides of global warming, different sides of this particular question as well. It would be reassuring to know from the Chief Minister that his department is at all times fully aware of what the critics are saying simply as a basic measure of housekeeping when you are looking after an industry. I just hope that he can reassure Members that he is listening to all sides of the question and seeing where the arrows are coming from, because otherwise we are hardly in a position to defend ourselves. So, that is the first question; there are 3 more. The first is on page 5. The proposition says that: "An arrangement amending the 1952 arrangement between the 2 governments for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income." Now, the Chief Minister just said half an hour ago double taxation agreements would be quite a burden on the Island, but that paragraph seems to say that included or as part of this arrangement there is a deal on double taxation. So I just wanted him to clarify that. I am not quite clear myself, so if he would clarify that. The second question is the next page, page 6, where the Chief Minister slips in the fact that because of these various T.I.E.A.s, which he says now total 13 but presumably after today will be 17, is dependent upon the Council of Ministers and States prioritising requests for additional resources of £100,000 and associated manpower for the income tax office. I would just like him to clarify exactly why signing T.I.E.A.s involves extra expenditure and extra bodies, presumably, in his own department. That again might have been a matter for corporate scrutiny, but apparently it was not. The third question is on page 8. Here I have to confess that I am bamboozled by what it says here, but if I read it out maybe Members can enjoy being bamboozled as well and listeners on the radio. This is from the letter of the Hon. Stephen Timms, Financial Secretary to the Treasury, which is, I think, part of the agreement

because we write back in almost exactly the same terms: “In the event that either party to the agreement [at Appendix 1] applies prejudicial or restrictive measures based on harmful tax practices to residents or citizens of the other party, it is understood that that other party may suspend the operation of the agreement for so long as such measures apply.” Then it goes on to explain what that means in terms that I do not understand. So if the Chief Minister could try to explain to this House - he may need to take a recess - to tell us what this means. My concern is that this is something to do with the Blampied proposals. It is something to do with U.K.-based companies operating in Jersey tax free and our measures to prevent that from happening, and it is indeed quite unfair that on the high street some shops should be operating tax free because they are based somewhere else and other shops pay Jersey tax. I just wonder if it is to do with that and if he would explain just what that means, because it is talking about the end of the agreement. Thank you for those clarifications, Chief Minister.

#### **4.9 Deputy I.J. Gorst:**

I seem to have spent yesterday and today feeling sad as well. It saddens me sometimes to think how little some Members either seem to know or wish to engage with the Island’s major industry. **[Approbation]** The reason that I wondered if Deputy Tadier would allow me to intervene was because now I have forgotten exactly the words that he used, so perhaps he will forgive me if I slightly misquote him, but he certainly, to my ears, gave an indication that he felt ... I am not sure if he used the word “majority” or “major”, but certainly in that sort of terminology that the finance industry was based upon people evading tax. I am afraid that that is absolutely not the case.

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

I did not say that, Sir.

#### **The Bailiff:**

I think the Deputy has confirmed that he did not say that.

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

If he would give way briefly, just so I can clarify. I was very careful not to use the word “evade” and I did use “avoid”. I was by no means either saying that the vast majority of our system is based on that, but I was certainly saying that there is perhaps a minority of cases in which avoidance is central to certain institutions in Jersey.

#### **Deputy I.J. Gorst:**

I am absolutely delighted that he has clarified that. So it has gone from major avoidance to a small minority of avoidance. I am pleased that he has clarified that for me. Because, in actual fact, one of the major reasons that finance companies come to the Island is for the expertise that we have here. I personally have been involved in structures where people in those structures have remained liable to taxation in their home jurisdictions and continue to do so. They are here because we are well regulated and they are here because we meet international standards.

#### **The Bailiff:**

Like Deputy Tadier, I must try and bring you back to the subject under debate.

#### **Deputy I.J. Gorst:**

I feared that you might, Sir. **[Laughter]** Unfortunately, you might find my next point somewhat off message as well, **[Laughter]** but it is in response to a comment made and I feel it is incumbent upon Members when they hear something which is not necessarily as accurate as it might be to comment upon that. That was with regard to developing countries and some of the reports that we have seen. Rather than just listen to the headlines, the headline-grabbing information, I have, as you might expect, read the reports. I have met with some of the agencies that have been involved in producing the reports, and within those reports there have been some what I would consider giant

leaps. I think most of those reports are raising issues about tax policies in developing countries, they are raising issues about international accounting standards and how they affect developing countries and, just as importantly, they are raising issues about how international companies negotiate extraction rights. They then make the jump and blame offshore centres for all the world's ills. What we are doing today is proving once again is that that is not the case by ratifying this T.I.E.A.. We were also asked ... I realise, Sir, that you are being gracious, if I could just make this final ...

**The Bailiff:**

I think you must bring yourself back to it, Deputy. I have allowed it because Deputy Tadier raised it, but then we must stop. We must come back to this proper debate.

**Deputy I.J. Gorst:**

It is with regard to negotiating further T.I.E.A.s, and I hopefully can give the Deputy the assurance that that is the intention of the Chief Minister's Department to start engaging with developing countries to sign this type of T.I.E.A. So I once again congratulate the Chief Minister. This is proving once again that we are internationally respected and well regulated and I hope that Members will support this ratification.

**4.10 Deputy R.G. Le Hérissier:**

Just one question. Article 7(1)(c). It says a request could possibly be declined: "where the disclosure of the information requested would be contrary to public policy." This seems a vast sort of exemption category and I wonder if the Chief Minister could explain what are the kinds of public policy issues that would lead to declining a request, if he could give us some examples.

**The Bailiff:**

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

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

I am grateful to those who have spoken. In some cases I think their concerns have been addressed in the course of further comment by other Members and I am not going to repeat some of that. Although the Deputy of St. John may have expected more debate, I think we have had some interesting discussions this morning. Certainly, I am more than happy to continue those discussions with the relevant scrutiny panel. Deputy Southern maintains his position and I understand his position. We may have to disagree slightly, but that is not unusual for us. But I think, in terms of specific questions I am not aware of any specific loss of deposits due to signing. I am aware that deposits come and go for a whole variety of reasons, and I do not inquire into every single case. That is not a matter of any of my business. But how often do we seek information on activities abroad? Well, I am quite satisfied that the Comptroller of Income Tax has all the tools at his disposal that he needs in order to make such inquiries, and if he has any concerns he will no doubt take them up with the Minister for Treasury and Resources. The Constable of Grouville, sadly this benefits ... although it applies to pensions, it does not apply to dividends. That is a step, I am afraid, beyond this. It is an indication, I think, of the way in which we will try to negotiate to get whatever advantages we can at a time of negotiation. We do not often have the opportunities and when we do we must make the most of it, even - to deal with Deputy Maçon - to discussing the possibility of university fees, the whole thing. At the end of the day it is a matter of negotiation. That was raised, but it was not received particularly sympathetically and we did not pursue it in the interests of the wider agreement. Most of what Deputy Tadier said has been dealt with either by Senator Ozouf or Deputy Gorst, but I would just reiterate and agree with him that what is important, as far as I am concerned, as far as the Island is concerned, is our reputation. If we lose some business because some people are unhappy with what we are doing, I would happily accept that in order to maintain and preserve the excellent business we do have and the excellent reputation which the Island has internationally. As to activities with Third World countries, yes,

that is very much on our agenda. Indeed, without going into detailed disclosure of our discussions, that was raised when Michael Foot came to the Island to see us and that is very much in hand. I thank Senator Ozouf for his comments. Certainly as far as comments about the views of major charitable organisations, I think Deputy Gorst has dealt with that. I also met with representatives of Christian Aid at a high level when they came over to see us. The Deputy of St. Mary has raised a number of technical questions, which I will endeavour to deal with. First of all, he asked whether my department is aware of all sides of the argument. I believe we are well aware of all sides of the argument, although I have to say we are bombarded with copious amounts of differing points of view from official and unofficial sources. Part of the difficulty is sifting through all that lot and analysing the difference between what is opinion and what is fact. He then raised the interesting question about why, if double taxation agreements are so difficult to achieve, why do we have one with the U.K.? Well, in fact, we have had one with the U.K. since 1952. It is not in the modern international standard form. It is a bit of an anomaly. It is improved upon by this agreement but, putting it simply, it is out of date. But to renegotiate it takes 2 sides and at the present time there is not the appetite, I think, in either side to negotiate a double taxation agreement with the U.K. in revised form when there are better ways of achieving the objective. That better way of achieving the objective is through this Taxation Information Exchange Agreement. He refers to the additional resource caused by Tax Information Exchange Agreements. In many cases that resource requirement will not be significant, but certainly in terms of the U.K. there is the possibility of a considerable number of inquiries. I cannot quantify how many or what nature but certainly given the volume of transactions which do occur between Jersey and the U.K. it is inevitable, I would have thought, having signed an agreement that there will be some inquiries. But, of course, resource is not required simply in dealing with responding to tax exchange agreements. If we are going to play our part in the international community, if we are going to help the Third World and other countries in having a more harmonious and integrated relationship and greater world standards, then we are going to have to put resources into that. I think it is right that we should put resources into that, both from our responsibility as a leading member of the financial services community and in order to maintain and enhance our reputation. If that costs a reasonably small amount of money in order to deliver and secure the Island's future as a leader in the financial world, I am happy to make that investment and I would hope that other Members would be as well. I finally refer to the letter from the Financial Secretary to the Treasury and the rather strange language about prejudicial restrictive measures and ability to suspend the agreement. If you go on to read the letter - and I agree at first sight it can be a bit daunting - it says: "It could be withheld on the basis that one party does not engage in effective exchange of information." In other words, if the system is not working properly because someone is holding back, then the other person is entitled to blow his whistle and call foul. That is not something which I would expect to occur between 2 mature jurisdictions and it is in there simply as a longstop, the way that it is in any discussions of this nature; the unlikely, nevertheless, has to be built into the wording. So it does make for some obscure wording at times; there is nothing sinister in it and it is, I suspect, never going to occur. I certainly hope it will never occur because our objective is to maintain at all times this ability to communicate with other jurisdictions and to be fully transparent and open and work with them. I thank in particular the comments made by Deputy Gorst. However, Deputy Le Hérisier asks about the definition of what is public policy. That, again, I think is one of those obscure phrases which is probably best known to diplomats and so on. It is something which I cannot imagine would ever be invoked and it certainly does not deal with minor details of internal policy. This would perhaps be something in the nature of international regulation and international positioning. If that were to be the case, which I doubt, I have no hesitation and problem in bringing it to the States for consideration. But it is not something which I think in reality is ever going to occur; it has to be in the document for the sake of completeness. With those comments I maintain the proposition.

**Deputy G.P. Southern:**

If I may, I did not wish to interrupt the Chief Minister while he was speaking, but could he circulate to Members ... I did ask how many times the Comptroller of Income Tax had used a T.I.E.A. to try and seek information on Jersey resident taxpayers. Could he seek to find out about that and circulate Members with the answer?

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

Firstly, the Taxation Information Exchange Agreement is not yet in force because the U.K. has to ratify it as well and as far as I am aware no inquiries have yet been made under that. Even if they had been, then that is a matter of, as far as the Comptroller of Income Tax is concerned, confidentiality. While he may be able to give numbers, I cannot speak for him and, at this stage, I am not in a position to be able to answer the Deputy's question.

**The Bailiff:**

The appel is called for in relation to the proposition of the Chief Minister concerning the agreement between the United Kingdom and Jersey. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 45</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				

Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

**Senator B.E. Shenton:**

Could I just ask a point of order? We have just passed a proposition where funding is not in place. Does this set a precedent whereby Members can bring propositions without funding being in place in the future?

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

As far as I am concerned the proposition does not have any funding implications. The proposition has potential funding implications at a subsequent time. If those implications were to come to fruition, if there was a request for funding, that will be brought to the States in the normal way.

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

May I add to that the Chief Minister is absolutely correct. It may be helpful to Senator Shenton, and I would make these remarks in the next proposition, that generally there is going to be an additional manpower requirement and financial requirement in the Treasury. There is time to do these things but if we are to do everything, including collecting taxes, then more resources are going to be required and that will be something no doubt Members will want to read very carefully, the Business Plan that will be published on Monday, which will have precisely those issues contained within it.

**Senator B.E. Shenton:**

The proposition does say the implementation is dependent upon the Council of Ministers and States prioritising a request for additional resources.

**The Bailiff:**

It is a matter for the Chief Minister whether it is going to be implemented or not, I suppose.

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

As long as the proposition has been passed we are going to implement this. If we have to do it with the resources we have, we will do it with the resources we have. I believe that we will not do a proper job without adequate resources.

**Senator B.E. Shenton:**

May I just say as an independent Member that it does set a very useful precedent and thank you very much.

**5. Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 3) (Jersey) Regulations 200- (P.97/2009)**

**The Bailiff:**

Very well. We come next to the Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 3) (Jersey) Regulations 200- (P.97/2009) lodged by the Chief Minister and I will ask the Greffier to read the proposition.

**The Greffier of the States:**

Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 3) (Jersey) Regulations 200-. The States, in pursuance of Article 2(1) of the Taxation (Implementation) (Jersey) Law 2004 and paragraph 1.8.5 of the Strategic Plan 2006 to 2011 approved by the States on 27th June 2006 and following the decision of the States, taken on the day these Regulations are made, to adopt Projet 94 of 2009, Projet 95 of 2009 and Projet 96 of 2009, have made the following Regulations.

**The Bailiff:**

Chief Minister, do you propose the principles?

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

Yes, having passed those 3 Tax Exchange Agreements just now we have to put that into legislation. This legislation updates the list of third countries to take account of the 3 just ratified and that is the principle behind these Regulations. I propose the principles.

**The Bailiff:**

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

**5.2 Deputy J.M. Maçon:**

Just looking at the proposition, I cannot find the financial and manpower implications of the report. Surely there must be an update in these Regulations and could the Minister clarify why it is not here?

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

If I may speak and assist, the previous proposition did make it quite clear that income tax was going to be requiring an additional £100,000 to deal with the U.K. T.I.E.A. which is going to be, it is expected, the most burdensome of them as far as income tax. I understand the point that Senator Shenton has just made about precedent. I also hope that the Senator would accept the need for this Assembly in order to demonstrate its clear commitment for signing T.I.E.A.s and bringing them into force in the run-up to the next G20 Summit when jurisdictions' progress in terms of signing T.I.E.A.s is going to be checked and verified. It is not simply a case of just meeting the number of T.I.E.A.s that have been set out; it is making demonstrable progress to that. No doubt this Assembly will give consideration appropriately for the statement that is in that report which says, and it is absolutely clear, honest to Members, that the Business Plan processes would be allocating and prioritising £100,000 to do that. If income tax did not get those resources then we would have to cut back on other expenditure. That will have to be a matter for Members to decide whether or not they would accept that effectively resources for the collection of tax (which is something we are also looking at and fortifying the investigatory arrangements that I have explained to Members) whether that would be more important than international compliance. I think it goes to the heart of the question; the difficult issue that the Assembly is going to have is that the corporate centre, in maintaining international standards, in delivering on them, negotiating and doing the best we can, is an investment in the economy which provides us benefit in the longer term. I do not think that Senator Shenton is going to say or agree for one moment that we should not be doing what we are doing. I think he agrees with this; the point is there is - absolutely right - a slight mismatch of resources. That is going to come to the Assembly's attention on Monday and then the debate in September.

**The Bailiff:**

Just to answer Deputy Maçon, there is a statement on page 3 of the report saying that the statement of financial and manpower implications is in the other 3 projets ...

**Deputy J.M. Maçon:**

May I thank the Chair for his clarification?

**The Bailiff:**

Contained by inference but the Deputy is right to raise the point and there must be such a statement in relation to every proposition.

**5.4 Deputy M. Tadier:**

Could I just ask if it would be possible to seek advice from the Chair or the Vice Chair of P.P.C. (Privileges and Procedures Committee) on this matter because it seems to be a procedural issue and they may have something to say on the matter?

**The Bailiff:**

No, not at this stage, we are talking about these Regulations, Deputy, and there is a statement of financial and manpower implications in relation to these Regulations. The Deputy of St. Mary.

**5.5 The Deputy of St. Mary:**

While I am looking at Projet 96, I am just quickly looking for the statement of financial and manpower implications and I cannot find it. Could I just be pointed to where it is, please?

**The Bailiff:**

I am advised it is paragraph 14.

**The Deputy of St. Mary:**

I am sorry, that is not a statement in the normal form whereby there is manpower and financial implications, blah blah blah. It is buried in a paragraph which I just happened to spot.

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

Given that on many occasions when I put a proposition together had it kicked back by the Greffe because of manpower implications not being in the right place, et cetera, why should the Chief Minister's Department be permitted to alter the Regulations from within the Chamber and get away scot-free? I think they, in turn, should be following the same Regulations as all Members. **[Approbation]** We saw yesterday evening a proposition which quite rightly was rejected by you for not having the correct format, and we are now allowing the Chief Minister to get away with certain things. I think he can laugh over there but for us poor back-benchers it creates all sorts of problems. We do not have the multitude of staff doing the work for us, doing our research, we have to do all our own work and yet the Chief Minister cannot even read his own projets and double-check that they are as they should be.

**The Deputy of St. Mary:**

Clarification, I have had another look and in fact the statements are there but they are not there as a separate paragraph, which is the normal form when we are looking for it, we just go: "There it is", so that is the reason for this confusion.

**The Bailiff:**

Speaking from the Chair, I had not, I must confess, seen the particular propositions but I do entirely take Members' point that - the whole purpose of the Standing Orders - there should be an obvious and clear paragraph in the report stating clearly what will be the manpower and financial implications. I think when one looks at the relevant paragraph, it is there, as the Deputy of St. Mary has correctly said, it is just not very obvious. I think the Chief Minister and his colleagues must make it clearer in future. Deputy Southern.

**5.7 Deputy G.P. Southern:**

May I return to the point made by Senator Shenton earlier about precedent? It seems to me that all we have is a statement from the Minister for Treasury and Resources, very helpful indeed, that says as to the financial implications we will be dealing with that in September in the Business Plan. Is it open for any Minister now to come to this House and say: “The financial and manpower implications will be dealt with in the Business Plan come September”, or indeed is it open to any back-bencher to bring a proposition and say: “The financial and manpower implications, well, I will bring an amendment to the Business Plan in September”, that seems to me the way we are going. It seems to me we are avoiding our own Standing Orders and our own practice to the detriment of what we are doing.

**The Bailiff:**

Well, Deputy, the Greffier and I will consider the matter at leisure but it does not seem to me that is quite what is done at the moment. At the moment the paragraph says: “There will be a resource requirement and a manpower requirement ...” **[Interruption]** What Standing Orders require is that the amount, both in terms of manpower and financial implications, should be stated so that Members, when they vote for or against something, know what the consequences will be. That is all the Standing Order says at the moment. It does not say that the money has to be there and then available. So I am not clear at the moment that that has been in breach of Standing Orders. It seems to me that although it was not very well set out, and I have already indicated it must be better set out in future, but it seems to me that it is in accordance with Standing Orders at present. Can we move on to debate these Regulations? Does any Member wish to speak on the principles of these Regulations? Very well, I call upon the Chief Minister to reply.

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

Yes, I duly take note of the comments of the Chair and of States Members in respect of the presentation of these propositions. I have to say as far as this particular one is concerned it follows the same pattern as similar ones that I brought earlier in the year, but I do appreciate that this is unusual in that there was reference in another proposition to having financial implications and it was maybe in relation to that proposition that those comments should be more clearly expressed.

**The Bailiff:**

If I may, Chief Minister, perhaps I did not make myself clear. I felt that in relation to the other 3 propositions it is not set out as clearly and distinctly as it should be.

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

I agree, Sir.

**The Bailiff:**

I do not think there is a problem necessarily in the current projet because this is simply a set of simple Regulations saying the consequences are as set out in the associated 3 propositions.

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

I will take note of that when I bring forward subsequent agreements for ratification. Meanwhile, as I said in my introduction, this is purely a procedural matter and there are no financial implications arising simply from procedure of inserting these into the documents. I maintain the principles.

**The Bailiff:**

All those in favour of adopting the principles kindly show? Those against? The principles are adopted. This is a matter which falls within the purview of the Corporate Services Scrutiny Panel. **[Interruption]** Senator, do you wish the matter referred to your panel?

**Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):**

No, thank you.

**The Bailiff:**

Thank you very much. Chief Minister, do you wish to propose the 2 Regulations together?

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

I propose Regulations 1 and 2 which simply puts the 3 countries whose agreements have just been ratified into the Schedule in alphabetical order.

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations? All those in favour of adopting Regulations 1 and 2 kindly show? Those against? The Regulations are adopted. Do you propose the Regulations in Third Reading, Chief Minister?

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

Thank you.

**The Bailiff:**

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

<b>POUR: 42</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy of St. John		
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				

Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
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)				

## **6. Draft Supply of Goods and Services (Jersey) Law 2009 (Appointed Day) Act 200- (P.103/2009)**

### **The Bailiff:**

Very well. We then move on to Projet 103, Draft Supply of Goods and Services (Jersey) Law 2009 (Appointed Day) Act 200- lodged by the Minister for Economic Development and I will ask the Greffier to read the Act.

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

Draft Supply of Goods and Services (Jersey) Law 2009 (Appointed Day) Act 200-. The States, in pursuance of Article 96(2) of the Supply of Goods and Services (Jersey) Law 2009, have made the following Act.

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

Firstly, I should perhaps say to Members, or reassure them, that despite the lectern which was left over from yesterday, my comments for this Appointed Day Act will be relatively short. Some Members may remember the Supply of Goods and Services Law which was passed unanimously by this House in September last year. The law may well be the most important advancement in consumer protection in Jersey for many years. For the first time statutory rights similar to those enjoyed by U.K. consumers will be introduced. The law provides a clear framework of rights and responsibilities for the benefit of both consumers and traders. This Appointed Day Act will bring the law into force on 1st September. To assist consumers in understanding their new statutory rights and indeed traders to understand new statutory responsibilities, I would just like to add that Trading Standards have been working on 2 separate guidance books. I expect both to be available in the run-up to the commencement date in hard copy and, of course, all the information will be available on the Economic Development's section of the States website. In addition to that, the Consumer Council are also doing their bit to ensure that all parties are fully advised of these changes. I maintain the proposition.

### **The Bailiff:**

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

### **6.2 Senator A. Breckon:**

Yes, this is very welcome. Some Members probably may not remember, or be old enough to remember, that this House approved a Fair Trading Law on 8th February 1993 and it was never brought into being, so this is the tail end of this. But what it does do, as the Minister has touched on, it gives some very important rights when, for example, people have building work, about the quality of service, the quality of materials, the level of service and the word "reasonable" is used which is subject to legal argument, I suppose, but somebody cannot go to Australia for 12 months and leave the job half unfinished. As the Minister said in consultation with Trading Standards there will be publicity about this in early August contained in a Consumer Council newsletter explaining the background to it and sending the leaflets that are available. There is still some work to be done on areas like advertising and financial services but this is an important benchmark, as the Minister has said. It brings some rights which were perhaps in some grey areas in customary law into

statutory rights and I think it will be very effective. There will be a settling-in period but it is very welcome and I wish the Minister and Trading Standards very well with this and hopefully we can make further progress with some consumer protection issues which are long overdue.

### 6.3 The Deputy of St. John:

This was entrained prior to me coming into the States on the first occasion back in 1994. Given that I have been in the States and then out of the States and back in again, I am pleased for Senator Breckon and the Consumer Council and all those people who this is going to affect, that at long last we have this but it is a shame it has taken some 15 years.

### Senator A. Breckon

I forgot to say it does cover dodgy plumbers as well. **[Laughter]**

### The Bailiff:

Does any other Member wish to speak? Do you wish to reply, Minister?

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

Only to thank both Members for their observations on the introduction; it is long overdue and we are delighted to now have it in place.

### The Bailiff:

All those in favour of adopting the Act kindly show? The appel is called for in relation to the Act pour or contre to the Appointed Day Act. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 44</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				

Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

## **7. Oral Questions with notice: revised ballot procedures (P.105/2009)**

### **The Bailiff:**

We come next to Oral Questions with notice: revised ballot procedures (P.105/2009) lodged by Deputy Tadier and I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion (a) to agree that Standing Order 14 in relation to the ballot that is held by the Greffier of the States to determine the order in which oral questions with notice are listed on the Order Paper should be amended to provide for a revised ballot procedure as follows (i) any Member of the States submitting 2 oral questions with notice for any meeting of the States may, when submitting the questions to the Greffier, indicate which of the questions is his or her “first priority” and, in the absence of any such indication, the Greffier shall classify the first question submitted (or the first listed if 2 questions are submitted at the same time) to be the Member’s “first priority”; (ii) when the deadline for the submission of oral questions with notice has passed, the Greffier shall, in the presence of another person, undertake a first ballot in relation to the approved questions classified as “first priority” and any questions submitted by members who have submitted only one question for the meeting concerned and the Greffier shall then list these questions first on the Order Paper in the order resulting from the ballot; (iii) the Greffier shall then, in the presence of another person, undertake a second ballot in relation to the remaining questions and list these questions on the Order Paper in the order resulting from this second ballot after those already listed following the first ballot; (b) to request the Privileges and Procedures Committee to bring forward for approval the necessary amendment to Standing Orders to give effect to the proposal.

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

This is not something which needs to take long at all and I trust that Members will have read the report so I will not really go over the details; I believe the proposition which was read out explains it all very clearly. Simply to say that this is very much a procedural matter, a matter of housekeeping in many ways, and I believe that the proposed changes simply add to efficiency and have the benefit of making the system even more equitable and more flexible which brings benefits for both Members and, by extension, the public. If we can achieve a greater efficiency in the States, surely that is a good thing. It just remains for me to thank my colleagues on Privileges and Procedures for their support with this proposition. I did tell them that I would be sulking if they did not support me, so that has probably influenced them. Unless anyone else seeks clarification, I will call for the appel.

**The Bailiff:**

I think we will have the debate first. **[Laughter]**

**Deputy M. Tadier:**

You are quite right.

**The Bailiff:**

You make the proposition.

**Deputy M. Tadier:**

I make the proposition and ask for it to be seconded.

**The Bailiff:**

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

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

It gives me great pleasure to second this because this is a commonsense approach to the way we should be operating Question Time. While I am on my feet I have just been reminded that it is the youngest boy's birthday today and he is 22; he is out of the 21 bracket. Behind him we have another birthday boy in Deputy Fox, so when you are voting, you might think of the top end of the Chamber and the bottom end of the Chamber all as one on their birthday. This is a very good report and proposition and I hope that everyone supports it.

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

I welcome this tidying up. I myself have sadly fallen foul of late of my questions falling off the end and with the extension to 2 hours this will make it very fair and equitable.

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

Yes, again, just maybe a few facts and figures. It may be of interest to States Members to know that we have had about 14 States sittings this year and approximately 275 oral questions have been asked. I think it just goes to show how much work has been put in by a number of States Members who quite rightly are holding the Executive to account. We were getting around 16 to 17 questions asked at each session: half the sessions have been under 20 questions have been asked and over 20 questions have been asked on the other 7 sittings. However, the one thing we should have as a result of the 2 hours, it should ensure we would get around about 21, 22 questions. We should now reduce the number of occasions when a particularly important question has not been asked and I think it might be helpful to get an answer from a Minister as to the answer he or she might have given had they been asked. The weakness of that is a fact it never becomes public knowledge because there is no record in Hansard, and you may well have to do like I have had to do this week: ask my question again. So what we will have now is a commonsense approach, you will prioritise your questions - although I think that will be very difficult because each question, I think, is as important - and I would hope that Ministers will not think: "That is the Deputy of St. Martin's second question, so it is not as important as his first." **[Laughter]** I hope they would not think that. All questions are important and all questions are deserving of an answer. But what we should do now is ensure that your particular first question will get answered and I would ask Members to give this support.

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

Despite being on the Ministerial side of government at the moment, I do and have always believed (and I think that other Members of the Assembly would know) that questions are really, really important; oral questions and I was one of the ones that suggested questions without notice. It is the way to hold Ministers to account and Deputies like the Deputy of St. John, rightly, have the element of surprise. I do not normally see questions coming from the Deputy of St. John that he

does not know the answer to, so that has the role of doing it, but I would have 2 pleas. I think this is a very good advance in terms of fairness for back-benchers. There is, however, and the Deputy of St. Martin has raised it, we have moved to a situation where a lot more oral questions are being asked. Now that is a good thing, obviously, to hold Ministers to account. But it does have quite - and I think that all Members would understand - an enormous time commitment if Ministers are to answer questions accurately and completely. I understand the issue of the importance of the element of surprise but it is becoming now a real burden when all questions arrive at the very last moment. Because effectively Ministers, and I am sure I am not the only one, will be often spending very substantial amounts of time on Friday and then on the Monday answering questions. That can be difficult. It is the right thing to do, but it is difficult. The Deputy of St. Martin has said there are a lot more questions being asked now and the difficulty is that when you do not know the ballot result until Thursday evening, you do not which ones are likely to be asked because invariably a number of the questions - I do not know how many we are going to get through now with the 2 hours extension - are not clearly going to be asked. There is a decision to be made at some point. We have to prepare for all questions as you never know if somebody cannot be here or there is somebody that has pulled a question, so Ministers have to make a decision of their research and their state of preparedness for a question that would, for example, be on number 22 which normally would not realistically have a chance of being asked. There is a difficulty for Ministers in then saying that that question which has not been asked will be circulated to Members, as I think you have given an indication that certainly that is something that you would like to see. I have just 2 pleas on this whole issue. First of all, Members who have an absolute right to ask questions, please, can they use their precious questions for things that really are going to hold Ministers to account and not waste, perhaps, time on minor issues? We have valuable time and it needs to be spent. We do try, I try to answer Members' questions in terms of emails, et cetera. Secondly, where there is a detailed question that really requires research and a lot of investigation - and this helps Ministers too when they have questions of their departments and they are being asked questions because we find out things that perhaps we would not because the question would not have been asked - can back-benchers please try and give Ministers as much notice as possible, because unless there is something wrong that we have not done that we are going to be answered to and there is the element of surprise, that is going to help us in terms of the quality of the answer. Slightly off the point but it is about fairness; about improving the Question Time. I support this move by Deputy Tadier and just have those couple of pleas to him in making the proposition and the further evolution and the further raising of the quality of Question Time.

#### **7.6 The Deputy of St. Mary:**

Can I just ask on a point of clarification about the timing? Because my understanding was that all oral questions are stacked up and they go to Ministers on the same day but apparently they do not; they go as they go and with written questions I thought the same; that they are stacked up and then go at the same time. But the Minister is saying that if they went in earlier somehow they would have more time, so, please, could that be clarified?

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

Certainly what happens to Ministers is the Greffe in a very normal, efficient way pass the questions as soon as they have been approved by email; back-benchers asking questions do have the question copied into Ministers as soon as they have been made, so we are aware of it. Certainly all Ministers, their departments, are geared up to then start getting the answers prepared, given to the relevant officer, the research starts. It is, therefore, helpful the earlier they are the better ...

#### **The Bailiff:**

I think that has clarified the point of clarification. Deputy Le Claire.

#### **7.7 Deputy P.V.F. Le Claire of St. Helier:**

It is interesting that this proposition talks about equity and this particular States session is a good example of how this will help improve the situation. Now I have asked much more than my fair share of questions over the time I have been here, so I am not moaning or anything, I would just like to make a point. The Minister for Treasury and Resources was quite helpful in regards to some questions I was asking this session in relation to equality of Members' remuneration and the fact that some Assistant Ministers and some Ministers have Blackberries whereas back-benchers do not - I did say some - and they are supplied by the State. It was something that was missed by the Remuneration Review Body which I think they really do need to look at things across the board. Senator Ozouf was quite helpful in this issue and he sent an email to the Chairman of Privileges and Procedures Committee, so I would like to thank him for that. At the end of the day they do have BlackBerries, they can receive their emails about their questions wherever they are; whenever they are and they have a team of people to support them. So, I think questions need to go as soon as they are able to go but sometimes they only go, it would appear, at the last minute because they arise at the last minute. I certainly do on occasions get contacted by people about things and I raise them at the last minute but whenever I can, if I am able to, I put them in written questions. This week I was able to get a written question answered but funnily enough I only asked one oral question this time and it was listed as the last question, question 25, and it did not get asked, and ironically it was about equal remuneration for all Members. So it would have been an opportunity for all Members to discuss whether or not they thought it was equitable. Ironically, it sat behind so many other questions where Members had 2 questions. Those Members that had 2 questions were the Deputy of St. Martin, the Deputy of St. John, the Constable of St. Helier, Deputy Lewis, Senator Breckon, Deputy Power, Deputy Jeune and Deputy Le Hérissier who all had 2 questions each. So, I am not moaning, because I do get more than my fair share, but this proposition does help us get equity into a system and it is demonstrated by the results of the Question Time on this occasion where I was trying to seek an answer to a question that would have affected all Members. It was not my pet bag; it was something for everybody. So, congratulations to Deputy Tadier, this is a good move, and I am supporting it.

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

Yes, I welcome this move to increase the equity of the question system and remind Members that holding Ministers to account is part of the Scrutiny process and questions often form part of that Scrutiny, either as initiating areas of concern or following some investigation in Scrutiny in a formal way, the getting of some information out into the public. The second part of Question Time is questions holding the Ministers to account but getting answers out in public and that is an important factor. Certainly I have been concerned about the quality of some questions that have been asked in recent times but that is a matter of judgment. The mechanism proposed by Deputy Tadier - presumptuous young man, he is, to think he would get away with no debate - does, I think, go some way to defining the better quality question, the best question at the beginning rather than a secondary one. Where that is difficult for a Member to make their mind up, I advise that they do the usual practice that I do with my 3 or 4 or 5 questions that I usually have every session is to hawk them around and see who will take them. **[Laughter]** But nevertheless and, in particular, I suppose I was struck by Senator Ozouf's appeal for good notice and the timing of questions. Certainly I am already working on my questions for September the whatever when we next meet and I can certainly drip-feed him with half a dozen a week if he likes over the coming 6 weeks and I am sure he can get on with preparing the answers and we can get prompt responses by then. But, no, this is to be welcomed ...

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

A point of clarification? Can the Member who is speaking please clarify when he is hawking them around are they to members of his group that he represents in the House?

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

Not necessarily exclusively but, yes, sometimes. But anyone who is a question short and not asking a question who wishes to ask a question ... **[Interruption]** Sometimes not exclusively; anyone without a question who is interested in a particular area can take a question off me when I have more than enough. But, yes, this is to be supported and let us get on with it.

#### **7.9 Deputy T.M. Pitman of St. Helier:**

Very, very briefly, I just would like to say that I think what the Minister for Treasury and Resources has requested is very, very fair; I certainly will endeavour to do that. I also think that the Minister and his colleagues must accept that sometimes questions do come late because it cannot be helped. The only other thing I would say on that is that could we also have the guarantee that the questions will get relevant answers, answers that relate to the question, in fact. Other than that, I would just say well done, Deputy Tadier, I think it is a good proposition and it is certainly frustrating when you have your best question and it falls off at number 25, so I will support this.

#### **7.10 Deputy S. Power:**

Very, very briefly, I acknowledge Deputy Tadier's commonsense on this one. I think the question of ranking questions in importance to the Assembly is a difficult one because what may be a very relevant issue in St. Mary or St. John may not be of any interest to a Minister for Treasury and Resources, so we wear Parish hats, those of us who are Deputies and Constables, we wear Parish hats first. In my particular case I also have a Planning hat and I have an Assistant Minister's hat, so I come to the Assembly sometimes asking questions that I think are relevant in any one of those 3 areas. So I think the question of ranking in importance is a very subjective thing. It depends on our own responsibilities in our own Parishes. I have been in the position where I have asked a lot of questions in the last 3 and a half years and I am in a situation when not only am I asking questions sometimes, I am also being asked to answer questions on behalf of the Minister for Housing and I am grateful for that. But I think, more than anything else, for me personally here on the whole question of oral questions, I would like to take this opportunity to thank the Greffier and the Assistant Greffier for the very professional way they engage our questions **[Approbation]**. They correct all the grammatical faux pas and they put the question in a manner which does go to the Bailiff's Chambers in a manner that is appropriate. I am certainly as guilty as most of my colleagues in the inappropriate use of words such as parishioners being "distracted" by seagulls, so I would like to thank the Greffier.

#### **The Bailiff:**

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

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

I would ask the Chair and Members to excuse me earlier on for jumping the gun. Obviously in my drive for efficiency I was aiming to cut out the whole debate **[Laughter]** which while certainly it would have saved a lot of time and may well have been efficient, it is obviously not good procedure, so I do apologise for that. I thank everyone who spoke and for their general support. I believe this is a step in the right direction. I would just like to address a couple of issues from those who spoke. Senator Ozouf, again, he was generally very supportive of this and I think he raised the very valid point of giving Members, not a warning so much, but being mindful of being sparing in one's questions or certainly making sure that the questions are valid ones. While I think that is always a good thing to bear in mind, essentially I guess it is up to Members themselves, and back-benchers in particular, to decide what is a relevant question, and I think it is important to bear that in mind. Senator Ozouf also mentioned the matter of minor issues which could be dealt with perhaps in another way. I think Deputy Power alluded to the fact that this is very much a subjective thing. So something which may be minor for one Member could be very serious for another Member but in particular it could be very serious for their constituents. So while many people may think, for example, the issue of car parking or seagulls is a minor issue in the Island-wide sense, for

certain of our constituents these are very major issues and if it is relevant for those to be brought up in the House, then I think that is up to the individual Member to decide. I think Senator Ozouf went on to make a plea; he said: “A plea to the Deputy” but hopefully not only to me but to Members in general to always be watchful of what their questions entail and obviously we are mindful of the work that goes into the questions. We are thankful to the Ministers and to their civil servants for the work that they put in in preparing those whether they get answered or not. I would just add to that that myself and, indeed, P.P.C. are always looking for ways to make systems more efficient and more flexible, more equitable because obviously this is always in the best interests of Members and the public at large. Deputy Le Claire quite rightly pointed out, and this was partly the rationale behind bringing this proposal, that sometimes you can submit one question and other Members do get 2 questions and it is very arbitrary in the current system where those 2 questions appear. Certainly I remember on one occasion that a certain Deputy had a question down as numbers 4 and 5 very early on in the Order Paper. I think another Member had their 2 questions relegated to the second half of the paper and with neither of those or only one of those being answered. So, this at least should disseminate the questions in a fairer way. So if you submit 2 questions you will have one question towards the first half and the second question towards the second half of the paper and that is in bullet point with (i). I think that addresses that one. Again, in many ways the idea of prioritising questions is a secondary idea because initially the idea was simply for equity, so if you submit 2 questions then why should you be put at an advantage to someone who only submits one question? I probably should not embarrass him but I did get some help from the Greffier of the States on this and he gave some additional ideas in making it even more efficient, so that in some way is where the idea of prioritisation comes from. One does not have to prioritise, remember; you can just submit 2 questions but that is the way it works. I think I have addressed all the issues without wanting to speak for too long. I did want to make sure that I have addressed everyone who spoke. Again, thank you to Deputy Southern for his comments. He was very honest in telling Members that he sometimes gives his questions out to other Members; that is quite within his rights. I think that is all I have to say. Unless anyone seeks clarification I would ask for the appel so that it may go on record that at least during my term I may win one of my votes. **[Laughter]**

**The Bailiff:**

Very well. The appel is called for in relation to the proposition of Deputy Tadier. I invite Members to return to their seats and the Greffier will now open the voting.

<b>POUR: 49</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				

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

**The Bailiff:**

Can I, from the Chair, just say one thing in relation to questions, particularly now we are moving to a 2-hour Question Time. Standing Orders do, of course, say that the question should be concise and similarly that the answer should be concise. **[Approbation]** I propose to continue to enforce that rule. The purpose of going to 2 hours is really to enable more questions to be dealt with. In particular, Ministers' answers, a rule of thumb was set down some time ago of not more than one and a half minutes. That is a maximum; not a minimum **[Laughter]**. Very often less is required. But save where the subject matter clearly requires something more than that, I shall be strict in enforcing that, so it is up to Ministers to ensure that their civil servants, when they help them, do bear this in mind.

**Senator T.J. Le Main:**

On a point of order **[Members: Oh!]** some of the questions that are put down as oral questions should really be written questions and it is very difficult to answer a question ...

**The Bailiff:**

I understand that point, Senator, and as I say, it ultimately is a matter of discretion for the Chair. I do accept that there are some occasional questions that simply cannot be properly answered in less than one and a half minutes and the Chair will have to exercise judgment there. But by and large the Chair will be expecting answers not to exceed the period and, similarly, supplementary questions must not turn into long speeches. The idea is that it should be Question Time and the more concise Members are, the more questions can be asked of Ministers.

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

May I ask also for guidance in relation to the issue of questions that are not answered? Previously you have suggested that Ministers circulate questions. The difficulty for Ministers is that if a question is at number 24, it is highly unlikely that the question is going to be asked and, clearly, we would have spent time answering the questions that will be ... inevitably, in my case, there is always going to be a few questions. The difficulty is that if a circulated answer does not have parliamentary privilege, it does not have the standard. Have you any guidance of what will happen in relation to oral questions that still, despite 2 hours and despite a more fair approach, will be dealt with? Do you have any guidance or do you want to develop some guidance?

**The Bailiff:**

Ultimately it is very much a matter for Members and I do not know whether it is anything that P.P.C. want to look at at some stage. I think I merely indicated it earlier because it was thought to be helpful to Members that if they did not have a question it would still be useful to have the answer from Ministers. It is highly unlikely that parliamentary privilege is going to be a key matter on Ministers. So, it is a matter for Members but I would have thought it still helpful to receive something rather than nothing. As the Greffier has reminded me technically the question is deemed to be withdrawn if it is not reached but the idea was that it would be helpful to Members to know how the Minister would have answered it had it proceeded.

**The Deputy of St. John:**

On a point of clarification, will you instruct the Ministers to be more honest and precise when they give an answer [**Members: Oh!**] because frequently we have had to ask - and I think I see the Chief Minister smiling - 5 different Members have had to ask basically the same question to elucidate the answer. We knew the answer in the beginning but we needed it to come out of his lips [**Laughter**] because otherwise it has no standing out of the Minister's lips.

**The Bailiff:**

The Chair can deal with the length of answers but not the content of Ministers' answers; that is a matter for Ministers.

**Connétable J. Gallichan of St. Mary:**

If I might clarify, I did mention in the documentation which accompanied the amendment 11 to Standing Orders that P.P.C. will indeed be looking at this matter in the near future; the matter of whether questions will wait.

**The Bailiff:**

I think Members would, for the moment, like Ministers to continue to supply the answers they would have given to unanswered questions.

**The Connétable of St. Mary:**

I just refer to Standing Orders but P.P.C. will be reviewing that.

**The Bailiff:**

Yes, pending the review but ultimately it is a matter for P.P.C. and then Members, I think. It is certainly not something the Chair can direct to happen.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Bailiff:**

Very well. I think that completes Public Business, so we now come to M, Arrangement of Public Business for the next sitting which will be at the next session on 8th September. Chairman.

**The Connétable of St. Mary (Chairman, Privileges and Procedures Committee):**

If I could firstly at the outset state that the Public Business is listed on the lavender sheet; that will be the basis. The first item listed for 8th September is the motion of censure in respect to Senator Stuart Syvret. I have not been able to speak to the Senator, obviously, as he is *malade* but in view of the uncertainty over a date which would be possible to have this debated, P.P.C. has now decided to withdraw this motion but will reserve the right to re-present it if necessary and if appropriate at a later stage, so that is withdrawn. In addition to 8th September's business is Projet 108 and the comments which is deferred from today, the Ann Court housing site, from the Constable of St. Helier. Projet 110 Pension Schemes dealing with past service liability lodged by Senator Shenton is moved to 3rd November. The 6th October sitting will have Projet 114 Draft Honorary Police (Repeals) (Jersey) Law 200- lodged by the Comité des Connétables and Projet 115 the Draft Honorary Police (Amendment) (Jersey) Regulations 200- also lodged by the Comité des Connétables. The 20th October sitting will be items listed. Projets 58 and 106 have both been withdrawn but there will be the addition of Projets 86, 87, 85, 84 and 81 which have come as a result of the referral to Scrutiny. On 3rd November, as I have said, the Pension Schemes dealing with past liability ...

**The Bailiff:**

We only go as far as 20th October at the moment, I think, do we not?

**The Connétable of St. Mary:**

Yes, but I am saying there will be a 3rd November sitting which has the Projet 110 as previously discussed.

**The Connétable of Grouville:**

Did I understand the Constable to say that she is withdrawing the motion of censure against Senator Syvret? Is that correct?

**The Bailiff:**

I think she said she was withdrawing it but was reserving the right to bring a substitute, is that right?

**The Connétable of Grouville:**

I really do think that this affects the Attorney General and myself with allegations that were made against us. I think it is very, very reprehensible indeed that we were not consulted about this being withdrawn or just delegated or what. I believe the whole thing is ridiculous.

**The Connétable of St. Mary:**

If I may answer that, it is simply a matter of fact that there is a matter before the courts now which, of course, renders certain elements that Senator Syvret might wish to refer to *sub judice*. I am afraid my hands are tied by Standing Orders which is why I have said it will be withdrawn but P.P.C. will, if it is appropriate, relodge it when the time is right.

**The Deputy of St. John:**

On a point of clarification can you tell me whether or not once something has been laid in the Chamber it is for the Members to decide whether or not it is debated, not the **[Interruption]** ... please, I am asking the Chair.

**The Bailiff:**

No, under Standing Orders the proposer can withdraw a matter at any time before the debate happens.

**Deputy T.M. Pitman:**

As a matter of courtesy, I would just like to forewarn Members that as a consequence of yesterday's treatment of the Economic Affairs Scrutiny Panel and Chairman, I do have a proposition that I am seriously considering lodging that would need to be debated at the next meeting. I am not sure of the way to deal with that but I can discuss with the Chair later. It deals with a matter of no confidence vote, so that is why it would be a serious one.

**The Bailiff:**

Well, at the moment, Deputy, as it has not been lodged, we can only deal with what has been lodged but thank you for giving notice of that. Any other questions in relation to business? Connétable ...?

**The Connétable of St. Helier:**

Could I just seek guidance about the Business Plan debate and the deadline for amendments to it, please?

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

The Business Plan will be lodged next Tuesday with the aim, as stated at the start of the year, of debating it on 22nd September. Amendments to that Business Plan would therefore have to be into the Greffier in accordance with Standing Orders the statutory period beforehand. So 22nd September is the date envisioned for the debate; it would be lodged next week.

**The Bailiff:**

So that would be included on 22nd September. Any other questions? Deputy Gorst.

**Deputy I.J. Gorst:**

I note that P.111 was lodged, I think, at the last sitting regarding Sunday opening. I wonder if the Economic Affairs Scrutiny Panel could give an indication if they do intend to scrutinise this or not.

**The Deputy of St. Mary:**

If I may answer there are 2 of us meeting with the Assistant Minister early next week to ask preliminary questions and to decide whether we do want to do a short review on this matter subject to the kinds of answers he gives us on our preliminary list of questions.

**Deputy I.J. Gorst:**

That being the case, could I ask that the panel, perhaps as a courtesy, inform Members what their decision will be after that meeting?

**The Bailiff:**

Very well. Do Members agree the Arrangements of Public Business as amended and as outlined by the Chairman of P.P.C.?

**The Connétable of St. Mary:**

If I might just raise something, it seems to me that we have missed an opportunity at the beginning of this session to welcome you as President of the Assembly in your current role. **[Approbation]** I welcome you now. I thank you for surviving this session and I would say it was a pleasure to be reprimanded at least once by you this time. Thank you. **[Laughter]**

**The Bailiff:**

I am not sure if I can follow that, Chairman, but thank you very much indeed for your kind words and thank you to Members for their welcome. I shall do my very best to serve the interests of all Members. **[Approbation]** Very well. That completes the Assembly's business and we adjourn until 8th September.

## ADJOURNMENT