

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 1st APRIL 2014**

<b>COMMUNICATIONS BY THE PRESIDING OFFICER .....</b>	<b>10</b>
1. The Bailiff:.....	10
<b>QUESTIONS.....</b>	<b>10</b>
<b>2. Written Questions .....</b>	<b>10</b>
2.1 THE CONNÉTABLE OF ST. LAWRENCE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING LOANS TO LAND OWNERS REGARDING REMEDIAL WORK TO PREVENT ENCROACHMENT ONTO MAIN ROADS:.....	10
2.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE JERSEY ELECTRICITY COMPANY AND RECENT TRENCH WORK:.....	10
2.3 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE FUEL CONSUMPTION OF THE OLD INCINERATOR AND THE ENERGY FROM WASTE PLANT: .....	11
2.4 THE CONNÉTABLE OF ST. JOHN OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING AMENDMENTS TO INFORMATION TECHNOLOGY EXPENSES FOR STATES MEMBERS: .....	12
2.5 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING BUDGET UNDERSPENDS AND THE COST OF CANCER DRUGS: .....	14
2.6 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE MONITORING OF WATER FOR THOSE HOUSEHOLDS NOT ON THE MAINS WATER SUPPLY: .....	15
2.7 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING CHARGING FOR MUSIC LESSONS:.....	16
2.8 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR SOCIAL SECURITY REGARDING BENEFIT FRAUD IDENTIFIED OVER THE LAST FIVE YEARS:....	17
2.9 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING THE COLLECTION OF BANNELAIS IN PARISHES:.....	19
2.10 DEPUTY R.G. LE HÉRISSEUR OF ST. SAVIOUR OF THE MINISTER FOR HOME AFFAIRS REGARDING THE NUMBER OF STAFF RESIGNATIONS AT H.M.P. LA MOYE OVER THE LAST FIVE YEARS: .....	19
2.11 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING ACCESS TO MENTAL HEALTH SERVICES: .	20

2.12	DEPUTY M.R. HIGGINS OF ST HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING A BREAKDOWN OF COURT AND CASE EXPENDITURE FIGURES: .....	21
2.13	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING CONSTRUCTION AND ENGINEERING SERVICES:.....	22
2.14	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE CRIMINAL OFFENCES CONFISCATION FUND: .....	23
2.15	DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE EXPENDITURE ON ENTERTAINMENT AND CIVIC FUNCTIONS BY THE CHIEF MINISTER AND BAILIFF’S CHAMBERS: .....	24
2.16	DEPUTY M.R. HIGGINS OF ST HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE WAITING TIMES FOR MEDICINAL PROCEDURES:.....	25
2.17	DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE SEARCH FOR A SUITABLE SITE FOR CONTROLLED SORTING OF WASTE FROM SKIPS:.....	31
2.18	DEPUTY G.P. SOUTHERN OF ST HELIER OF THE CHIEF MINISTER REGARDING O.E.C.D COMMON REPORTING STANDARDS:.....	31
2.19	DEPUTY G.P. SOUTHERN OF ST HELIER OF THE CHIEF MINISTER REGARDING THE ACTIONS OF P.F.I. COMPANIES TO AVOID PAYING U.K. CORPORATION TAX:.....	32
2.20	DEPUTY G.P. SOUTHERN OF ST HELIER OF THE CHIEF MINISTER REGARDING THE TRANSFER OF TERMS AND CONDITIONS OF STAFF WITH PRIOR AGREEMENT:.....	33
2.21	DEPUTY G.P. SOUTHERN OF ST HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE IMPLICATUIONS FOR JERSEY’S TAX REGIME FOLLOWING THE U.K.’s CHANGES TO THE TAXATION OF PENSIONS: .....	34
2.22	DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE NUMBER OF PREMISES NOT CONNECTED TO THE PUBLIC SEWER NETWORK:.....	34
2.23	DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE STEWARDSHIP OF No. 1 OXFORD ROAD, ST. HELIER:.....	36
2.24	DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE NUMBER OF PROPERTIES NOT SERVED BY MAINS WATER:.....	37
<b>3.</b>	<b>Oral Questions.....</b>	<b>39</b>
3.1	Deputy R.G. Le Hérissier of St. Saviour of the Minister for Economic Development regarding the staff turnover at the Jersey Competition Regulatory Authority:.....	39
	Senator A.J.H. Maclean (The Minister for Economic Development):.....	39
3.1.1	Deputy R.G. Le Hérissier: .....	39
3.1.2	Deputy M.R. Higgins of St. Helier:.....	39
3.1.3	Deputy J.A. Martin of St. Helier: .....	40
3.1.4	Deputy R.G. Le Hérissier: .....	40
3.1.5	Deputy R.G. Le Hérissier: .....	41

3.2 Deputy J.A. Martin of the Minister for Economic Development regarding the opening hours of licensed premises during the World Cup: .....	41
Senator A.J.H. Maclean (The Minister for Economic Development): .....	41
3.2.1 Deputy J.A. Martin: .....	41
3.2.2 Deputy R.G. Le Hérisier: .....	41
3.2.3 Connétable P.J. Rondel of St. John: .....	41
3.2.4 Deputy J.A. Martin: .....	42
3.3 Deputy N.B. Le Cornu of St. Helier of the Minister for Social Security regarding unfair dismissal safeguards: .....	42
Senator F. du H. Le Gresley (The Minister for Social Security): .....	42
3.3.1 Deputy N.B. Le Cornu: .....	43
3.3.2 Deputy M. Tadier of St. Brelade: .....	43
3.3.3 Deputy M. Tadier: .....	43
3.3.4 Deputy J.H. Young of St. Brelade: .....	43
3.4 Deputy S. Power of St. Brelade of the Chairman of the Comité des Connétables regarding long service medals for members of the Honorary Police: .....	44
Connétable J.L.S. Gallichan of Trinity (Chairman, Comité des Connétables): .....	44
3.4.1 Deputy S. Power: .....	44
3.4.2 The Connétable of St. John: .....	44
3.4.3 Deputy M. Tadier: .....	44
3.4.4 Deputy S. Power: .....	45
3.5 Deputy J.N. Le Bailly of St. Mary of the Minister for Treasury and Resources regarding funding the cost of water tests by the States Analyst for residents of properties not served by mains water: .....	45
Deputy E.J. Noel (Assistant Minister for Treasury and Resources - rapporteur): .....	45
3.5.1 The Deputy of St. Mary: .....	46
3.5.2 The Connétable of St. John: .....	46
3.5.3 The Connétable of St. John: .....	46
3.5.4 Deputy J.H. Young: .....	46
3.5.5 Deputy T.A. Vallois of St. Saviour: .....	47
3.5.6 Deputy G.C.L. Baudains of St. Clement: .....	47
3.5.7 Deputy M. Tadier: .....	47
3.5.8 Deputy M. Tadier: .....	47
3.5.9 The Deputy of St. Mary: .....	47
3.6 Deputy J.H. Young of the Minister for Planning and Environment regarding the costs of defending Planning Appeals since his appointment: .....	48
Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment): .....	48
3.6.1 Deputy J.H. Young: .....	48
3.6.2 Deputy M.R. Higgins: .....	49
3.6.3 Deputy R.G. Le Hérisier: .....	49
3.6.4 Deputy J.H. Young: .....	49
3.7 Deputy J.A. Hilton of St. Helier of the Minister for Health and Social Services regarding reductions to the waiting time for those seeking adult psychological services: .....	50
Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services): .....	50
3.7.1 Deputy J.A. Hilton: .....	50
3.7.2 Senator S.C. Ferguson: .....	50
3.7.3 Deputy M. Tadier: .....	51
3.7.4 Deputy M. Tadier: .....	51
3.7.5 Deputy S. Power: .....	51
3.7.6 Deputy S.Y. Mézec of St. Helier: .....	51

3.7.7 Deputy J.A. Hilton:	51
3.8 Deputy G.P. Southern of St. Helier of the Chief Minister regarding investigations into the background of companies based in Jersey which were involved in the financing of the construction of Alder Hey Hospital, Liverpool:	52
Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):	52
3.8.1 Deputy G.P. Southern:	52
3.8.2 Deputy G.P. Southern:	52
3.8.3 Deputy G.P. Southern:	53
3.8.4 Deputy M. Tadier:	53
3.9 The Connétable of St. John of the Chairman of the Privileges and Procedures Committee regarding States members' I.T. expenses:	55
Deputy J.M. Maçon of St. Saviour (Chairman, Privileges and Procedures Committee):	55
3.9.1 The Connétable of St. John:	55
3.9.2 Deputy G.C.L. Baudains:	55
3.9.3 The Connétable of St. John:	55
3.10 Deputy M. Tadier of the Attorney General regarding the possibility of importing and possessing cannabis for medicinal use under the provisions of the Misuse of Drugs (Jersey) Law 1978:	56
Mr. H. Sharp Q.C., H.M. Solicitor General:	56
3.10.1 Deputy M. Tadier:	56
3.10.2 Deputy R.G. Le Hérisier:	57
3.10.3 Deputy M. Tadier:	57
3.11 Deputy G.C.L. Baudains of the Chairman of the Jersey Branch of the Commonwealth Parliamentary Association regarding the selection of delegates for the Commonwealth Parliamentary Association conference in October 2014:	57
Connétable L. Norman of St. Clement (Chairman, Jersey Branch, Commonwealth Parliamentary Association):	57
3.12 Deputy S. Power of the Minister for Economic Development regarding the impact of low freight rates on the viability of shipping to the Channel Islands:	58
Senator A.J.H. Maclean (The Minister for Economic Development):	58
3.12.1 Deputy S. Power:	58
3.12.2 Deputy S. Power:	58
3.13 Deputy M. Tadier of the Chairman of the Health, Social Security and Housing Scrutiny Panel regarding a review of the Minister's proposed action to address clinical waiting times:	59
Deputy J.A. Hilton (Vice Chairman, Health, Social Security and Housing Scrutiny Panel - rapporteur):	59
3.13.1 Deputy M. Tadier:	59
3.14 Deputy N.B. Le Cornu of the Minister for Transport and Technical Services regarding the implementation of the strategies agreed as part of the Sustainable Transport Policy:	59
Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services):	59
3.14.1 Deputy N.B. Le Cornu:	60
3.14.2 Deputy G.P. Southern:	60
3.14.3 Deputy G.P. Southern:	60
3.14.4 Connétable J. Gallichan of St. Mary:	60
3.14.5 Deputy R.G. Le Hérisier:	60
3.14.6 Deputy M. Tadier:	61
3.14.7 Deputy M. Tadier:	61
3.14.8 Deputy M.R. Higgins:	61
3.14.9 Deputy M.R. Higgins:	61

3.15 Deputy J.H. Young of the Minister for Economic Development regarding the impact of the withdrawal of air services to Guernsey by Aurigny: .....	62
Senator A.J.H. Maclean (The Minister for Economic Development): .....	62
3.15.1 Deputy J.H. Young: .....	62
3.16 The Deputy of St. Mary of the Minister for Planning and Environment regarding the provision of a fresh water supply and mains drains to all Islanders:.....	63
Deputy R.C. Duhamel (The Minister for Planning and Environment): .....	63
3.16.1 The Deputy of St. Mary:.....	63
3.16.2 Connétable S.A. Rennard of St. Saviour:.....	63
3.16.3 Deputy G.C.L. Baudains: .....	63
3.16.4 The Connétable of St. John: .....	64
3.16.5 Deputy J.H. Young: .....	64
3.16.6 Deputy J.H. Young: .....	65
3.16.7 The Deputy of St. Mary:.....	65
3.17 Deputy G.C.L. Baudains of the Minister for Treasury and Resources regarding the resolution of the problems with J.T.'s billing system: .....	65
Senator P.F.C. Ozouf (The Minister for Treasury and Resources): .....	65
3.17.1 Deputy G.C.L. Baudains: .....	66
3.17.2 Deputy J.M. Maçon:.....	66
3.17.3 Deputy J.M. Maçon:.....	66
3.17.4 The Connétable of St. John: .....	67
3.17.5 The Connétable of St. John: .....	67
3.17.6 Deputy R.G. Le Hérisier:.....	67
3.17.7 Senator S.C. Ferguson:.....	68
3.17.8 Deputy G.C.L. Baudains: .....	68
3.18 The Connétable of St. John of the Minister for Planning and Environment regarding the supervision of slurry spreading: .....	69
3.18.1 Deputy R.C. Duhamel (The Minister for Planning and Environment):.....	69
3.18.2 The Connétable of St. John: .....	70
3.18.3 Connétable J.E. Le Maistre of Grouville:.....	70
3.18.4 Deputy R.C. Duhamel: .....	70
3.18.5 Deputy S.G. Luce of St. Martin:.....	70
3.18.6 The Deputy of St. Martin: .....	70
3.18.7 The Connétable of St. John: .....	71
3.19 Deputy G.P. Southern of the Minister for Housing regarding the expenditure of the rental income estimated for the years 2014 to 2018: .....	71
3.18.9 Deputy A.K.F. Green of St. Helier (The Minister for Housing): .....	71
3.18.10 Deputy G.P. Southern: .....	72
3.18.11 Deputy T.A. Vallois: .....	72
3.18.12 Deputy G.P. Southern: .....	72
<b>4. Questions to Ministers without notice - The Minister for Social Security .....</b>	<b>73</b>
4.1 Deputy G.P. Southern:.....	73
Senator F. du H. Le Gresley (The Minister for Social Security): .....	73
4.1.1 Deputy G.P. Southern:.....	73
4.2 Connétable D.W. Mezbourian of St. Lawrence: .....	73
4.3 Deputy M. Tadier: .....	73
4.3.1 Deputy M. Tadier: .....	73
4.4 Deputy C.F. Labey of Grouville:.....	74
4.4.1 The Deputy of Grouville:.....	74

4.5	Deputy R.G. Le Hérisier:	74
4.5.1	Deputy R.G. Le Hérisier:	75
4.6	Deputy G.P. Southern:	75
4.6.1	Deputy G.P. Southern:	75
4.7	Deputy J.A. Hilton:	75
4.8	Deputy J.G. Reed of St. Ouen:	75
4.8.1	The Deputy of St. Ouen:	76
4.9	Deputy R.G. Le Hérisier:	76
4.9.1	Deputy R.G. Le Hérisier:	76
<b>5.</b>	<b>Questions to Ministers without notice - The Minister for Transport and Technical Services</b>	<b>76</b>
5.1	The Deputy of St. Martin:	76
	Deputy K.C. Lewis (The Minister for Transport and Technical Services):	76
5.2	Deputy M.R. Higgins:	76
5.3	Deputy G.P. Southern:	77
5.3.1	Deputy G.P. Southern:	77
5.4	Deputy J.H. Young:	77
5.4.1	Deputy J.H. Young:	77
5.5	Deputy M. Tadier:	77
5.5.1	Deputy M. Tadier:	78
5.6	Deputy J.M. Maçon:	78
5.6.1	Deputy J.M. Maçon:	78
5.7	Deputy J.A. Hilton:	78
5.8	Connétable M.J. Paddock of St. Ouen:	78
5.9	Senator L.J. Farnham:	79
5.10	Deputy S. Pinel of St. Clement:	79
5.11	Deputy R.G. Bryans of St. Helier:	79
5.12	The Deputy of St. Martin:	80
5.13	Deputy M.R. Higgins:	80
5.14	Deputy G.P. Southern:	80
5.15	Deputy M. Tadier:	80
5.16	Senator S.C. Ferguson:	80
5.17	Deputy M. Tadier:	81
5.18	Deputy T.A. Vallois:	81
5.18.1	Deputy T.A. Vallois:	81
5.19	Connétable S.W. Pallett of St. Brelade:	81
5.19.1	The Connétable of St. Brelade:	81
5.20	The Connétable of St. Mary:	81
5.21	The Connétable of St. Mary:	82
	<b>PUBLIC BUSINESS</b>	<b>82</b>
<b>6.</b>	<b>Draft Financial Services Ombudsman (Jersey) Law 201- (P.9/2014)</b>	<b>82</b>
6.1	Senator A.J.H. Maclean (The Minister for Economic Development):	82
6.1.1	Deputy M.R. Higgins:	84
6.1.2	Senator A. Breckon:	84
6.1.3	The Deputy of St. Martin:	86
6.1.4	Deputy J.H. Young:	86
	<b>LUNCHEON ADJOURNMENT PROPOSED</b>	<b>88</b>

<b>LUNCHEON ADJOURNMENT</b> .....	<b>88</b>
6.1.5 Senator A.J.H. Maclean: .....	88
6.2 Senator A.J.H. Maclean: .....	90
6.2.1 Deputy M.R. Higgins:.....	91
6.2.2 Senator A.J.H. Maclean:.....	91
6.3 Senator A.J.H. Maclean: .....	94
<b>6.4 Draft Financial Services Ombudsman (Jersey) Law 201- (P.9/2014): second amendment (P.9/2014 Amd.(2))</b> .....	<b>94</b>
6.4.1 Deputy G.P. Southern: .....	94
6.4.2 Deputy M.R. Higgins:.....	97
6.4.3 Senator A.J.H. Maclean: .....	97
6.4.4 Deputy M. Tadier: .....	98
6.4.5 Senator A. Breckon: .....	99
6.4.6 Deputy J.A. Martin: .....	100
6.4.7 Deputy J.H. Young: .....	101
6.4.8 Deputy R.G. Bryans: .....	101
6.4.9 Deputy G.P. Southern:.....	102
<b>6.5 Draft Financial Services Ombudsman (Jersey) Law 201- (P.9/2014) - resumption...</b>	<b>103</b>
6.5.1 Senator A.J.H. Maclean: .....	103
<b>7. Draft Taxation (Miscellaneous Provisions) (Jersey) Regulations 201- (P.13/2014) ...</b>	<b>104</b>
7.1 Senator P.M. Bailhache (The Minister for External Relations): .....	105
7.1.1 Deputy J.H. Young: .....	105
7.1.2 Deputy R.G. Le Hérisssier: .....	105
7.1.3 Senator P.M. Bailhache: .....	106
<b>8. Ratification of the Agreement on the Exchange of Information relating to Tax Matters between the Government of Jersey and the Government of Hungary (P.12/2014)</b> .....	<b>107</b>
8.1 Senator P.M. Bailhache (The Minister for External Relations): .....	108
<b>9. Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 10) (Jersey) Regulations 201- (P.17/2014)</b> .....	<b>108</b>
9.1 Senator P.M. Bailhache (The Minister for External Relations): .....	108
9.1.1 Deputy R.G. Le Hérisssier: .....	108
9.1.2 Senator P.M. Bailhache: .....	108
<b>10. Tasers: deployment and use in Jersey by the States of Jersey Police (P.18/2014) .....</b>	<b>109</b>
10.1 Senator B.I. Le Marquand (The Minister for Home Affairs): .....	109
10.1.1 Deputy J.M. Maçon:.....	114
10.1.2 Connétable M.P.S. Le Troquer of St. Martin: .....	116
10.1.3 Deputy M. Tadier:.....	119
10.1.4 The Connétable of St. John: .....	121
10.1.5 The Connétable of St. Brelade:.....	123
10.1.6 Deputy S. Power: .....	125
10.1.7 Deputy R.G. Bryans: .....	125
10.1.8 The Deputy of St. Martin: .....	126
10.1.9 Deputy J.A. Martin: .....	126
10.1.10 Senator L.J. Farnham: .....	127

10.1.11	Deputy N.B. Le Cornu: .....	127
10.1.12	Deputy J.A. Hilton: .....	128
10.1.13	Deputy M.R. Higgins: .....	128
10.1.14	Senator B.I. Le Marquand: .....	128
<b>11.</b>	<b>Draft Statute Law Revision (Miscellaneous Provisions) (Jersey) Law 201- (P.21/2014)</b> .....	<b>130</b>
11.1	Senator I.J. Gorst (The Chief Minister): .....	131
11.1.1	Deputy J.H. Young: .....	131
11.1.2	Senator P.M. Bailhache: .....	132
11.1.3	The Connétable of St. John: .....	132
11.1.4	Senator I.J. Gorst: .....	132
<b>12.</b>	<b>States of Jersey Development Company Limited: re-appointment of Chairman and Non-Executive Directors (P.23/2014).....</b>	<b>133</b>
12.1	Senator P.F.C. Ozouf (The Minister for Treasury and Resources): .....	134
12.1.1	Deputy R.G. Le Hérissier: .....	134
12.1.2	Deputy J.H. Young: .....	135
12.1.3	Senator S.C. Ferguson: .....	135
12.1.4	The Connétable of St. Brelade: .....	135
12.1.5	Deputy M. Tadier: .....	135
12.1.6	Senator P.F.C. Ozouf: .....	137
	<b>STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY .....</b>	<b>138</b>
<b>13.</b>	<b>The Minister for Treasury and Resources - statement clarifying an answer given to an oral question in respect of the States of Jersey Development Company .....</b>	<b>138</b>
13.1	Senator P.F.C. Ozouf (The Minister for Treasury and Resources): .....	138
13.1.1	Deputy J.A. Martin: .....	139
13.1.2	Deputy M. Tadier: .....	139
13.1.3	Deputy M. Tadier: .....	140
13.1.4	The Deputy of St. Martin: .....	140
13.1.5	Senator L.J. Farnham: .....	140
13.1.6	Deputy J.H. Young: .....	140
13.1.7	Deputy S. Power: .....	141
13.1.8	Deputy J.M. Maçon: .....	141
13.1.9	The Connétable of St. John: .....	141
	<b>ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS .....</b>	<b>142</b>
14.	Deputy J.M. Maçon (Chairman, Privileges and Procedures Committee): .....	142
14.1	Deputy S.Y. Mézec: .....	142
14.1.1	Deputy M. Tadier: .....	143
14.1.2	Senator I.J. Gorst: .....	143
14.1.3	Deputy R.G. Le Hérissier: .....	143
14.1.4	Deputy S.Y. Mézec: .....	144
14.2	Senator F. du H. Le Gresley: .....	144
14.2.1	Deputy J.M. Maçon: .....	145
14.2.2	Senator I.J. Gorst: .....	145
14.3	The Connétable of St. Clement: .....	145
14.3.1	Senator I.J. Gorst: .....	146
14.3.2	Senator P.F.C. Ozouf: .....	146

14.4	The Connétable of St. Clement: .....	146
14.4.1	Deputy J.H. Young: .....	146
14.4.2	Senator I.J. Gorst: .....	147
14.4.3	The Connétable of St. John: .....	147
14.4.4	Deputy J.M. Maçon:.....	147
14.4.5	Senator L.J. Farnham: .....	147
14.4.6	Deputy M. Tadier:.....	147
14.4.7	Deputy A.K.F. Green .....	148
14.4.8	The Deputy of St. Martin: .....	148
14.4.9	Deputy J.A. Martin: .....	148
14.4.10	Senator F. du H. Le Gresley: .....	148
14.4.11	The Connétable of St. Clement:.....	149

<b>ADJOURNMENT</b> .....	<b>150</b>
--------------------------	------------

[9:31]

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

**COMMUNICATIONS BY THE PRESIDING OFFICER**

**1. The Bailiff:**

I have no matters under A.

**QUESTIONS**

**2. Written Questions**

**2.1 THE CONNÉTABLE OF ST. LAWRENCE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING LOANS TO LAND OWNERS REGARDING REMEDIAL WORK TO PREVENT ENCROACHMENT ONTO MAIN ROADS:**

**Question**

In view of the Minister's responsibilities under the Loi (1914) Sur la Voirie to maintain main roads and prevent any encroachment onto them, will the Minister, following a number of landslides onto main roads around the Island (and in particular, onto Mont Felard in St Lawrence when the main road was blocked for some months), have formal discussions with the Minister for Treasury and Resources to progress the idea of enabling loans by the States to landowners to enable them to undertake remedial work to either prevent encroachment onto main roads or to remediate encroachment?

**Answer**

The Minister for Transport and Technical Services has responsibilities under the Loi Sur La Voirie I also have restrictions which preclude me from acting in the event that a landslide occurs from land in private ownership. In this instance it is the responsibility of the landowner to repair the landslide and not the Highway authority. Under the Loi sur la Voirie (1914) the Connétable also has powers to require the owner to remove the collapse even though it may be entirely due to natural causes.

When land slips occur from private land on the public highway my officers meet with the landowners to encourage them to realise their responsibilities and to persuade them to undertake the works as quickly as possible. This can often be a protracted period due to the potential cost of remedial works that the land owner faces.

The Transport and Technical Department's (TTS) responsibility is to ensure that the road is safe for the public to use and this can mean road or lane closures for the period from the collapse to the completion of the works to rebuild the slope or wall. In some situations this can result in long delays and inconvenience to the public.

I am happy to commit to discussions with the Minister for Treasury and Resources and revert back to the Connétable with the outcome of those discussions.

**2.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE JERSEY ELECTRICITY COMPANY AND RECENT TRENCH WORK:**

## Question

Would the Minister inform members whether that the JEC will need to re-open some of the company's recent trench work in order to put the new high voltage cable into the ducting and, if so, advise where those road works will be, when they will take place and for how long, and how his department will mitigate any ensuing traffic disruption?

In the event some of that work will be in the newly re-surfaced Rue à Don, would the Minister explain how that fits in with the moratorium on digging up freshly re-surfaced roads?

## Answer

There are three remaining 'road work' packets associated with the JEC's 'Normandie III' project to be carried out on roads administered by TTS by its contractor Prysmian Group (and sub-contractor Jayen):-

- La Rue a Don - Construction of Joint Bay 5 / 6 and Cable Pulling – 12<sup>th</sup> March to 12<sup>th</sup> April: The work is being carried out under Portable Traffic Signals and is located between La Cache des Pres and Paddock End. This section of road was specifically omitted from TTS' 'phase 1' resurfacing of La Rue a Don in 2013 and is not under embargo.
- Plat Douet Road - Duct Crossing – 13<sup>th</sup> to 27<sup>th</sup> April (Easter School Holidays): The work which will provide a link between recently installed ducts in La Grande Route de St. Clement (Inner Road.) and Green Road will provide the final link in the duct network from Gorey to South Hill. La Grande Route de St. Clement (the Inner Road.) will be closed at its junction with Plat Douet Road between 9am and 9pm daily from Sunday 13<sup>th</sup> April until Friday 18<sup>th</sup> April. The road will be then reopened over the Easter Weekend. Plat Douet Road will then be closed between Green Road and La Grande Route de la Cote (the Coast Road) until Sunday 27<sup>th</sup> April.
- La Greve d'Azette - Construction of Joint Bay 1 / 2 and Cable Pulling – 28th April to 14th June: The work is being carried out under Portable Traffic Signals and will be located just to the east of Beach Road with the joint bay being sited off to the side of the road.

None of the above works are sited on newly resurfaced road.

Note: Unrelated to this the JEC have agreed to fund the full lane width resurfacing of the Coast Road from Green Road to South Hill, which will be carried out by TTS once the JEC's trench line has been deemed stable and unlikely to settle.

## **2.3 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE FUEL CONSUMPTION OF THE OLD INCINERATOR AND THE ENERGY FROM WASTE PLANT:**

### Question

Would the Minister provide details of the following figures -

- 1: the overall consumption of fuel oil used in the assistance of combustion by the old three stream incinerator in the years 2001 to de-commissioning, by year;
- 2: the overall consumption of fuel oil used in the assistance of combustion by the new Energy from Waste plant by year since commencement?

**Answer**

1. The old three stream incinerator did not use auxiliary fuel oil to assist with or initiate the combustion of waste. This is because the old plant was not designed to be Waste Incineration Directive (WID) compliant.
2. The new La Collette plant is WID compliant and part of the criteria for WID is that the plant must not process waste when the furnace temperature is below 850°C. Fuel oil is used to raise the furnace temperature above 850°C so that waste can then be introduced into the furnace in compliance with WID. A small amount of fuel oil is used to supplement combustion if waste with an abnormally low calorific value is fed into the furnace. The supplementary fuel is only used for a short period until the waste returns to a normal calorific value and normal unassisted combustion is stable.

The quantity of fuel oil used is listed below:

<b>Year</b>	<b>Fuel Oil (kg)</b>
2011	582,3201
2012	108,2861
2013	106,2251
2014	8,9032

1. Much of the fuel oil was used for the commissioning and testing of the plant. It is expected that the fuel oil consumption will drop this year and in future years.
2. 2014 figures for January and February.

**2.4 THE CONNÉTABLE OF ST. JOHN OF THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE REGARDING AMENDMENTS TO INFORMATION TECHNOLOGY EXPENSES FOR STATES MEMBERS:**

**Question**

Following the announcement of changes to the means of providing and funding IT services for States members will the Chairman explain –

- (a) why the decision was taken to change the previous method of paying broadband costs as part of phone billing;
- (b) how the new funding mechanism will operate and, in particular, whether members will have to prove that they have spent their allowance on IT technology, what happens to expenses for members who have already stated they will not stand again for election and whether part of the sum will be reclaimed if a member loses his or her seat at the election;
- (c) whether PPC will liaise with the Information Services Department to put in place appropriate methods to ensure that all equipment used is checked for legacy data clearance when a member leaves office?

**Answer**

- (a) The need to change the broadband billing refund system was effectively forced on the States by the introduction of the new Jersey Telecom billing system. Under the old JT system the company was content to receive payment for the cost of members' basic 2Mb broadband service separately from other parts of the phone bill paid by the member but when the new billing system was introduced JT made it clear that this would no longer be possible. The States Information Services Department and the PPC were therefore forced to consider an alternative method of paying broadband costs for members as has been done for some 10 years. The new system has the added advantage that members now have the opportunity to decide what broadband package they want in order to carry out their States work and gives them the opportunity to decide whether they want to claim expenses to cover the cost of their broadband provision, or to meet the cost themselves. As part of the change it was also decided to stop the provision of laptops to members and to allow them instead to use a wider range of devices than Information Services could supply and support under the previous arrangements.
- (b) The changes have been funded under the existing £31,000 budget for members' Information Services provision and have led to no increase in cost to the tax payer. This equates to an allowance of £600 per annum per States member. As 2014 is an election year, the allowance has been prorated down to £550. This is because members who are not elected for a further term of office will receive remuneration, including expenses, until the end of November 2014. Those members who are re-elected will be able to claim their December 2014 allowance at that time. Members have all received an Information Services Claim Form that they can submit to the States Greffe. To date, 23 States members have requested an allowance, totalling £12,650. If members continue to receive the basic JT broadband package, this would cost £17.99 per month, equating to £215.88 per annum, which is over one third of the provided allowance. The IS department will also no longer be required to maintain devices which have been purchase privately. Members are not required to prove that the money has been spent on information technology, but in filling out the form they specify the amount they wish to claim, which is stated as being "towards the cost of the provision of hardware, software and broadband services in relation to my work as a States member". The States Members' Remuneration Review Body will be asked to consider how the expenses can be reflected within the standard expenses allowance from 2015. This was communicated to members in my letter of 3rd January 2014.

- (c) PPC has been informed by Information Services of the already existing protocols regarding legacy data. If a member has a States of Jersey issued laptop then Information Services will work with the member at the end of their term of office to remove information that is personal in nature. The device will then be securely wiped and returned to Information Services. Corporate email will be wiped from any device, whether it is the member's own, or corporate, at the end of the member's term of office or on the validated request of the Privileges and Procedures Committee or the Greffier of the States. This process can be completed remotely by Information Services. Other information that might be related to, but is not clearly identified as corporate, will not be dealt with unless the Committee specifically asks Information Services to be involved. Such information may include, but not be limited to, physical letters that have been created in Word, saved, printed and sent by post or emails that have been sent from non-States of Jersey accounts. States members are all subject to Data Protection requirements, which also apply to any paper documentation in the possession of any States member.

## **2.5 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING BUDGET UNDERSPENDS AND THE COST OF CANCER DRUGS:**

### **Question**

Further to the situation that arose last year when a patient who had been sent from Jersey to Southampton and recommended treatment using the drug cabazitaxel was declined this treatment on return to Jersey because this drug was not made available by the Hospital (even though it might have improved his quality of life before he passed away) will the Minister, in view of the budget underspend recently reported, give serious consideration to setting aside funds to ensure that the treatments recommended by specialists in Southampton can be implemented when patients return to Jersey and, if not, why not?

### **Answer**

The Department's 2013 under spend and approved use of this under spend is fully documented in the Minister for Treasury and Resources' decision MD-TR-2014-0011.

This has been considered by Council of Ministers and approved by the Minister for Treasury and Resources as set out in MD-TR-2014-0011. This includes funding for a number of very urgent and largely unavoidable clinical priorities including essential high cost off island placements, a targeted reduction in the waiting time for surgery, and measures to manage hospital capacity pending the development of new hospital facilities.

I have given this issue serious consideration to a whole range of issues including this one. In discussion with clinical colleagues and have concluded that for 2014 the existing policy remains.

As I explained in my answer to my oral question 7790 / 2013; importantly all treatments recommended by specialists from Southampton and other UK specialist centres are individually clinically considered and assessed according to our existing policy.

## **2.6 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE MONITORING OF WATER FOR THOSE HOUSEHOLDS NOT ON THE MAINS WATER SUPPLY:**

### **Question**

Following the exceptional rainfall over the winter period, what action, if any, was put in place by the department to encourage households not on mains water to have their domestic water supplies tested for bacteria, e coli, etc. and did any advertising take place to warn householders of the potential danger from run off from land or soak-aways getting into their private water supplies?

Does the Health department work with the Environment department to manage potable water supplies to households, in particular where very young children or vulnerable people of all ages are present? Will the Minister work with Minister for Planning and Environment to put funding in place so households can get their drinking water tested free of charge or at least review the charges with a view to reducing the current fees charged for testing?

Has the Minister raised with the Council of Ministers the issue of additional funding to extend mains water supplies to improve health during her term of office and does she support TTS' moves to extend main drains to the last 13% of the island?

What action has her department taken in response to the St John slurry contamination incident on 24th February?

### **Answer**

In answering this question I also refer the Connétable of St John to the answer I gave to his question 1240/5(7788) of 10 September 2013.

The "mains" supply of potable water is managed by Jersey New Waterworks and water rates are paid for such supply. Where residents choose not to access this supply, or are unable to, other arrangements are made, most commonly a borehole supply. The Environment Department licences abstraction from boreholes. Clearly, properties connected to such supplies are not subject to water rates. Typically such a supply will be fitted with the necessary filters to ensure a wholesome supply, and the maintenance of such equipment is the responsibility of the owner. Similarly, the property owner is responsible for arranging for tests on their own supply. These are carried out by the Public Analyst. Where adverse results are found the supply users are referred to the Public Health Department where advice is available on remedying.

The department encourages everyone not on the mains supply to have regular tests on their water supply. This is to ensure that the water is safe and that any treatment on the supply is functioning well. Advice is available on the States of Jersey website.

Any borehole supply should have sufficient source protection to prevent direct contamination from run-off, even in the wettest of conditions. Wells may be more susceptible to direct contamination, but again suitable source protection should prevent this.

It is possible that the groundwater becomes more polluted than usual during certain climatic conditions, and we would recommend that any private water supply should have treatment fitted capable of dealing with such spikes in pollution.

No advertising took place with regard to private water supplies and potential contamination.

The Health Department does work with the Environment Department with regard to water quality. Advice is given to pregnant women and mothers of small children with regard to water quality, in particularly increased nitrate concentrations.

The charges for testing water supplies are set by the States Official Analyst. It is for the owner of the supply to ensure that a supply is safe, and a test should be part of a maintenance regime for their system. The costs would be part of ensuring their supply was safe. People on private supplies do not pay water rates and this should go some way to offsetting costs of operating a private supply.

I have not raised with the Council of Ministers the issue of additional funding to extend mains water supplies. The department would support as many properties as is practicable being connected to mains drains.

The department has been working with the responsible agency which is taking the lead on the St John incident, and is ready to give advice on health related issues should that be necessary.

## **2.7 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING CHARGING FOR MUSIC LESSONS:**

### **Question**

Further to the lack of reply to date from the Minister to an e-mail sent on 16th March 2014 would the Minister now respond to the questions raised in that e mail, namely -

1. Why is Jersey following the United Kingdom in deciding to charge for music lessons?
2. If charges are introduced what safeguards will there be for children from families who are in a middle income bracket and who do not qualify for lessons paid for by the States but who cannot afford to pay themselves and, if no safeguards are in place, would the Minister take action to rectify this imbalance?
3. Is the Minister's department recommending that some music lessons are moved to Saturdays and, if so, why was this decision taken when many students take part in sport activities which are beneficial for their health on Saturdays and will now have to choose between sport and music? Would the Minister agree to change the school curriculum instead to accommodate both?
4. Will the Minister undertake to review the decision to charge for music lessons and carry out a review of the proposed changes?

### **Answer**

1. The rationale for this change was set out in P36/2013 Jersey Music Service: Introduction of 'user pays' charges, which was approved by the States on 30 April 2013. States Members voted 31 to 9 in favour of the proposition, with one abstention. A copy of the proposition is attached for information. I would also refer the Connétable to the Hansard record of the debate and the comments of the Scrutiny Panel that reviewed the proposal.

This matter had also been considered previously as part of the Comprehensive Spending Review and Medium Term Financial Plan so it has been in the public domain for some time.

2. The introduction of the charges was a difficult decision but it has been the catalyst for the JMS to review and update what it does. This excellent service will be reinvigorated and expanded as a result, while still providing the popular range of ensembles, orchestras and concerts it previously did.

To recap my position, I would like to continue to provide this service free of charge but that is no longer possible. ESC has to focus its expenditure on its core, statutory responsibilities. The lessons provided by the Jersey Music Service are not part of this. They are extra-curricular and, like many other hobbies followed by young people, are optional and followed by those who choose to do so.

The service is still heavily subsidised by the States. To assist middle income families the fees have been kept as low as possible and are generally less than the charges levied by private tutors. Also, there are appropriate safety nets in place that will ensure free or reduced price lessons to support:

- Families with more than one child using the service;
- Children from families that receive Income Support;
- Musically talented children from families with an income of less than £47,000.

The introduction of the user pays charge gives the JMS an opportunity to generate its own income (much as a fee-paying school does) rather than rely on a limited fixed budget. It can use the new income to recruit additional tutors and meet extra demand that it cannot currently cater for. The aim is that this, combined with the safety nets, will result in more children from a wider range of schools having access to the service.

3. Some – not all – lessons are being scheduled for Saturdays but only because parents have specifically requested to have them outside the school day. Other students will still be able to have them during weekdays as has always been the case. This is another improvement to the existing service, which has responded to customer demand. Lessons are optional and times/days are entirely a matter of parental choice. They can be arranged to best meet the needs of particular students and their parents and the JMS will try to accommodate requests if families raise concerns.

Music and sport will both remain part of the school curriculum that is taught during the school day.

4. P36 committed to reviewing the charging system after the first three years of operation and this will take place in the summer of 2017. In the meantime, the JMS managers will be monitoring the uptake of the service and reacting to customer requests.

## **2.8 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR SOCIAL SECURITY REGARDING BENEFIT FRAUD IDENTIFIED OVER THE LAST FIVE YEARS:**

### **Question**

Would the Minister inform members of the total value of fraud that has been identified by the Social Security department over the period 2009 to 2013 breaking the total down into the categories of fraudulent claims for sickness, unemployment, pensions, income support and others?

How many people were convicted in court in relation to these frauds and what value of funds was recovered over this period?

**Answer**

The Department introduced a new fraud strategy and increased manpower during the latter part of 2010, enabling a more proactive approach to combatting fraud. In addition the Department receives support from the public who provide anonymous information on potential benefit fraud via the dedicated fraud hotline 0800 735 1111 and webpage [www.gov.je/Benefits/BenefitFraud](http://www.gov.je/Benefits/BenefitFraud).

All leads relating to potential fraud are investigated and are prioritised based upon the quality of the information provided, the likely risk of the fraud occurring, and the value of any potential overpayment.

Often leads are identified as genuine mistakes from claimants rather than fraud and these can be quickly rectified and repayment arranged. However, in the event that fraud is suspected investigations are conducted in accordance with PPACE (Police Procedures and Criminal Evidence (Jersey) Law 2003), and RIPL (Regulation of Investigatory Powers (Jersey) Law 2005).

During the years 2009 – 2013, the Fraud Team has identified and taken action to recover amounts as per the table below. There has been an increase in the sums, identified by this Team, of amounts incorrectly or falsely claimed, including fraud, since 2010 when the Department implemented a new approach for fraud detection.

	2009	2010	2011	2012	2013
Income Support	£61,847	£190,892	£476,240	£479,630	£398,615
Sickness & Invalidity benefits	£23,741	£144,908	£77,858	£42,878	£63,191
Survivors benefits	£0	£6,729	£53,573	£60,466	£0
Other benefits	£13,093	£0	£0	£863	£2,396
Total per year	£98,682	£342,531	£607,671	£583,841	£464,203*

\*The total value detected in 2013 although less than in previous years does not include 5 fraud cases which were referred for prosecution during 2013 with a value of £113,093. None of these cases have been heard to date and we are still awaiting court dates.

The time taken to conclude an investigation varies depending on the nature and complexity of the case. A simple case may be a few hours' work, but something much more complex, and of a greater monetary value, that could be referred for criminal prosecution can take months from beginning to end.

The Department will, in all cases, endeavour to recover all monies falsely claimed either fraudulently or otherwise. In the first instance repayment is requested in the form of a lump sum. If there is an ongoing claim we can recover from current entitlement or in some cases, based upon each individual's financial circumstances, by way of an instalment agreement. If they renege on an agreement to repay we may seek a Petty Debts or Royal Court Judgement to safeguard the debt. When a compensation order is granted by the Court, payments are made directly to the Viscount's Department and we do not receive the funds until the debt is paid in full.

The Department considers prosecution where appropriate, which is both time consuming and costly to the States of Jersey. All cases are reviewed regularly throughout the investigation ensuring that they meet the criteria outlined in the Centeniers' Guidelines. This ensures that time and effort is spent appropriately, and that the investigation is proportionate to the alleged fraudulent activity. The final decision to prosecute rests with the Attorney General.

Between 2009 & 2013, there were 20 prosecutions where convictions were secured. As mentioned above, there are 5 prosecutions pending court dates.

**2.9 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING THE COLLECTION OF BANNELAIS IN PARISHES:**

**Question**

Would the Chairman advise which of the parishes continue to collect bannelais and, for those that do, do they dispose of it for agricultural or other purposes?

**Answer**

Bannelais, or road sweepings, are collected by 3 parishes. St Brelade use it for composting; St Peter use it for any purpose for which it is suitable (but report that demand is almost non-existent); and St Helier (which by agreement with the Transport and Technical Services Department now deals with only those roads within the ring road) do not use it for agricultural or other purposes.

Five other parishes (Grouville, St John, St Mary, St Ouën and Trinity) use a contractor and we understand the contractor uses the bannelais for agricultural purposes.

**2.10 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR HOME AFFAIRS REGARDING THE NUMBER OF STAFF RESIGNATIONS AT H.M.P. LA MOYE OVER THE LAST FIVE YEARS:**

**Question**

How many prison staff, by job function, have resigned in each of the last five calendar years and what reasons were cited?

**Answer**

Staff are not obliged to cite reasons for resigning from their place of employment and when they choose to do so, they are entitled to confidentiality. Consequently, my response is intended to provide the information requested without identifying any particular individual.

The table provides a breakdown of resignations by role each year. The reasons for leaving (although not always expressed in the letter of resignation) were as follows:

Leaving Jersey - 10

New Job - 12

Personal - 12

	Senior Prison Officer	Prison Officer*	Operational Support Grade	Civilian Support Grade**	Civilian Grade***
2009		1	2		1
2010		4		1	2
2011		4	1	1	3
2012	2	1		1	3
2013		3		2	2

\* Prison Officer includes Nurses

\*\* Civilian Support Grade includes vocational training instructors, catering officers and engineers

\*\*\* Civilian Grade includes teachers, psychologist or psychological assistant, drug and alcohol counsellors and administration support staff.

These figures do not include staff members who have retired having reached pensionable age.

#### **Staff Complement 2013:**

Senior Prison Officer	Prison Officer	Operational Support Grade	Civilian Support Grade	Civilian Grade	TOTAL
13	97	0	21	25	156

#### **2.11 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING ACCESS TO MENTAL HEALTH SERVICES:**

##### **Question**

Will the Minister advise what steps, if any, are being taken to improve provision of, and access to, mental health services in the Island, including the reduction of waiting times to see psychologists and will she also include in her answer details any additional funding and resources that are being made available, including timelines?

**Answer**

The Health and Social Services Department is now at a transformational time in relation to the provision of psychological therapy on the Island and is in the implementation phase of "Jersey Talking Therapies". This means that there will be increasing numbers of staff who will work directly with individuals that have mild to moderate difficulties such as anxiety and depression to provide psychological therapy at the right place and at the right time into the future.

HSSD has just this week advertised to recruit some 13 staff. Of this 13 new staff, 8 will be Psychological Therapists who will offer up to 20 sessions of therapy and 5 will be Psychological Well Being Practitioners who will offer shorter interventions for individuals lasting up to 8 sessions. It is hoped that all of these staff will be in place within a few months.

This increase in investment in 2014 is just over £700,000 growing to an additional £1.13m investment in services in 2015. To manage and reduce the current wait within the Psychological Assessment and Therapy Service, HSSD is employing a full time locum psychological therapist who is due to start next month. This should reduce the waiting list. This year there will be a comprehensive review of all the mental health services provided. This work will inform a new Island-wide Strategy for Mental Health which will set out the strategic direction for services and facilities in the Island.

In addition, work is underway reviewing the Island mental health legislation.

**2.12 DEPUTY M.R. HIGGINS OF ST HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING A BREAKDOWN OF COURT AND CASE EXPENDITURE FIGURES:**

**Question**

Will the Minister -

- (a) provide a breakdown of the actual expenditure figures given in his answer to a question on 18th march 2014 on court and case costs (1240/5/(8205)) setting out the main expenditure items (budget headings) for the years 2003 and 2013 so that members can fully understand what the money was spent on and trends in expenditure;
- (b) explain in detail the changes to legal aid, guardians in children's cases, reductions in external legal advice referred to in the previous answer?

**Answer**

- (a) The level and breakdown of Court and Case Costs incurred is dependent on type and number of cases and will vary significantly between financial years. Court and Case Costs incurred

between 2006 and 2013 under their budgetary headings as they appear in the Annual Financial Report and Accounts are as follow;-

Area of spend	2006	2007	2008	2009	2010	2011	2012	2013
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Staff Costs	488	607	672	1,201	802	235	378	488
Supplies and Services	2,567	7,667	7,698	10,682	11,636	7,850	7,289	6,718
Administrative Expenses	99	107	186	299	201	742	205	288
Premises and Maintenance	35	32	58	38	43	0	22	0
Other Operating Expenses	0	0	0	0	0	0	3	26
<b>Total</b>	<b>3,188</b>	<b>8,412</b>	<b>8,614</b>	<b>12,220</b>	<b>12,682</b>	<b>8,826</b>	<b>7,898</b>	<b>7,520</b>

Prior to 2006 Court and Case Costs were recorded and classified in a different way, and whilst it is possible to obtain the information from the accounting system, we would not be able to produce it in the deadline given. Should the Deputy wish to obtain this additional information, more time will be required.

- (b) The changes to legal aid referred to in the previous answer relate to a fixed fee procurement process in which lawyers on the Public Law Children's Panel are invited to submit competitive fixed price bids. This has been in place since 2011 and has achieved a reduction in total expenditure by replacing the previous system in which lawyers were paid at a fixed hourly rate. Payments made to lawyers representing the parents in children's cases have mirrored the fixed fee payments and this, too, has achieved savings over previous methods of remuneration. Since 2012, significant savings have been achieved through appointing more local Guardians and greater standardisation of fees and expenses for external or non-local Guardians. The significant reductions in expenditure from Court and Case Costs in the years 2011 to 2013 from the amounts expended in 2009 and 2010 demonstrate that far more Children's and Criminal work has been delivered internally and that other expenditure on external legal advice has been monitored and controlled more effectively.

### **2.13 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING CONSTRUCTION AND ENGINEERING SERVICES:**

#### **Question**

Will the Minister set out for members for the period 2003 to 2013 details of -

- (a) all the construction and engineering courses offered to students leading to a qualification, showing the numbers who started and qualified in each course at the end of the year;
- (b) all the computer courses offered to students leading to a formal qualification, showing numbers of students who started and qualified at the end of each year?

#### **Answer**

It has not been possible to compile this information within the limited time available. The Department will prepare the answer and forward it to Deputy Higgins as soon as possible and circulate it to States Members.

**2.14 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE CRIMINAL OFFENCES CONFISCATION FUND:**

**Question**

Will the Minister set out for the period 2003 to 2013 the amount of money received into the Criminal Offences Confiscation Fund in each year and detail, using main budgetary headings, how this money was distributed in each year?

**Answer**

The amount of money received and expenditure incurred between 2003 and 2013 as listed under their budgetary headings within the Annual Financial Report and Accounts were as follows:-

Area of Income and Expenditure	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
<b>Income</b>											
Investment Income	(106)	(455)	(535)	(378)	(721)	(392)	(28)	(76)	(146)	(102)	(51)
Other Income	(6,314)	0	0	(775)	(436)	(482)	0	(7,791)	(29,000)	(469)	(1,875)
<b>Expenditure</b>											
Staff Costs	0	0	160	304	0	0	0	0	0	0	0
Supplies and Services	0	0	0	0	0	0	23	7	1	1	2
Administrative Expenses	278	305	156	248	7	4	0	0	0	0	0
Other Operating Expenses	0	0	0	0	616	1	7,999	100	22,566	470	8
Grants and Subsidies Payments	0	0	750	455	4,608	3,374	3,616	1,202	404	506	108
<b>Total</b>	<b>(6,142)</b>	<b>(150)</b>	<b>531</b>	<b>(147)</b>	<b>4,074</b>	<b>2,505</b>	<b>11,609</b>	<b>(6,557)</b>	<b>(6,176)</b>	<b>406</b>	<b>(1,808)</b>

The level of income received and expenditure incurred by the Criminal Offences Confiscation Fund is dependent on case activity. For example, in 2011 a large confiscation (£29 million) and subsequent expense (£22.6 million) was incurred which related to an assets sharing agreement following the Bhojwani case.

The Criminal Offences Confiscation Fund is used in accordance with Article 24 of The Proceeds of Crime (Jersey) Law 1999. Monies in the Fund do not form part of the annual income of the States and are a Special Fund for the purposes of the Public Finances (Jersey) Law 2005. They have been applied for the following purposes:

- (a) (i) in preventing, suppressing or otherwise dealing with criminal conduct,
- (ii) in dealing with the consequences of criminal conduct, or
- (iii) without prejudice to the generality of clauses (i) and (ii), in facilitating the enforcement of any enactment dealing with criminal conduct;
- (b) discharging Jersey's obligations under asset sharing agreements; and
- (c) meeting the expenses incurred by the Minister in administering the Fund.

Applications for use of the Criminal Offences Confiscation Fund are submitted to the Treasury by Departments. Before supporting any measure and distributing any funds the Attorney General and other appropriate persons or bodies are consulted. Grants paid during the period 2003 to 2010 and in 2012 mainly related to payments made to Law Officers' Department, Judicial Greffe, Viscount Department and Bailiff's Chambers for Court and Case Costs which exceeded base budgets in those years. The higher values relating to Court and Case Costs during the years 2007 to 2009, for example those relating to the complex Michel and Bhojwani cases, are shown below as a table:

Department	Year	Year	Year
	2007 (£'000)	2008 (£'000)	2009 (£'000)
Law Officers'	1,768	1,843	1,864
Viscount	158	86	50
Judicial Greffe	1,580	553	1,235
Bailiff's Chambers	139	96	187
Home Affairs	612	456	275

In addition to the above, the Fund awarded grants in the sum of £340,000 in 2007 and 2008 to the Jersey Financial Services Commission.

In 2011 and 2013 grants were paid to the Home Affairs Department relating to the Fire and Rescue Service's 'No impairment of Service' Agreement and the Drunk and Incapable Unit and CCTV (£404,000 and £88,000 respectively), and in 2013 to the Judicial Greffe for Domestic Abuse Training.

**2.15 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE EXPENDITURE ON ENTERTAINMENT AND CIVIC FUNCTIONS BY THE CHIEF MINISTER AND BAILIFF'S CHAMBERS:**

**Question**

- (a) Will the Chief Minister set out for the period 2003 to 2013 how much money was spent in each year on entertainment, civic functions and celebrations -
- (i) by the Chief Minister; and
  - (ii) by the Bailiff's Chambers?
- (b) Will the Chief Minister set out all areas of duplication and difference between the activities of his office and that of the Bailiff in non-judicial and States functions and explain whether he considers that there are any areas that can be reallocated or discontinued in one or other of the offices?

**Answer**

(a)

Department	Year	Value	Description
Chief Ministers	2003	£7,729	
Bailiff's Chambers	2003	£16,876	includes Liberation Day celebrations
Chief Ministers	2004	£25,093	
Bailiff's Chambers	2004	£35,506	includes Liberation Day celebrations
Chief Ministers	2005	£607,932	includes Liberation 60 celebrations
Bailiff's Chambers	2005	£24,088	includes Liberation Day celebrations
Chief Ministers	2006	£8,230	
Bailiff's Chambers	2006	£24,898	includes Liberation Day celebrations
Chief Ministers	2007	£2,473	
Bailiff's Chambers	2007	£60,073	includes Liberation Day celebrations and distinguished visitors
Chief Ministers	2008	£7,647	
Bailiff's Chambers	2008	£43,541	includes Liberation Day celebrations and distinguished visitors
Chief Ministers	2009	£97,012	includes hosting of British Irish Council
Bailiff's Chambers	2009	£96,600	includes Liberation Day celebrations and distinguished visitors
Chief Ministers	2010	£86,481	includes hosting of Developing Countries Conference
Bailiff's Chambers	2010	£84,525	includes Liberation Day celebrations and distinguished visitors
Chief Ministers	2011	£20,041	
Bailiff's Chambers	2011	£93,385	includes Liberation Day celebrations and distinguished visitors
Chief Ministers	2012	£15,262	
Bailiff's Chambers	2012	£362,741	includes Liberation Day, HM Diamond Jubilee celebrations and distinguished visitors
Chief Ministers	2013	£75,546	includes hosting of British Irish Council
Bailiff's Chambers	2013	£165,088	includes Liberation Day , 350th Anniversary Mace celebrations and distinguished visitors

(b) The functions of the Bailiff as Civic Head are explained within the Review of the Roles of the Crown Officers presented to the States Assembly by the Chief Minister on 6th December 2010 (R.143/2010). The responsibilities of the office of Chief Minister are outlined in the latest report on Ministerial Responsibilities presented to the States Assembly by the Chief Minister on 18th February 2014 (R.19/2014). As can be seen from these documents, rather than there being areas of duplication, the respective functions and responsibilities of each position are different and complementary to each other.

## **2.16 DEPUTY M.R. HIGGINS OF ST HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE WAITING TIMES FOR MEDICINAL PROCEDURES:**

### **Question**

1. Further to the answer given on 19th January 2010 (5026) would the Minister provide an update, for each medical discipline/specialism (for example: cardiology, neurology, orthopaedics etc), of -
  - a. the number of consultants employed on a full time and part time basis in each area?
  - b. (i) the number of non-private health insurance people on waiting lists to see a consultant in each area; and  
(ii) the average waiting time for these to see the consultant?
  - c. (i) the number of private health insurance people on waiting lists to see a consultant in each area; and  
(ii) the average waiting time for these people to see the consultant?
2. The total number of operations performed in each discipline at the hospital for each year from 1st January 2008 to 31st December 2013 stating -
  - a. the number of private and non-private operations carried out in each discipline for each year;
  - b. the cost of performing these operations in each area for each year for non-private health insurance patients and private health insurance patients?
3. The number, disciplines and costs of locums and agency nursing staff employed by the hospital for each year from 1st January 2009 to 31st December 2013?

**Answer**

I kindly refer Deputy Higgins to the response given to question 5026 in 2010 which was identical to this question. I have therefore attempted to combine the answers for ease of reference.

**Answer to Question 1 a - Please see chart 1 below**

**Chart 1 Number of Consultant Posts**

Specialty	2010 Number of consultant posts	2014 Number of consultant posts
A&E	3	5
Anaesthetics	6	7
Community Dental	0.8	0.8
Oral Surgery	1	1
Orthodontics	0.8 +visiting	0.9 + visiting

ENT	2	3
General Surgery	3	
Vascular surgery		1
Urology		1.3 (0.3 = regular visiting consultant)
Colorectal surgery		1
Breast surgery		1
Trauma and Orthopaedics	3	3
General medicine and specialties	8	10
Obstetrics and Gynaecology	3	4
Ophthalmology	2	3
Paediatrics	3	3
Pathology	4	4
Radiology	4	4
Oncology	0.8	1.8
Psychiatry	4	8
<b>Total</b>	<b>48.4</b>	<b>62.8</b>

**Answer to Question 1 b (i) & (ii) - Please see chart 2 below**

**Chart 2 Waiting List Numbers and Average Wait Times**

Specialty	2010		2014	
	Numbers on list January 2010	Average wait in weeks	Numbers on list March 2014	Average wait in weeks in 2013
General Surgery  (Inc breast, vascular, plastic, colo-rectal)	361	18	379	6

Urology	178	22	453	10
Orthopaedics	382	11	1246	21
Paediatrics	123	14	73	8
Sports Injury	173	28	66	6
ENT	164	4	474	6
Ophthalmology	397	27	554	7
Pain	296	17	600	9
Gynaecology	167	9	291	6
Oral Surgery	147	5	416	14
Orthodontics	146	12	387	28
Community Dental	83	10	488	12
Diabetes	168	23	191	12
General Medicine  (inc endocrinology, rheumatology, nephrology, geriatric)	72	7	236	6
Respiratory	57	21	68	5
Gastro- enterology	205	48	270	17
Neurology	269	31	215	13
Cardiology	121	7	94	20
Dermatology	535	34	469	13
<b>Total</b>	<b>4044</b>		<b>6591</b>	

#### Answer to Question 1c (i) & (ii)

HSSD does not hold any information on private waiting lists or times as this is managed by the consultants in their independent private businesses. Almost all private out-patient consultations take place off HSSD premises.

**Answer to Question 2 a & b - Please see charts 3 and 4 below**

**Chart 3 - Number of Procedures by Speciality and Private or Public Patients**

The table below sets out the number of procedures, by speciality, for each of the years 2010 to 2013. The available data for 2008 & 2009 was provided in response to the question raised in January 2010.

Number of Operations	2010		2011		2012		2013	
	Private	Public	Private	Public	Private	Public	Private	Public
Summary Speciality								
Anaesthetics & Pain Management	269	533	303	584	388	540	346	640
Cardiology	2	23	23	118	58	178	32	177
ENT	323	730	353	773	311	789	307	748
Gastroenterology & Endoscopy	523	2,045	608	2,181	589	2,108	633	3,137
General Surgery	463	1,610	371	1,710	458	1,692	363	1,518
Gynaecology	320	1,037	355	1,024	315	1,084	300	913
Nephrology	0	21	0	6	0	10	0	8
Obstetrics	1	412	12	445	13	456	10	404
Ophthalmology	246	1,298	265	871	246	1,045	224	997
Oral Surgery	163	669	173	690	166	598	141	561
Plastic Surgery	67	32	62	28	59	39	56	24
Respiratory Medicine	0	0	11	41	9	80	3	73
Trauma & Orthopaedics	717	2,092	721	2,232	671	2,014	706	2,001
Urology	6	641	141	635	183	776	215	799
<b>Sub-Total</b>	<b>3,100</b>	<b>11,143</b>	<b>3,398</b>	<b>11,338</b>	<b>3,466</b>	<b>11,409</b>	<b>3,336</b>	<b>12,000</b>
<b>Grand Total</b>	<b>14,243</b>		<b>14,736</b>		<b>14,875</b>		<b>15,336</b>	

As reported in 2010 costs at this level of detail have not historically been available. These costs are available for 2013 and are shown in the table below.

**Chart 4 - Cost of performing operations by Specialty and Public or Private Patients**

Cost of Operations	2013	
	Private	Public
Summary Specialty	£	£
Anaesthetics & Pain Management	72,589	196,865
Cardiology	7,798	70,796
ENT	147,317	487,058
Gastroenterology & Endoscopy	129,041	637,024
General Surgery	262,849	1,443,518
Gynaecology	171,300	616,209
Nephrology	-	10,142
Obstetrics	6,461	368,769
Ophthalmology	96,175	566,497
Oral Surgery	49,255	324,551
Plastic Surgery	48,847	33,464
Respiratory Medicine	894	18,616
Trauma & Orthopaedics	858,990	3,031,707
Urology	83,436	370,389
Sub-Total	1,934,952	8,175,603
Grand Total	10,110,555	

Note 1: The costs above include only the direct costs of performing operations.

Note 2: Private patient costs are fully recovered through charges raised.

### Answer to Question 3 - Please charts 5 and 6

#### **Chart 5 Medical Agency Costs and Numbers of Locum Doctors Used**

	Total cost 2010	Total cost 2011	Total cost 2012	Total cost 2013
<b>Annual Cost</b>	£1,635,659	£2,252,920	£1,799,508	£2,081,315
<b>Number of Locum Doctors Used</b>	304	322	261	234

#### **Chart 6 Nursing Agency Costs and Numbers of Locum Nurses Used**

	Total cost 2010	Total cost 2011	Total cost 2012	Total Cost 2013
<b>Annual Cost</b>	£985,360	£1,038,933	£923,643	£810,788
<b>Number of Agency Nurses Used</b>	Not available	Not available	97	84

**2.17 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE SEARCH FOR A SUITABLE SITE FOR CONTROLLED SORTING OF WASTE FROM SKIPS:**

**Question**

Will the Minister inform the Assembly whether, since his election as Minister, he has taken any steps towards, or made any progress whatsoever, in identifying a suitable site in public ownership for controlled sorting of waste from skips by private operators, in fulfillment of the decision of the Assembly on 29th September 2010 which approved the proposition entitled “Recycling of waste materials: identification of suitable sites” (P.97/2010) as well as his predecessor’s commitment in answer to a question on 18th January 2011 and, if not, will he explain why he has not given instructions that this requirement is be included in the plans for the proposed new recycling centre on land within the department’s management at La Collette?

**Answer**

I do not believe that it is the role of TTS to identify publicly-owned land for private uses. It is the responsibility for private waste operators to identify their own land-use requirements and either apply for planning permission in the normal way, or gain wider acceptance of their site requirements through the Island Plan process.

The Transport and Technical Services Department is responsible for the Solid Waste Strategy and good practice is to encourage waste prevention and reuse before recycling or disposal. Construction and demolition sites should avoid mixed waste generation and residual waste should not be mixed at the point of generation, eliminating the creation of mixed loads that require separation before recycling and disposal. Planning require site waste management plans for larger developments which support this approach. With good practice of source separation the need for a mixed load sorting facility would be negated.

To incentivise this good practice the Department charges range from £119.99 up to £188.90 per tonne for mixed loads compared with £4.17 per tonne for recyclable inert waste loads. This policy has been effective with mixed loads received at La Collette falling consistently from 22 in 2008 to 2 in 2013.

The continual decline in mixed loads received indicates that the construction industry is reducing mixed loads by separating the waste at source to avoid mixed load charges and increase recycling. This suggests that the need for a mixed load sorting centre has fallen away.

**2.18 DEPUTY G.P. SOUTHERN OF ST HELIER OF THE CHIEF MINISTER REGARDING O.E.C.D COMMON REPORTING STANDARDS:**

**Question**

Does the Chief Minister accept that in signing up to the OECD Common Reporting Standard (CRS), rather than simply “committing ourselves to early adoption of the highest standards in tax transparency” and “inviting others to join us” Jersey has been reluctantly forced by the UK and US authorities into automatic tax information exchange, otherwise known as “a level playing field” which the Island has hitherto refused to recognise?

Does the Chief Minister further accept that, whilst the agreement refers to tax evasion, the Common Reporting Standard in fact covers a broad scope of financial assets and institutions and account holders, including individuals and corporate entities such as shell companies, which will limit the scope for “tax avoidance” activities, in which the Island specialises as well as “evasion” activities?

#### **Answer**

Jersey has not been reluctantly forced by the UK or the US authorities into automatic exchange of information (AEOI). Jersey has been waiting for evidence of the existence of a level playing field in the global application of a common standard.

Jersey had no difficulty in entering into an agreement with the USA on a FATCA intergovernmental agreement (IGA) because this is an agreement that has global application. This is why Jersey was one of the first countries to enter into an IGA with the USA.

The Common Reporting Standard (CRS) issued by the OECD and endorsed by G20 Finance Ministers has also been welcomed by Jersey because of its global application. We are one of the 44 countries that are in the "early adopters group" which issued a joint statement of commitment two weeks ago.

The CRS follows the IGAs in focussing on tax evasion. To quote from the CRS: "Cooperation between tax administrations is critical in the fight against tax evasion and in protecting the integrity of tax systems. A key aspect of that cooperation is exchange of information".

In June 2013 OECD Ministers called on "all jurisdictions to move towards automatic exchange of information and to improve the availability, the quality and the accuracy of information on beneficial ownership, in order to effectively act against tax fraud and evasion". Jersey is fully supportive of these initiatives and has been recognised for the action it has taken.

It is expected that, with automatic exchange of information, jurisdictions will have information that will prompt requests for further information, using the exchange of information on request provisions in the TIEAs, the DTAs and the Multilateral Convention on Mutual Administrative Assistance in Tax Matters, of which Jersey will be a party.

Jersey will continue to respond positively to such requests, which may well relate to "abusive" tax planning schemes. If so, this information will also be helpful to us in seeking to ensure Jersey is not involved in such schemes. The assistance of HMRC has already been sought in their identification.

#### **2.19 DEPUTY G.P. SOUTHERN OF ST HELIER OF THE CHIEF MINISTER REGARDING THE ACTIONS OF P.F.I. COMPANIES TO AVOID PAYING U.K. CORPORATION TAX:**

##### **Question**

Notwithstanding his response to a question on 18th March 2014 on tax schemes (8190), what action, if any, will the Chief Minister take on the actions of PFI companies such as Alder Hey (Special Purpose Vehicle) Ltd to avoid paying UK corporation tax via the payment of high interest rates on loans from its Jersey-based owners Henderson Infrastructure?

Is the Chief Minister content that Jersey should be used as a base for company structures such as these which allow a company to move its profits around to avoid legitimate tax elsewhere and is

this regarded by the Jersey authorities as “abusive” tax planning or merely normal commercial practice?

**Answer**

Jersey will continue to have regard for the international action being taken on matters such as that referred to in the question.

Jersey has expressed its support for the comprehensive Action Plan being progressed by the OECD to address base erosion and profit shifting. One of the Actions is the development of rules to prevent base erosion through the use of interest expense.

Until these rules are known it would be premature and inappropriate to comment on any particular business practice.

**2.20 DEPUTY G.P. SOUTHERN OF ST HELIER OF THE CHIEF MINISTER REGARDING THE TRANSFER OF TERMS AND CONDITIONS OF STAFF WITH PRIOR AGREEMENT:**

**Question**

Can the Chief Minister assure members that no transfer of Harbours, Airport or Housing staff will take place to new employers prior to agreement being reached between employee representatives and the SEB over the transfer of terms and conditions and, if not, why not?

Does the Chief Minister accept that the TOPSE Good Practice Guide, as currently drafted, falls well short of the standards set by statutory TUPE in the UK in granting automatic transfer of many terms and conditions, and in parts amounts to little more than a “carte blanche” to do what it wants?

Is any “Code of Good Practice” that is merely an internal document capable of being amended at any time and, if so, does the Chief Minister recognise that it cannot offer equal protection to provisions contained in statutory terms?

**Answer**

The Incorporation of Ports of Jersey and the creation of a wholly owned States Housing Company is continuing in line with previously published timetables. Throughout the process, full consultation with the relevant trade unions has been actively pursued.

Management of both organisations are confident that staff are fully conversant with the transfer arrangements and there is continuing dialogue with their workforce representatives. There is no reason why the Transfer of Public Sector Employees (TOPSE) protocol, designed collaboratively with the Trade Unions, will not be effective.

The development of the TOPSE protocol by the Trade Unions (Prospect and Unite), Ports and Housing Management and Employment relations has created the framework which will be consulted upon with other recognised Trade unions in the SOJ, as part of the continuing programme of workforce modernisation. It is anticipated that the protocol will underwrite any transfer of staff and associated service to a third party.

The protocol provides a clear direction for how such transfers will work in the public service and delivers confidence that Public service employees will be treated fairly, transparently and be consulted with in such cases.

**2.21 DEPUTY G.P. SOUTHERN OF ST HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE IMPLICATUIONS FOR JERSEY'S TAX REGIME FOLLOWING THE U.K.'s CHANGES TO THE TAXATION OF PENSIONS:**

**Question**

What implications, if any, are there for the Jersey tax regime following the UK Chancellor's changes to the tax treatment of pensions in the most recent UK Budget?

**Answer**

There are no direct implications for the Jersey tax regime of the Chancellor of the Exchequer's proposed change to allow UK pension savers, once they reach the minimum pension age, unlimited access to their pension fund from April 2015, subject to paying income tax at their marginal rate on whatever amount is withdrawn in excess of the 25% tax free lump sum.

On 8 October 2013 a consultation was launched regarding proposed changes to Jersey's tax rules applying to pensions and pension schemes

(see: <http://www.gov.je/Government/Consultations/Pages/TaxRulesPensions.aspx>). One of the main aims of the proposed changes already proposed was to increase flexibility for pension savers, particularly in the context of approved occupational pension schemes where, under the existing rules individuals are required to make a choice between employment and retirement, barring them from the option of "flexible retirement" where they mix employment income and pension income in a way that suits their particular lifestyle.

The Tax Policy Unit and the Taxes Office have completed their review of the responses received to the consultation and a Report summarising those responses and outlining the key policy decisions arising from the consultation process will be lodged with the States after Easter.

**2.22 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE NUMBER OF PREMISES NOT CONNECTED TO THE PUBLIC SEWER NETWORK:**

**Question**

Will the Minister inform the Assembly of the number of premises throughout the Island which are not connected to the public sewer network and rely on private drainage systems, will he also inform the Assembly of the number of such systems which are in localities where it is known there is a high risk of ground water contamination polluting drinking water supplies?

Would the Minister further provide an estimate of the capital investment which would be required to connect properties in those areas to the public sewer network and state whether he intends the proposed liquid waste strategy to make provision for the need to eliminate such risk to drinking water and whether, in consultation with the Minister for Treasury and Resources, he will be

considering the option of introducing a sewerage charge as an equitable means of funding the investment required to do so at some time in the future?

### **Answer**

The number of premises throughout the Island not connected to the public sewer network is approximately 7,000.

In requesting the number of these premises in localities where it is known there is a high risk of ground water contamination polluting drinking water supplies it is assumed that this refers to the potential for private septic tanks and soakaways to pollute private boreholes/wells or the public water supply.

This is difficult to quantify as the potential risk will depend on groundwater levels, age, condition and maintenance of the private drainage system and the proximity of boreholes/wells or public water supplies (predominantly streams) to those drainage systems. TTS manage this risk by monitoring the demand for tankers to empty these systems and liaising with Environmental Protection who are more likely to receive complaints of this nature as part of their role regulating the Water Pollution (Jersey) Law 2000. It should be pointed out that private drainage systems and private boreholes/wells have an inherent risk and it is the responsibility of the owner to limit this by correct maintenance of their private drainage systems and by installing treatment for their private water supply. The public water supply is fully treated and therefore the risk of contamination is far lower.

The Public water supply is protected through the designation of Water Pollution Safeguard Areas under the Island Plan. There are approximately 2250 premises with septic tanks or soakaways in these areas. As mentioned, the potential for pollution from these could be negligible. However, the Capital investment required to connect these 2250 premises to the public sewer network would be of the order of £70m.

The Waste Water Strategy provides a prioritised and sustainable plan for rehabilitating and improving the sewerage network over a 20 year period. In the latter half of the strategy period, the strategy proposes recommencement of the foul sewer extension programme.

At that time, prioritisation of areas to be connected will include an assessment of tanker demand and by implication, will prioritise those properties most likely to cause pollution. A property's location in relation to Water Pollution Safeguard Areas will also be a consideration and therefore, a number of the properties in Water Pollution Safeguard Areas are likely to be connected.

However, it should be noted that pollution of drinking waters can be from a number of sources, not just sewage, and preventing localised pollution of drinking waters is probably best achieved by extensions to the mains drinking water network.

Currently, there are no plans to introduce a sewerage charge to fund infrastructure improvements.

### *Additional Information*

*Whilst there are approximately 2,250 premises within Water Pollution Safeguard Areas that are not connected to the public sewer network, there are approximately 7,000 premises that are. This equates to approximately 76% of properties in those areas.*

**2.23 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE STEWARDSHIP OF No. 1 OXFORD ROAD, ST. HELIER:**

**Question**

Will the Minister provide an chronology and account of the Property Holdings stewardship of the workshop and office building, 1 Oxford Road, St Helier, which in 1996 was left to the Island by the will of late Mr Harold Le Seilleur; and inform the Assembly of the Minister's proposals to ensure the will's intentions "for the benefit of the aged, infirm and needy residents of the Island" are realized?

**Answer**

The Oxford Road building, together with a number of residential properties, was left to the Public by the late Mr Le Seilleur. Stewardship of those assets rests with the Minister for Health and Social Services and until March 2013 the responsibility for the property lay with that Minister and Department.

Members may be aware that there have been two attempts in the recent past to dispose of the Oxford Road workshop, both of which were rejected by the States Assembly.

In April 2003 the (then) Health and Social Services Committee brought forward a proposition to dispose of the property (P52/2003) refers. This was defeated by 29 votes to 15.

The property was included for disposal in the Annual Business Plan 2007: Property Plan (P34/2007). The second amendment to that proposition, tabled by Senator B. E. Shenton, seeking to remove the Oxford Road property from the schedule of proposed disposal, was supported by 25 votes to 19 with one abstention.

In March 2013, the Health Minister signed a Ministerial decision (MD-HSS-2013-0011) requesting Jersey Property Holdings to, inter alia, carry out a review of the H E Le Seilleur properties and bring forward proposals for their future use.

Since that decision a number of actions have taken place:

1. A 'decent homes' survey of the residential properties has been undertaken, which has identified improvements to the properties that are required to bring them up to decent homes standards as well as other works that should be undertaken in the immediate, medium and longer term.
2. Investment advice has been secured with regard to the portfolio's composition.
3. A property and investment strategy based on the advice received has been drafted and discussed with the Health Minister.

Some urgent works funded from JPH revenue budget have been completed and others are in progress to address structural and health and safety issues at the Oxford Road property. These works include:

- decontamination of building floors and pest control within the building;
- support propping of the first floor and to roof areas;
- removal of asbestos based flue; and

- roof repairs to maintain a wind and watertight structure.

These works are being undertaken in full consultation with the Principal Historic Environmental Officer.

The draft strategy recommends the disposal of some of the properties within the portfolio, including the Oxford Road building. The draft strategy further recommends the reinvestment of funds from the disposals to both address the identified deficiencies in the properties and to provide an increase in the fund's cash available for investment in alternative asset classes.

It is anticipated that the draft strategy will be considered by the Health Minister within the next month and, subject to its approval, the process to dispose of the Oxford Road workshop will commence. Such a disposal would not be subject to Standing Order 168, as this applies to States assets only. The Le Seilleur properties are held by the States in trust.

The implementation of the strategy will also enable funds of £1 million to be released in the current year to support the refurbishment of The Limes residential home, as approved within the Medium Term Financial Plan.

Any other proposed use of funds outside the agreed maintenance and investment in the property portfolio must comply with the late Mr. Le Seilleur's wishes and will require the approval of the Health Minister.

## **2.24 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE NUMBER OF PROPERTIES NOT SERVED BY MAINS WATER:**

### **Question**

Will the Minister inform the Assembly of the number of homes in the Island which are not served by mains water and rely on private boreholes, and the number which are either known to have suffered recent bacteriological contamination of drinking water or are sited in localities which are believed are prone to contamination at times of high water table, and what action his department is able to take to prevent such contamination and his policy intentions towards drinking water supplies for any affected properties?

### **Answer**

The total number of households served by water supplies from private wells or boreholes that were either registered or licenced under the Water Resources (Jersey) Law 2007 was 3388 as at the end of 2013. The total number of people using these water supplies was about 9400 (approximately 10% of the Island's population).

Bacterial contamination of private water supplies can derive from a range of land use activities including private sewerage systems (septic tanks and soakaways), agriculture, areas used for dog walking and areas where flocks of ducks and geese congregate and road runoff. There is an inherent risk associated with using a shallow and unregulated water supply, particularly if the householder does not have any treatment installed or does not get the water tested regularly.

Environmental Protection officers from the Department of the Environment investigate all reported pollution incidents that affect private water supplies under the Water Pollution (Jersey) Law 2000. The major source of bacteriological contamination of private drinking water supplies is through the spreading of organic waste (slurry). Since 2009, officers have attended a total of five private water supplies that were contaminated by slurry.

The spreading of organic waste to land is a good way to re-use the nutrient in it, however, because of the Island's high population density and the large number of receptors such as private water supplies it has to be carried out with utmost and informed care.

The Department of the Environment uses a mixture of regulation, incentives and education in order to reduce the risks of water pollution occurring.

The Water Pollution (Jersey) Law 2000 allows for approved codes of practice to be approved by the Minister. The Code of Good Agricultural Practice for the Protection of Water is one such code "The Water Code (Jersey)". The Water Code sets out measures that farmers can take to prevent water pollution.

Another control that the Department has implemented as part of the Diffuse Pollution Project is to make the receipt of the Single Area Payment subsidy contingent on farmers meeting certain standards and levels of environmental performance (known as cross compliance). This includes compliance with this Water Code, along with other measures to limit or prevent pollution, such as the production of a farm manure and waste management plan, a pollution incident contingency plan, a pesticide recording system and a soil protection review.

There are many benefits of the registration and licensing of water sources, as required under the Water Resources (Jersey) Law 2007 Law. One such is the Farm Risk Map<sup>1</sup> which was developed by the Department and made available to farmers online. The map assists farmers to properly assess the risk of spreading agricultural slurry on specific fields. The map also highlights a 50 metre radius zone around each water source within which slurry should not be spread, and these are marked in red. A 'traffic light system' for individual fields is also incorporated to indicate the risk of pollution associated with spreading slurry. Certain fields close to water sources are marked orange to denote caution. Slurry application is permitted in such fields as long as it is not spread within 50m of a borehole or well, and other conditions (the type of crop cover, weather forecast etc.) suggest that the risk is likely to be low.

Prior to the implementation of the Water Resources Law the location of private water supplies was largely unknown. Thus the Law and the location map provides much better protection for owners and provides a useful tool for departmental officers when attending pollution incidents.

The Department has assisted farmers with the installation of slurry storage tanks on all Island dairy farms. The storage enables the farmer to better time and target the spreading of slurry. Slurry is currently stored over the winter period so that there is no need to spread it on fields in times of high winter rainfall/run-off and when the nutrients cannot be taken up by plant growth.

---

<sup>1</sup> The Farm Risk Map is available to the public as part of guidance on 'Preventing water pollution' on the States of Jersey website; (<http://www.gov.je/Industry/FarmingFishing/PlantsProduce/Pages/PreventWaterPollution.aspx>)

Notwithstanding, any reports of private water supply that are polluted received by officers (through the pollution hotline 24/7 number tel: 709535) will be fully investigated with enforcement action being taken according to the Water Pollution (Jersey) Law 2000 and Environmental Protection's Enforcement Policy as agreed with the Attorney General. In such instances, the Department will inform Health Protection who can advise householders of health aspects of contaminated drinking water. The re-installation of a clean water supply will normally be undertaken through the household's insurance and it is important that households with private water supplies check the provisions of their policy.

### **3. Oral Questions**

#### **3.1 Deputy R.G. Le Hérissier of St. Saviour of the Minister for Economic Development regarding the staff turnover at the Jersey Competition Regulatory Authority:**

Would the Minister enumerate the number of Executive Directors that have headed the J.C.R.A. (Jersey Competition Regulatory Authority) since September 2010 and indicate, in the light of the impending departure of the current Executive Director, whether he thinks the turnover is excessive and whether, combined with other staff turnover, this is impacting upon the output of the J.C.R.A.?

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

The Jersey Competition Regulatory Authority is led by a Board, which is independent of the States of Jersey. The Economic Development Department has a service level agreement with the J.C.R.A. in respect of the Competition Law grant and advice on competition policy. The J.C.R.A. has been going through a period of significant change, both in terms of the regulatory landscape and the creation of a pan-Channel Islands structure for the Jersey and Guernsey authorities. I agree with the Deputy that it would have been preferable to have people in key posts for longer periods of time, however the particular circumstances have not allowed that to happen. Since 2010 there have been 4 Chief Executives, however there are also 2 other Executive Directors that have been in post for a number of years. The C.I.C.R.A. (Channel Islands Competition Regulatory Authority) Board have announced that the current Deputy Chief Executive would assume the role of Chief Executive on an interim basis therefore ensuring some continuity. If the Deputy believes the Authority's output is compromised it would be helpful if he could be more precise so I could discuss any issues with the Authority during my regular meetings with the Chairman that might need to be addressed.

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

Has the Minister in his regular meetings covered the fact that there are apparently only 3 staff members left: 2 in Guernsey, one in Jersey, with 2 back-up administrative staff? Secondly, is he able to tell the House why the report, which was tendered in April 2012, on wholesale rates for the new fibre optic scheme has not been published and when it will be published?

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

With regard to staffing, there are in fact 9 members of staff of C.I.C.R.A: 5 located locally and 4 in Guernsey, just to clarify the position in terms of numbers of staffing for the Deputy. With regard to the report that the Deputy referred to, it is of course a report for C.I.C.R.A. to publish. I understand it is an intention to publish it. I will get back to the Deputy with regard to a timeline, which I am not familiar with at the moment.

#### **3.1.2 Deputy M.R. Higgins of St. Helier:**

The Minister in his first answer was running through the activities that they have been doing over the last 4 years. Will the Minister please look at his answer, the first part of it he talked about the

work the Commission has been doing over the last few years. Can you elaborate on the nature of that work?

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

I am not sure I caught entirely all of the question, I am afraid there was some coughing in my right ear, so I might not have got it all.

**The Bailiff:**

I think the Member asked about the nature of the work that the J.C.R.A. have been doing.

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

In fact I did not in my opening talk about the work that the Competition Authority does but if the Deputy wants to know specifically, it has carried out a number of functions obviously from a regulatory perspective oversight of the likes of Jersey Telecom and postal services. In terms of reviews there are quite a number of reviews that the Authority has undertaken. The most recent ones: the fuel market is under way; the groceries report that was published, all of which are extremely valuable and I believe have added significantly to the reputation of the Authority.

[9:45]

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

Is the Minister able to tell the Assembly how much it has cost to have 4 Chief Executive Officers in 4 years, including recruitment as well as paying off their contracts please?

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

I do not have an exact figure to hand. It is clearly within the budget. The budget and funding of the Competition Authority is currently £300,000 per annum and it certainly falls within that. In terms of actual pay-offs and any other costs associated with recruitment I am very happy to get back to the Deputy with precise figures but I clearly do not have those to hand at the present time.

**Deputy J.A. Martin:**

If the Minister could let everybody know please exactly which one costs what and over what time period.

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

Yes.

**3.1.4 Deputy R.G. Le Hérissier:**

Would the Minister not acknowledge that, to paraphrase Oscar Wilde, one may be acceptable but 4 is, to put it mildly, unfortunate. Was he not worried that there was a rather clear pattern there and to say: "It is run by a Board and I only get reports from the Board", seems to me abdication? Would he not acknowledge that a very serious situation has arisen? One example of a report tendered in April 2012: no report yet. Would he not acknowledge that there is a serious situation of drift and he has not explained why these departures have occurred?

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

I have pointed out that it is clearly disappointing to see a high turnover of staff and particularly at a senior level. In any organisation clearly it does impinge on the ability of the Competition Authority to carry out its functions as efficiently and as effectively as it perhaps should do. That is to be regretted and I agree with the Deputy in that regard. I am and will continue to have a dialogue with the Board. It is the responsibility of the Board to have oversight of the Executive and the function of the Competition Authority and that is exactly as it should be. I will continue to have dialogue

with the Chairman to ensure that in future, as best as possible, we can get a more consistent approach to staffing to ensure that the outcome improves even further from where it is currently.

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

What is his analysis of why there has been such a turnover?

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

I think the figures at face value do indeed appear to be unsatisfactory but, to be fair, I know that at least in 2 cases personal circumstances resulted in the individuals departing, and that is clearly a regrettable situation but perhaps understandable for Members.

### **3.2 Deputy J.A. Martin of the Minister for Economic Development regarding the opening hours of licensed premises during the World Cup:**

What consideration, if any, has been given in relation to licensed premises and opening hours during this year's World Cup?

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

I, like the Deputy, am a keen sports fan and therefore thank her for her question. Due to the difference in time zones some of the games for the forthcoming World Cup in Brazil will take place outside of existing licensing hours. Having consulted with the Bailiff, it has been agreed that pubs that wish to stay open to show the matches should apply for a permit through the Bailiff's Office under Article 89 of the Licensing Law. It is important that we give pubs the opportunity to remain open for what is the most popular sporting event in the world, bar the rugby perhaps. **[Laughter]** The permit system has worked well in the past for other major sporting events and by working with the Bailiff extended opening can be managed in a safe and controlled manner. We understand that the Bailiff is consulting with the Parishes and Home Affairs about the plan to permit extended licensing hours. The Bailiff's Chambers will be issuing further instructions on how and when licensed premises can apply for an extension permit in due course.

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

That is good news. Supplementary to that, it did seem to some of the licensees that I was listening to on the radio this morning that it was news to them, so again back foot on the consultation. But my question is under Article 89 does this mean that if licensees apply they will have to apply for every individual game or will that cover the duration if they want to open when a match is on during the World Cup?

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

My understanding is they can apply for the matches that they wish to remain open for and therefore can remain open. I believe there are in the first phase of games 10 matches that start beyond the licensing hours as they currently are at the moment.

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

Will the Minister be referring to the Jersey Competition Regulatory Authority the price of the tee-shirts for the World Cup; £90?

#### **The Bailiff:**

Good try, Deputy. **[Laughter]** Even I see difficulty in there being any connection with the question.

#### **3.2.3 Connétable P.J. Rondel of St. John:**

Given the Minister's joy of this possibly going to happen, has he given consideration to these which are being held in the early hours of the morning, the effect that will have on the neighbours within the vicinity of those public houses?

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

Clearly when we first started to look at this matter Home Affairs quite understandably... and the police and a number of other interested authorities gave their views and that was the reason why the decision was taken that the most appropriate place for the decision to be made is through the Bailiff and the Bailiff's Chambers so that matters such as that can be properly and appropriately considered and dealt with as part of the licence arrangements.

**3.2.4 Deputy J.A. Martin:**

It is quite concerning the Minister says the first 10 games will be covered. It is this individual licensing for every match that I have a problem with. I would have preferred if the Minister had brought, like he did at the Royal Wedding, where basically everyone has opted in and can choose whether they open. Can this still be done because to me the licensees, and there is a cost to these licences I am presuming, are they going to want to blanket for the 4 weeks when we are supporting the local teams, all the nationalities over here. I really think it is a sledgehammer to crack a nut and we have done it before. Why is the Minister not doing it this time?

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

Although I understand the Deputy's concern, of course the Royal Wedding was just a single event. We are talking about multiple matches here, which makes it slightly more complex. We also have to consider that in the second phase, although the matches start, I believe, at 9.00 p.m. in the evening, we run into difficulties potentially with extra time, penalties and such like. So it is very uncertain what the timeframes are likely to be. The purpose of giving the matter to the Bailiff's Chambers to consider is that they can apply more appropriately conditions, hopefully make the system simple, which I am sure will be the case, and as far as charges are concerned, that is indeed a matter for the Bailiff's Chambers, which I am sure will be very reasonable.

**3.3 Deputy N.B. Le Cornu of St. Helier of the Minister for Social Security regarding unfair dismissal safeguards:**

Will the Minister advise what safeguards, if any, are in place for employees who are unfairly dismissed prior to completing 6 months of employment?

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

Employees are protected against unfair dismissal when they have at least 26 weeks continuous service with their employer. The Employment Law also provides that employees can make an unfair dismissal complaint to the Employment Tribunal from day one of employment, that is with no requirement for any period of service in certain specified circumstances. These circumstances include where the main reason for dismissal is one of the following grounds: the employee was or proposed to become a member of the Trade Union, the employee took part in or proposed to take part in the activities of the Trade Union, the employee asserted a statutory right or brought proceedings against an employer to enforce the statutory right, including the right to be paid the minimum wage, the employee represented or proposed to represent another employee in a disciplinary or grievance hearing or asserted the right to be represented in such a hearing. The automatically unfair reasons for dismissal will be extended when we introduce race discrimination legislation this September. The Discrimination Law would introduce a new article into the Employment Law so that dismissal will be unfair from day one of employment where the reason

for dismissal constitutes an act of racial discrimination. The automatically unfair reasons for dismissal would be extended again with the introduction of family friendly and sex discrimination legislation in 2015, subject to States approval.

**3.3.1 Deputy N.B. Le Cornu:**

Would the Minister accept that there are those who suffer the injustice of what we can put, in inverted commas, “unfair dismissal” prior to those 26 weeks, who only have a lesser period of employment and recognising that injustice any extension of the period of time from 26 weeks perhaps onwards, as in the U.K. (United Kingdom), would increase the injustice?

**Senator F. du H. Le Gresley:**

I would agree with that statement but I am sure the Deputy is probably aware that we consulted through the Employment Forum on whether we should extend the 26 weeks. Last year the Forum recommended to me that the 26 weeks would not have any major change to employment prospects of unemployed people and based on their recommendations I have retained the period of 26 weeks.

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

Will the Minister explain whether he believes that it is okay to dismiss somebody unfairly as long as it is done before 6 weeks, even if it falls outside the exceptions that he listed a moment ago?

**Senator F. du H. Le Gresley:**

No, I do not think it is ever right for somebody to be dismissed unfairly. It is not okay, as the Deputy put it. There are procedures that every employer should follow. We recently put out a new Code of Practice for disciplinary and grievance procedures, which was heavily consulted upon and clearly it is a responsibility of an employer to go through those procedures and make sure people are dismissed fairly.

**3.3.3 Deputy M. Tadier:**

Does the Minister accept though that far from seeking to extend from 6 months that we should be considering whether or not there is a period at all which qualifies unfair dismissal because surely if somebody is unfairly dismissed after 3 months, after 2 months or 4 months, they should have exactly the same recourse as somebody who has been unfairly dismissed after 6 months and one day?

**Senator F. du H. Le Gresley:**

The 26 weeks I believe is a fair period in which time for an employer to assess the abilities of an employee and to take steps within that time to address any training issues that might be required. It is a fact, of course, that an employee is not required to give notice to an employer during those 6 months and therefore an employee can simply walk out of a job without giving any real reasons and this can place an employer in a difficult position. There are rights on both sides, which can be misused.

**3.3.4 Deputy J.H. Young of St. Brelade:**

Would the Minister confirm or otherwise that he is yet to bring forward the Regulations under Article 67 of the Employment Law, which sets out specified circumstances where by definition people are unfairly dismissed by reasons of pregnancy, childbirth or maternity? Would he say what the situation is with his Regulations?

**Senator F. du H. Le Gresley:**

The Deputy is absolutely correct. There is a provision in the Employment Law to make it automatically unfair to dismiss somebody by reason of pregnancy, childbirth or maternity but

subject to Regulations being made. Those Regulations will be made when we introduce family friendly legislation, which will then make dismissal on the grounds of pregnancy, childbirth or maternity automatically unfair.

**Deputy N.B. Le Cornu:**

I would certainly thank the Minister for mentioning about the new disciplinary and grievance procedure guidelines, and having used them in practice they are very useful and would be recommended to any employer or employee who is considering these issues.

**3.4 Deputy S. Power of St. Brelade of the Chairman of the Comité des Connétables regarding long service medals for members of the Honorary Police:**

Could the Chairman outline to the Assembly the criteria under which any member of the Honorary Police could be served or issued with a long-service medal for diligent service to the Parish and community, particularly in light of their recent involvement in various high profile incidents, including bad weather, and could he inform the Assembly if and when long-service medals might ever be awarded?

**Connétable J.L.S. Gallichan of Trinity (Chairman, Comité des Connétables):**

Service by members of the Honorary Police is recognised by the Parish in which they serve. This may be on retirement or to recognise completion of several terms of office, for example, an award after 9 years' service or after 18 years' service.

[10:00]

Special awards can also be made to recognise an officer's exceptional conduct and service on a particular occasion.

**3.4.1 Deputy S. Power:**

Could the Chairman clarify for the Assembly whether the Comité des Connétables as a whole, because the Chairman said that the Parish Constables issue... that all Constables are in agreement that there should be recognition to the Honorary Police for diligence and long service from our Honorary Police?

**The Connétable of Trinity:**

Yes.

**3.4.2 The Connétable of St. John:**

Will the Constable agree that not all Parishes give long-service presentations whether it be by a scroll, whether it be by a glass receptacle after 18 years of service, that would be given by the Honorary Police Association, but generally there is no hard and fast presentation rule across the 12 Parishes?

**The Connétable of Trinity:**

That is correct.

**3.4.3 Deputy M. Tadier:**

Will the Chairman consider that in the event of any glass receptacles being awarded to any of our diligent Honorary Policemen and women that we seek to use some kind of recycled glass composite which could be put in to make sure that obviously it would need to be of sufficiently high quality to be engravable, *et cetera*. But that would use local recycled glass, because I think that is what our Honorary Police would want.

**The Connétable of Trinity:**

We do our best. [Laughter]

**3.4.4 Deputy S. Power:**

Could the Chairman give any indication to the Assembly as to whether there is a collective or a collegiate approach by the Comité des Connétables as to a standard type approach or presentation or design of a medal or a glass receptacle or something, because it appears to me that there are grounds for the Connétables to get together and agree something which is across all 12 Parishes? Could he give an indication?

**The Connétable of Trinity:**

I totally agree with the Deputy and we are at the present time ongoing looking into a long-service medal and that hopefully will happen in due course.

**Deputy S. Power:**

Could I just clarify? Does he have an idea of timescale?

**The Connétable of Trinity:**

As soon as possible. [Laughter]

**The Bailiff:**

If it is any assistance, Deputy Power, if I have anything to do with it, before I cease as the Bailiff.

**Deputy S. Power:**

Thank you, Sir. That is very reassuring.

**3.5 Deputy J.N. Le Bailly of St. Mary of the Minister for Treasury and Resources regarding funding the cost of water tests by the States Analyst for residents of properties not served by mains water:**

**The Bailiff:**

We come next to a question which the Deputy of St. Mary will ask of the Minister for Treasury and Resources.

**Deputy E.J. Noel of St. Lawrence:**

I am happy to answer that on behalf of the Minister. I would like to give the Deputy the opportunity to wait for the Minister to arrive, or I can answer it now.

**The Bailiff:**

Deputy of St. Mary, are you happy to proceed now?

**The Deputy of St. Mary:**

I am happy to proceed now. Thank you. Given that there are a lot of properties throughout the Island that are not on mains water and are therefore reliant on bore wells and springs for drinking water, and in view of the risks of the water table being polluted by slurry spreading and domestic soakaways, would the Minister consider funding the cost of water tests by the States Analyst for residents of these properties?

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

It would not be right for the Minister for Treasury and Resources to become involved in policy matters around water safety for Islanders not connected to mains water supply. This question might have been better directed at either the Minister for Health and Social Services or the Minister for Planning and Environment. As far as funding goes, the Medium-Term Financial Plan and the contingency funding processes are well established and provide opportunities for departments to bring forward requests for additional resources. More importantly, the M.T.F.P. (Medium-Term Financial Plan) process provides departments with the longer term certainty of funding and allows them to reprioritise spending as broadly as they wish.

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

Would the Minister then agree that it is somewhat ironic that one of the richest places in the world cannot provide infrastructure to the outlying areas of this Island, causing the people who live there to endure facilities no better than a third world country? Would the Minister consider that perhaps now would be the time to invest in that infrastructure or it may never happen?

#### **The Bailiff:**

Deputy, that is 2 questions, so it is probably all right.

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

I would disagree with the Deputy of St. Mary that our outlying water supplies are akin to a third world country. Towards the end of last year in fact we did ask the Chief Executive of Jersey Water about this very matter. We were informed that the company has looked into this and the estimated average cost per property is high at some £10,000 plus and the company would not be able to subsidise the private householders and would also end up subsidising developers. Therefore they have no plans at present to extend the mains water network.

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

Given the Minister's reply, would he agree that it would be far more expensive if people are poisoned through contaminated water supplies with medical bills indirectly to his department in having to treat with long-term illness a number of people than putting potable water supplies across the Island?

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

Let me say again, I cannot agree with the Connétable of St. John. There is a process in place where those on bore holes and on wells can have their waters tested, and that I believe is through the Environment Department and the States Analyst. That is the route they should take to see if their water is fit for human consumption, and if it is not then alternative measures can be taken.

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

Will the Minister give serious consideration to, if not putting a free of charge testing service in place, to reduce the charges which currently are charged up to £93 per household each time you have a water test? Would he consider subsidising that or giving a free service?

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

It does not really come under the remit of Treasury and Resources. This really is a matter for the Environment Department who I believe the States Analyst is part of. It is within their remit and within their gift to appropriate their budget as they see fit.

### **3.5.4 Deputy J.H. Young:**

Could the Minister confirm his answer that he and his political master have a hands-off policy in respect of important policy? Could he confirm that he has no views therefore on funding for how we may extend the sewage network to eliminate this risk of water pollution in the future?

**The Bailiff:**

I am sorry, Deputy. I think that is straying too far. At the moment this is a question about the cost of water tests.

**3.5.5 Deputy T.A. Vallois of St. Saviour:**

Could the Assistant Minister confirm whether he has had a request from the Environment Department to fund the cost of water testing as per the Deputy of St. Mary's question?

**Deputy E.J. Noel:**

As far as my knowledge, the Treasury has not received such a request.

**3.5.6 Deputy G.C.L. Baudains of St. Clement:**

When the Assistant Minister is next speaking with the Water Company would he address the issue of efficiency, because I know there are occasions where ... in fact, one case where they wanted to refill a trench in order to open it up again in order to justify a £1,000 charge per 3 feet of pipe?

**The Bailiff:**

Again, Deputy, I think that is off the topic of testing of bore holes.

**Deputy G.C.L. Baudains:**

I was referring to what the Assistant Minister had said earlier about the discussion with the Water Works Company.

**3.5.7 Deputy M. Tadier:**

This one does relate to something that falls under the Minister's remit. Does the Minister accept that funding for big projects like this, and it could be Housing and Health which the Treasury has not been loath to support proactively in the past ... does he accept that if we had a more progressive tax system and those Deputies who also asked questions about the provision of infrastructure on the Island support a progressive taxation, there might be enough money sloshing around to provide infrastructure of this nature?

**Deputy E.J. Noel:**

I believe we have a progressive taxation system in the Island that suits our needs.

**3.5.8 Deputy M. Tadier:**

I forgot it was 1st April, but does the Assistant Minister agree that it could be made more progressive insofar as those who earn the most could pay the most and also have access to the mains water supply?

**Deputy E.J. Noel:**

I believe that we have a tax system that suits the needs of Islanders.

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

The Assistant Minister claims that this is not a remit of Treasury. In fact it is the remit of Treasury to provide the funds to be able to put this infrastructure in place. This matter is continually passed by. We need to find ways of funding this infrastructure, maybe by putting a penny on income tax

which would generate between £25 million and £32 million per year. Couple that with a 10-year programme and we could complete these works quite easily.

**The Bailiff:**

Do you agree I suppose is the question.

**Deputy E.J. Noel:**

I am afraid again I have to disagree with the Deputy of St. Mary.

**3.6 Deputy J.H. Young of the Minister for Planning and Environment regarding the costs of defending Planning Appeals since his appointment:**

Will the Minister inform the Assembly of the cost incurred by his department and the Law Officers' Department in defending planning appeals since his appointment and the number of cases in costs incurred where he has initiated appeals against the Royal Court judgment made against him, and advise how he justifies spending money to ensure, via costs imposed on the appellants, that he has the final say in such decisions?

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

I have taken it as read that the Deputy is not asking for full details of the costs of defending appeals as these were discussed in the debates on the new appeals system. However I can re-forward details to the Deputy and other Members if required. The new issue raised is challenges made by the Minister against Royal Court judgments. Now there is currently one live case before the Court of Appeal. I am sure that the Deputy will acknowledge that it would be inappropriate for me to make reference to any live proceedings in answering his question. Historically the cases are rare. I pursued one appeal last year and prior to that the previous one was in 2009 by my predecessor. That such appeals to the Court of Appeal are so few in number underlines that both I and my predecessor have only pursued them where important matters of principle had to be clarified in the public interest, such as the legal basis upon which a Minister can make a decision. The case in 2013 concerned the listing of a site as one of special interest and I brought an appeal as I was concerned that the Royal Court's judgment undermined the whole process of listing important buildings and places and therefore put those buildings and places at risk. The Court of Appeal found that the Royal Court's judgment was legally incorrect, justifying my decision and ensuring these important buildings and places remain protected. These cases are handled by the Law Officers' Department and I am unable to give the Deputy an indication of their expenses. I accept that the current system is legalistic in its nature. The States have decided to pursue a new merits-based appeal system with appeals heard by independent expert inspectors. I hope that this will largely do away with the Royal Court process and issues such as these.

**3.6.1 Deputy J.H. Young:**

As it is not the first time that Deputy Duhamel has said he will circulate figures separately, I would ask that he circulates those details that he said to all Members please, as part of the answer requested. But would he not accept that he has in fact made public comments recently about 2 such cases, not one, and that while one accepts that the system is going to change, can he really say that this test of important matters of principle applies to both those cases?

**Deputy R.C. Duhamel:**

I am happy to re-send the details as requested by the Deputy to all Members and will circulate them henceforth. The Deputy makes a point about 2 cases. He is absolutely right and one of those, the second case, is still live so I cannot comment on it.

### **3.6.2 Deputy M.R. Higgins:**

It is a question for you, if I may.

[10:15]

The Minister says he cannot discuss these cases as they are *sub judice*. Surely that does not extend to the name of the case. We do not need to know any details or any comments on them. Surely the Minister should be allowed to give us the name of the cases that are currently in dispute.

#### **The Bailiff:**

Yes, he can do that if you wish.

### **Deputy M.R. Higgins:**

In that case, can I ask the Minister to tell us the name of the cases?

### **Deputy R.C. Duhamel:**

The 2 cases I was referring to where appeals had been made by third parties which had been submitted of late is the *Herald* case with Capital Tower and the Parish of St. Ouen over the fields at Plemont.

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

I am not sure this is the remit. Could the Minister tell the House, other than the Crown Officers from whom does he take advice when he makes a decision within the department to proceed with legal action?

### **Deputy R.C. Duhamel:**

I am not sure that I am able to answer that because I think under the Ministerial protocol I am not allowed to advise anyone that I have taken legal advice or indeed what that legal advice contains.

### **Deputy R.G. Le Hérissier:**

Could we have some procedural advice on that? It sounds a very strange answer.

#### **The Bailiff:**

You are entitled to say you take advice from the Law Office if that is the case, Deputy. You are entitled to say you take advice from officials in your department if that is the case.

### **Deputy R.C. Duhamel:**

Very well worded, Sir. I repeat every word without repeating.

### **3.6.4 Deputy J.H. Young:**

I have to confess to being rather confused. The Minister started off saying there was one case he could not talk about because there was only one case; now he says there are 2 and he has given us their names. But we still do not know the numbers. Will he at least produce a report on this? Will he confirm or give us the information because otherwise we are in an impossible position when we are approached by constituents who ask us: "How is it that these cases are one-sided cases when a Minister has all the resources and the appellants have none?"

### **Deputy R.C. Duhamel:**

I think from the recent media offerings hares have been set running in this particular area and I think it is absolutely right that I apply the correct Ministerial pressure on the departmental officers to ensure that States Members are properly or correctly advised and brought up to date so that any potential fears that they have that the system is not being applied properly can be allayed.

**3.7 Deputy J.A. Hilton of St. Helier of the Minister for Health and Social Services regarding reductions to the waiting time for those seeking adult psychological services:**

What action, if any, is the Minister taking to reduce the 9-month long waiting time for those seeking adult psychological services?

**Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):**

The Deputy will be aware that I have answered a similar written question from Deputy Tadier. My department has just last week advertised to recruit some 13 staff for a new Jersey Talking Therapy Service. It is hoped that all or some of these staff will be in place in the next few months. This will help manage and reduce current waiting time within the Psychological Assessment and Therapy Service. Health and Social Services is also employing a full-time locum psychological therapist who is due to start this month. This ought to reduce the waiting list.

**3.7.1 Deputy J.A. Hilton:**

When the Health White Paper was agreed in October 2012, the proposal was to indeed invest in adult psychological services the Minister has just outlined. Can the Minister explain to Members why it has taken since October 2012 to the current time to advertise these posts?

**The Deputy of Trinity:**

As I said, this is a new service. Working closely with a wide range of stakeholders has been critically important and I approved the service specification in June last year. Since then a wide range of both professionals and the voluntary sector have been working hard to design and agree the exact way the new services will be delivered. The services must be accessible and non-stigmatising, and the level of detail is really important.

**3.7.2 Senator S.C. Ferguson:**

We are given assurances that the waiting lists are coming down and so forth. When all these measures are in place, what will the waiting list be? Has the work been done to estimate this?

**The Deputy of Trinity:**

I am sure it has. The most important thing is going to be, as I said, this is a new service. It is also early intervention and that is where the greatest need will be. As I said, there are about 13 staff that are going to be recruited and it will be accessible within the community setting.

**Senator S.C. Ferguson:**

Supplementary, Sir. I asked a simple question: how long?

**The Deputy of Trinity:**

Nobody has crystal ball. All the evidence has been done and it does show that obviously it will cut down waiting list times.

**Senator S.C. Ferguson:**

Excuse me, Sir. I asked a very simple question.

**The Bailiff:**

Yes, and she said that she cannot look into the future.

**Senator S.C. Ferguson:**

Well, the work has not been done, I presume, Minister.

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

Has the Minister looked into how local private practitioners, for example, therapists, counsellors, *et cetera*, might be able to be used either in the short time or in the longer term to fill the demand for Talking Therapies, *et cetera*?

#### **The Deputy of Trinity:**

I am not certain, but all I can say is that this is a new service and we are recruiting, as I said, 13 staff and an extra £700,000 investment is put into the service. There will be better outcomes as the service begins.

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

Can I ask for clarification? The written answer ... and the Minister has again talked about 13 staff, 8 of which will be for psychological services. What are the other 5 staff? Are they related in any way to Mental Health Services?

#### **The Deputy of Trinity:**

Yes. All the staff are involved in this new psychological Talking Therapies.

### **3.7.5 Deputy S. Power:**

In relation to the response to Deputy Hilton, can the Minister explain to the Assembly the overhaul that is needed in terms of attention to acute and urgent intervention for those seeking immediate assistance with their psychological problems? I know that the Minister would say that there is an A. and E. (Accident and Emergency) situation, but once they have dealt with A. and E. is there a mechanism to improve acute and urgent care for psychological care, because a number of us are aware of cases where that does not appear to be available.

#### **The Deputy of Trinity:**

That is why, as I said, the psychological therapies is not an emergency service. If someone needs that emergency care it is either to A. and E. or through their G.P. (General Practitioner) and on assessment they will get referred into the appropriate route.

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

My question is not too dissimilar from what Deputy Power has just asked. I know of examples of people who, because of their mental health problems, have attempted suicide and have not been able to see their allocated specialist for sometimes months afterwards. Is the Minister satisfied with that, and does she accept that because of the nature of mental health problems there should be no such thing as a waiting list for someone in those sorts of circumstances? If she does agree that there should be no waiting lists, why are there? Is it an issue of funding?

#### **The Deputy of Trinity:**

The ideal is if there is no waiting list, but that is in the ideal world. We have recognised that there is a need and that is why the Jersey Talking Therapies is essential. It will receive non-stigmatised service treating patients with anxiety, depression, with or without alcohol issues. It is a variety of ways of face to face, individual groups, counselling and working with their G.P. It is low level which is the most important and it is early intervention

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

Of course I welcome the news of 13 additional staff delivering Talking Therapies and a locum psychologist who is going to be taken on very shortly to try and help reduce waiting lists. But I am disappointed to hear and to know that by the time those posts are filled it will be around September time; that it has taken almost 2 years to deliver this new service from the time the States Assembly

agreed to it. The question I wanted to ask the Minister is: how confident is she that the mental health review that her department is undertaking which comprises of 4 different strands will be delivered in a timely fashion?

**The Deputy of Trinity:**

Any new service does take time to set up because, mostly importantly, it is working with the voluntary sector and the G.P.s and it has to be right because it is going to be bolted-on to current services. So it has to be right, right from the word go. Alongside some of this as the Deputy said, she is quite right, there is going to be a mental health service review. It will be done by the end of this year. But also we are doing a review into the mental health estates and also looking at the mental capacity law. So it is a very busy time for mental health services, but a very positive way forward.

**3.8 Deputy G.P. Southern of St. Helier of the Chief Minister regarding investigations into the background of companies based in Jersey which were involved in the financing of the construction of Alder Hey Hospital, Liverpool:**

In granting permission for them to trade under the Control of Housing and Work Law, will the Chief Minister state what investigations, if any, were made into the role that Henderson Infrastructure, a Jersey company, played in financing the construction and servicing of Alder Hey hospital, Liverpool, through Laing O'Rourke plc and Alder Hey (Special Purpose Vehicle) Limited, and whether such activity enhances the reputation of the Island's finance sector?

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

Could I ask Senator Ozouf in his role as Assistant Minister responsible for financial services to answer?

**Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):**

The business activities of Henderson Infrastructure are not under the Control of Housing and Work Law, so the rest of the question is probably not relevant. However it would be not appropriate to make in any case any comment about third parties, other than perhaps to note that the matter apparently referred to in the U.K. media comment, which I assume is what the Deputy is questioning about, is a standard P.F.I. or Private Finance Initiative deal signed and therefore approved by the U.K. Government itself.

**3.8.1 Deputy G.P. Southern:**

If the activity of this company does not come under the Control of Housing and Work Law, what laws do they come under? Is it J.F.S.C. (Jersey Financial Services Commission)?

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

I am advised there are no regulatory requirements in respect of this particular issue. It does not fall apart from any of the standard regulatory requirements of any promoters of company service and entities, *et cetera*.

**3.8.2 Deputy G.P. Southern:**

If I may, in that case: does the Minister not consider that it ought to be appropriate? We should be regulating the activities of companies like this which strip out the profit from companies based in the U.K. and thereby skew the bidding process for P.F.I.s throughout the country.

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

It would be entirely inappropriate, and I would invite the Deputy to consider very carefully making such accusations which, I assume, he purely speculates on. I also would say to the Deputy that it is of course a matter for the U.K. Government - in this case who has engaged a P.F.I. - to structure arrangements in the manner in which they decide is the best interest of U.K. taxpayers. What is quite clear is that Jersey's position in respect to the use of companies has been made very clear by the Chief Minister on numerous occasions. It will be made clearer when we publish the new Financial Services Framework later on this week and of course the main reason why companies choose to use Jersey company law is not tax; it is because the flexibility and the quality services in which they are provided. That is why people use Jersey company law.

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

Does the Minister consider that activities such as this enhances the reputation of the Island in the world's eye?

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

I was last night fortunate to address a City audience including attending a dinner with a U.K. Treasury Minister. I am very clear that Jersey is highly regarded by the U.K. Recent comments by Ministers, the Prime Minister in the House of Commons, Minister Gauke recently, clearly indicate the high standing of Jersey that is held by the U.K.

[10:30]

Jersey is not a tax haven. We are not the problem. We are part of the growth solution of the U.K. Government and clearly our innovative company law is providing useful arrangements for U.K. companies.

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

Will the Minister answer the question, please? Does he consider that activities such as this enhance the reputation of the Island? Yes or no?

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

If the Deputy is suggesting that the use of Jersey companies because of its innovative nature is anything apart from enhancing the nature of Jersey, I would say absolutely. Our company law is held up as being one of the best in the world.

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

My light has been obscured, and while I am loathe to interject in this ...

#### **The Bailiff:**

I am sorry, Deputy.

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

That is okay, Sir. It is because I now have someone else sitting in front of me. I will not complain because he is an ally. Does the Minister accept that if companies are set up in Jersey because of flexibility and not the zero rate of tax, then we should be getting rid of the zero rate of tax because that is clearly not what these companies come here for? But that is not the question. The question is in this particular case ...

#### **The Bailiff:**

It sounded like a question to me. Does he not agree?

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

Can he restate the question? I am sorry. He went on so. Could he simply restate the question?

**The Bailiff:**

Choose your question, Deputy and ask it.

**Deputy M. Tadier:**

The Minister said or implied that this arrangement here was due to the flexibility and not due to zero taxation or to tax benefit. Can he clarify that in this case the prime purpose of using a Jersey structure was for zero taxation so that they do not have to pay tax and therefore saving money for the P.F.I. (Private Finance Initiative) in question.

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

The Deputy, once again, attempts to put a narrow question on what is clearly a large issue so you will be frustrated that I cannot answer very simply. The fact is it is the U.K. Parliament, the U.K. Exchequer that is responsible for the arrangements of transfer pricing of entities within the United Kingdom. The U.K. Prime Minister has been very clear in the issue of profit shifting and the rest of it of which Jersey absolutely complies. We have a zero tolerance of the use of Jersey companies which abuse the intended will of parliament. However, it must be for the U.K. to deal with their U.K. issues in respect of the use of their companies and in this case the use of a P.F.I. which has been signed by the U.K. Government.

**Deputy M. Tadier:**

But surely this is a point of order. I have asked a very narrow question deliberately to try and elicit a narrow answer, preferably yes or no. The Minister made no attempt to answer that question in a meaningful way. The question is: does he accept that this vehicle and this particular example was used for tax-avoidance purposes perfectly legally? That is what we have been talking about, abusive tax avoidance, and not due to the other flexible structures that Jersey offers.

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

The factual answer is that it is a matter not for Jersey to consider the implications of the use of Jersey with another jurisdiction's tax authority. It would be wholly inappropriate as I ...

**Deputy M. Tadier:**

A point of order, that is not the answer; the answer was, yes or no.

**The Bailiff:**

The Minister is entitled to give his answer now.

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

The answer is simply that he is not getting the answer that he wishes. The answer is that it would be not appropriate. I do not know, and neither should I know, the absolute intricacies of any particular corporate structuring that is a matter for the U.K. Government Procurement Service. So the answer is no, but I do not know the actual details. I know the standards of which company service providers adhere to and also what the U.K. Government is trying to achieve. I cannot really add anything else.

**Deputy G.P. Southern:**

Does the Minister see no shifts?

**The Bailiff:**

No, Deputy, you had a number of questions.

### **3.9 The Connétable of St. John of the Chairman of the Privileges and Procedures Committee regarding States members' I.T. expenses:**

Could the Chairman confirm whether the new provisions relating to I.T. (Information Technology) expenses for States Members will result in £31,000 of tax payers' money being spent annually on I.T. equipment for Members?

#### **Deputy J.M. Maçon of St. Saviour (Chairman, Privileges and Procedures Committee):**

No, I cannot confirm what the questioner asks. An observation I would make is that this allocation was never - never - solely made for the provision of I.T. equipment i.e. hardware. Also, for clarity, this is not new money. As was communicated to States Members in my letter dated 3rd January 2014 States Members have had this budget allocated to them for over 10 years. Thank you.

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

Can it be right that at this time in the political cycle to be using £31,000 of States funding, given that the House will be replaced come October this year and should that money not be set aside until the end of the year when any new ways of dealing with I.T. be put in to the new House?

#### **Deputy J.M. Maçon:**

Can it be right at this time? Yes, considering that this particular budget has a number of components within it which includes States Members internet provision which, if Members refer to the answer to the written question, it explains quite clearly in detail why that happened due to J.T. (Jersey Telecom) changing its billing system in the way in which States Members are reimbursed for internet provision. Also, with regards to the other component, again, States Members are already receiving that. Again, the written answer explains why it was decided to change the mechanism to how this particular budget was accessed by States Members. So I would like to make clear that this is not new money, this is no additional cost to the taxpayer and that States Members have been receiving this allocation for over 10 years, just via a slightly different mechanism.

#### **3.9.2 Deputy G.C.L. Baudains:**

I wonder if the Chairman would agree with me in that the office expenses which States Members incur, whether it be in their own office and I.T., putting software, hardware or whatever, should come out of Members' expense allowance.

#### **Deputy J.M. Maçon:**

The committee were mindful of this and were bearing in mind things such as the Freedom of Information Law. They were minded to adopt this change as it is more transparent, as the Deputy is quite clear in saying, that this should come out of what is classed as States Members' expenses and not hidden as a hidden subsidy within the I.S. (Information Services) Department budget. Therefore, that is why the Chief Minister was willing to transfer that budget over to the States Assembly budget. I could not agree more with what the Deputy said.

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

Will the Chairman go back and reconsider with his committee, or his panel, delaying this until after the election?

#### **Deputy J.M. Maçon:**

The committee has considered this. The committee will not be reconsidering it at this time. What the committee has decided, however, is that this matter should be more thoroughly considered by

the States Remuneration Board at that time and that is what the committee sought to do. Thank you.

**The Connétable of St. John:**

So the answer is no?

**The Bailiff:**

I think the answer was no. Yes.

**Deputy J.M. Maçon:**

I began to say the answer was no. Thank you.

**3.10 Deputy M. Tadier of the Attorney General regarding the possibility of importing and possessing cannabis for medicinal use under the provisions of the Misuse of Drugs (Jersey) Law 1978:**

Will H.M. Attorney General clarify whether the importation and possession of cannabis for medicinal use would be possible under the provisions of the Misuse of Drugs (Jersey) Law 1978 and, in particular, whether the Minister for Health and Social Services has the power to issue a licence allowing possession of cannabis for medicinal use?

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

The Misuse of Drugs (Jersey) Law 1978 makes it a criminal offence to import and/or to possess cannabis. The Minister for Health and Social Services has designated cannabis in accordance with Article 12(4) of the law as a drug for which it is in the public interest for its production, supply and possession to be wholly unlawful except for purposes of research or other “special purposes”. The term “special purposes” is a high bar to satisfy. In principle, the Minister can lawfully issue a licence for the possession of cannabis for medicinal use but there would need to be evidence of some genuine and special medical benefit that would justify the issuing of a licence for a special purpose. It is a matter for the Minister having regard to any relevant evidence and of course a consideration of the harmful effects of the drug. As I have already noted, the phrase “special purpose” is a high bar to satisfy.

**3.10.1 Deputy M. Tadier:**

Given the fact that medicinal cannabis is already prescribed and brought into the Island at great expense, it has to be said, there is presumably already sufficient evidence for doctors to be prescribing cannabis-based products. Will the Minister basically outline the process by which a G.P. and a patient could legally be prescribed and use medicinal cannabis, perhaps even herbal cannabis, for their ailments if the G.P. thought that it was the correct medicine to be prescribing?

**The Solicitor General:**

I am obviously not the Minister and, as I have already indicated, it is for the Minister to consider any relevant evidence in deciding whether to issue a particular licence. The background to this matter is as follows. Insofar as the Minister wishes to take the views of the United Kingdom authorities into account, those authorities will not issue a licence for cannabis in any circumstances, having regard to its known harmful effects, and they include links to mental health problems. There has to date been one exception to that principle. There is a cannabis-based medicine, it is called Sativex, and that has been the subject of scientific trials. That has resulted in the conclusion, those trials have shown, that there is a medicinal benefit in respect of that product for the treatment of particular conditions, namely multiple sclerosis and cancer. Therefore, that drug, that particular

product, is prescribed both in England and Jersey but it is not right to say that cannabis is the subject of general licence. That just has not happened.

**3.10.2 Deputy R.G. Le Hérissier:**

Would the Solicitor General say whether evidence from other jurisdictions, and we have seen the move recently in some American states, for example, if rigorously collected and presented would be the kind of evidence the Minister could rely upon?

**The Solicitor General:**

These are questions better put to the Minister. It is the Minister's power. As I say, special purposes is a high bar to satisfy, but no doubt the Minister will take into account all relevant evidence.

**3.10.3 Deputy M. Tadier:**

I think just to put it in perhaps more layman's terms for us mere mortals. Is it the case then that the Minister for Health and Social Services needs to go away and decide whether or not there is a case for herbal cannabis to be supplied, that it extends the amount of products on the market and, therefore, to make the case if she sees fit for other varieties of cannabis-based medicines to be available on prescription in Jersey?

**The Solicitor General:**

I cannot really add to what I have already said. It is for the Minister to consider the law and whether any particular licence should be issued, having regard to whether it can be properly classified as a special purpose.

**3.11 Deputy G.C.L. Baudains of the Chairman of the Jersey Branch of the Commonwealth Parliamentary Association regarding the selection of delegates for the Commonwealth Parliamentary Association conference in October 2014:**

Which Members have been selected to attend the annual Commonwealth Parliamentary Association conference in October 2014 and what were the criteria for selection?

**Connétable L. Norman of St. Clement (Chairman, Jersey Branch, Commonwealth Parliamentary Association):**

Recognising that it was unlikely that many applications will be received to represent the States at this conference, falling as it does only a week before our elections, the Executive Committee of the Jersey Branch invited the Deputy Bailiff to lead the delegation. I am delighted that he accepted. Subsequently, all Members were invited to express interest in attending the conference. Only 2 did so, namely, the Dean and the Deputy of St. Ouen. Accordingly, the Jersey Branch, having 3 delegates, both were selected.

**3.11.1 Deputy G.C.L. Baudains:**

Obviously, as the Chairman has stated, an unusual situation with the election arriving at that time, I wonder why it was not possible, seeing that it was an exceptional situation, to accept, for example, ex-Members of the Assembly into the candidature. For example, I have often wondered, Constables' positions, it seems they are technically *ex officio*.

**The Connétable of St. Clement:**

Members of the Commonwealth Parliamentary Association Jersey Branch are Members of the States, not former Members. Therefore, it would not have been possible to invite applications from former Members.

[10:45]

**3.12 Deputy S. Power of the Minister for Economic Development regarding the impact of low freight rates on the viability of shipping to the Channel Islands:**

Can the Minister advise whether some companies involved predominantly in R.O./R.O. (Roll On/Roll Off) freight shipment to the Channel Islands are quoting unsustainable freight rates and, if so, is he concerned that these low rates have the potential to damage the viability of shipping to the Channel Islands?

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

As background, freight rates have declined over the last 5 years and both shipping and logistic companies have fought aggressively for business with the market becoming very competitive; a situation many will argue is a positive outcome for the local economy. With regard to R.O./R.O. I understand that Condor Ferries has a published freight shipping tariff scaled to volumes shipped. At the time of the Huelin-Renouf collapse I understand that they also introduced a commodity rate to ensure continued transportation of key building materials during the period of uncertainty. To answer the Deputy's specific question, at this stage I do not have any clear evidence on whether any unsustainable freight rates are being quoted. However, what I can tell Members is that the J.C.R.A. are reviewing certain freight rates to ascertain whether they may indeed be anti-competitive. I am awaiting their early determination on this matter which I am told will be made very soon. Thank you.

**3.12.1 Deputy S. Power:**

I thank the Minister for that information. He did refer to the loss of Huelin-Renouf Ferries, is he also aware that unsustainable long-term freight rates, including low commodity rates on Channel Islands routes, has in the short term the potential to add benefits to local importers and suppliers but in the long term has the potential to cause rates to go up largely because of monopolistic trading conditions that could occur? Is he aware of this risk?

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

Yes, I am aware of the risk. It is a risk if indeed it is the case. That is the reason why the J.C.R.A. are looking at the market and looking at certain tariffs, to see if there is any prejudicial pricing being deployed at the moment in the marketplace which would not be a satisfactory outcome.

**3.12.2 Deputy S. Power:**

There are 2 parts to my final question. One is: has the C.I.C.R.A. given the Minister an indication of timescale? Is he also aware that there is another risk that if a company does try to increase its market share as a percentage of the total overall freight market, does get a new licence permit and does have an option on the new fleet replacement that that company could be being prepared for sale and that his department could be used as a pawn in a much bigger game, in either an equity release or a sale of one company?

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

With regard to the timescale, I am told by the J.C.R.A. that they expect to make a determination during the next week or so, so very imminently. With regard to the second question, there were, I think, about 4 or 5 "coulds" in the Deputy's question; there was, therefore, a lot of speculation. Yes, in short, I am aware of the potential risks, as indeed the team negotiating any potential long-term arrangements are as well. That will form part of any agreements that may or not be concluded.

**3.13 Deputy M. Tadier of the Chairman of the Health, Social Security and Housing Scrutiny Panel regarding a review of the Minister's proposed action to address clinical waiting times:**

Will the chairman advise if the panel has reviewed or intends to review the Minister's proposed action to address clinical waiting times, including those for mental health-related issues?

**Deputy J.A. Hilton (Vice Chairman, Health, Social Security and Housing Scrutiny Panel - rapporteur):**

The Health, Social Security and Housing Panel has not reviewed clinical waiting times, including those with mental health-related issues. Once our current review of the Child and Adolescent Mental Health Service has been completed, we intend to review the Regulation of Care Law. This will run alongside our other review regarding the design of Health and Social Services, which includes the proposed hospital redevelopment, a sustainable funding mechanism for primary care and additional services which were agreed in October 2012 for delivery in the community. Therefore, unfortunately, we cannot commit to reviewing clinical waiting times in the future.

**3.13.1 Deputy M. Tadier:**

I appreciate that the Scrutiny Panel is very busy as usual and, therefore, my standing offer to join them remains. Nonetheless, I would ask if they are satisfied more so with the Minister's progress on clinical waiting times. Again, we have seen this week some headlines in that regard. Is she and the panel satisfied that the Minister is taking effective action to reduce these waiting times?

**Deputy J.A. Hilton:**

As I said in my previous answer to a question, I welcome the additional staff being provided by the Health Department which was agreed in October 2012. I am disappointed that it has taken almost 2 years to deliver those additional staff. Also, the Minister for Health and Social Services confirmed this morning that the mental health review would be completed by the end of 2014 so I am heartened by that. Certainly, the Scrutiny Panel will continue to question the Minister in public hearings to ensure that this does happen in a timely fashion.

**3.14 Deputy N.B. Le Cornu of the Minister for Transport and Technical Services regarding the implementation of the strategies agreed as part of the Sustainable Transport Policy:**

Given that when the States approved the Sustainable Transport Policy in December 2010, Members voted unanimously to request the publication within a year of a target for road accident reduction and the rationale behind it and also comprehensive strategies designed to facilitate and encourage walking and cycling, could the Minister explain the delay in carrying out the wishes of the States and update Members on progress?

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

The timescale of one year set by the States for the development of these important strategies was optimistic, given the limited officer resources available. I can confirm, however, that my department has more recently been able to allocate resources and made considerable progress in developing both a Road Safety Strategy and an Active Travel Strategy, the latter addressing walking and cycling together. The draft Road Safety Strategy White Paper is close to completion and I anticipate publishing it for public consultation before this summer. Work on the Active Travel Strategy is also well advanced and it should be published later this year as per my response to the Constable of St. Helier's question in January.

**3.14.1 Deputy N.B. Le Cornu:**

I am conscious that we are soon to debate legislation on the compulsory wearing of helmets by children when they are cycling. It could be said that we do not have the scientific basis for argument for or against the use of such helmets, given that the department has not given us more information which was requested by the States. Are we therefore in a position to think rationally about the decision we are soon to make?

**Deputy K.C. Lewis:**

I will provide as much information as I can get hold of for States Members regarding this but obviously this is the subject of a proposition which will be before the States shortly.

**3.14.2 Deputy G.P. Southern:**

Is it the Minister's intention as part of his Sustainable Transport Policy going forward to include a 'Hoppa Bus' service to reduce the amount of traffic in the town and will he find funding this time round which failed to find funding in the last Medium-Term Financial Plan?

**Deputy K.C. Lewis:**

It is my intention to expand the bus service as much as possible which will include the suburbs and the periphery of town. Whether that would include an actual 'Hoppa Bus' I will take under advice but that would be nice to have.

**3.14.3 Deputy G.P. Southern:**

If I may, can I remind the Minister that this House approved the progress on a 'Hoppa Bus' and then the Minister failed to come up with the funding to meet our requirement?

**The Bailiff:**

So what is the question, Deputy?

**Deputy G.P. Southern:**

The question was: can I remind him does he recognise that we have passed this once, twice, 3 times I think?

**Deputy K.C. Lewis:**

Yes, I would love to proceed with that if funding was made available. I was more querying the name "Hoppa Bus" as opposed to the actual service. But I wish to expand the service to cover all areas of town, rural areas and countryside.

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

Does the Minister consider that the current projects to provide improvements in the village centres of the Parishes, which have been driven by the very communities that they affect, will play an important part in achieving some of the aims set by the Sustainable Transport Policy and of course increasing road safety? Does he consider that the work being undertaken to achieve these and to get them right is worth the effort and worth the wait?

**Deputy K.C. Lewis:**

Absolutely, I could not agree with the Constable of St. Mary more and T.T.S. (Transport and Technical Services) really appreciate the input of Parishes on the subject.

**3.14.5 Deputy R.G. Le Hérisier:**

The Minister mentioned lack of resources was holding up aspects of the policy. Would he not agree that particularly the walking and cycling objectives may have been over-optimistic, in any event?

**Deputy K.C. Lewis:**

Yes, indeed. The cycling was a difficult one because we are dealing with private land owners but we are trying to expand that as soon as we can. We have got sections of the eastern cycle track in place, we have got new sections of the harbour area in place now, and that is something we would wish to progress.

**3.14.6 Deputy M. Tadier:**

Does the Minister think that there is a democratic issue when the Assembly passes propositions, in this case the Sustainable Transport Policy, only to find out that it cannot be implemented in a holistic or timely way due to hold-ups at the funding stage?

**Deputy K.C. Lewis:**

I think we are progressing in a timely way. Sections of the eastern cycle routes have been installed, we have the successful Cycle Challenge, we have installed over 100 parking spaces for bicycles in bicycle racks in town, we have 3 travel plans completed and there are further 3 under development with various States departments.

**3.14.7 Deputy M. Tadier:**

That is all very nice but will the Minister answer because he is the one who said that certain aspects of this have been held up due to a lack of funding? Is it a problem when the States Assembly asks for the Minister to go away and do something and when he does not do it, we would entirely be in our rights to have a vote of no confidence? Would he take the question more seriously and answer whether or not it is a democratic problem when the will of this Assembly is not enacted in a timely fashion?

**Deputy K.C. Lewis:**

If the Deputy will recall this was the Strategic Transport Policy of 2010. I became the Minister for Transport and Technical Services towards the end of 2011 and I instructed my department to prioritise this, which they have done.

**3.14.8 Deputy M.R. Higgins:**

Following on from these questions, and certainly from Deputy Southern's, will the Minister tell us what efforts he has made since he has been Minister to obtain funds from the Treasury for the 'Hoppa Bus' and for the other initiatives and if he has not done, will he be putting it into the Medium-Term Financial Strategy as something to go forward?

**Deputy K.C. Lewis:**

My department and I have regular discussions with the Minister for Treasury and Resources, Assistant Minister for Treasury and Resources and the Treasurer of the States regarding T.T.S. projects. This has been discussed at length and I will be moving forward with this. As I mentioned previously, I wish to expand the bus service to cover the whole of the Island which includes St. Helier.

**3.14.9 Deputy M.R. Higgins:**

Again, the Minister has not answered the question. The question is: has he made specific proposals to the Treasury for funding for a 'Hoppa Bus' and funding for the other initiatives: yes or no?

**Deputy K.C. Lewis:**

That is a yes.

**The Bailiff:**

A final question, Deputy Le Cornu?

**Deputy N.B. Le Cornu:**

No, I do not.

### **3.15 Deputy J.H. Young of the Minister for Economic Development regarding the impact of the withdrawal of air services to Guernsey by Aurigny:**

Will the Minister give assurances that there are no adverse effects on activity between the Channel Islands, whether for business, cultural, sporting, tourism or private family purposes, as a consequence of the significant reduction in inter-island flights following the withdrawal of services to Guernsey by Aurigny and advise what action, if any, he will take to maintain services to an adequate level to properly serve our 2 communities?

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

There is no public service obligation in place between government and any airline to provide a minimum level of service, as Jersey operates an open skies policy which allows airlines to choose routes, frequencies and timings. This has led to an extensive growing and competitive network of air routes serving the Island. There are many code share services around the world which allow airlines to co-operate on operational efficiencies that compete in the commercial markets. The code share between Aurigny and Blue Islands helps to secure inter-island services, stabilises the market and maintains competition on the inter-island route. Both airlines are free to set their own price points and have agreed allocations. However, I am aware of some possible teething problems with the new code share arrangements. I have therefore spoken to C.I.C.R.A. about possible capacity issues and they are closely monitoring the situation.

[11:00]

#### **3.15.1 Deputy J.H. Young:**

Accepting the market theory that the Minister gave us about route freedoms and so on, would he not accept that traditionally for many years our community has been used to being able to make day trips to Guernsey for working purposes, family or sporting events and achieve an effective working day, a practical day in our sister island? When one looks at the current availability, one is likely to find the early flights out and late flights back and reverse are all booked. Therefore, would he not accept that that is a practical problem, particularly where we are doing agreements in Guernsey, to work co-operatively with our sister island, that those links are essential?

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

I would certainly agree that the links are essential. The first flight out of Jersey is 7.55 a.m. The return last flight is 6.50 p.m. so a day trip is perfectly feasible. There does appear to be a capacity issue potentially with the code share arrangements at weekends and that is a matter the Competition Authority are monitoring. I am also pleased to say that the airlines themselves have responded to capacity issues by laying on extra services. It is an evolving position; this new code share has only been in place for a matter of weeks. As I have said, we continue to monitor the situation. I thank the Deputy for his question. It is an important question and, as I say, it is under review.

### **3.16 The Deputy of St. Mary of the Minister for Planning and Environment regarding the provision of a fresh water supply and mains drains to all Islanders:**

Does the Minister consider that the whole Island should be connected to both freshwater supply and main drains in order to eliminate the current high risk of pollution to drinking water supplied by bore wells and springs and if so, will he recommend to the Minister of Transport and Technical Services that this should happen without any further delay?

#### **Deputy R.C. Duhamel (The Minister for Planning and Environment):**

The question is somewhat misleading and alarmist as it refers to, and I quote: “bore holes and springs being under a current high risk of pollution”. The truth is that, although there are inherent risks associated with using private bore holes and wells, most of the private water supplies on our Island pose limited risk and have properly maintained treatment facilities on them to manage this risk. If the whole Island were to be connected to both freshwater supply and mains drains then households relying on private water supplies such as bore holes and wells and the environment would be best protected against pollution. However I would be hesitant to recommend Island-wide connection as there are practicalities and costs associated with such connections. The practicalities include distance, gradient and access, and by the nature of these there is a recognised high per unit cost of each connection that may well be prohibitive. In the meantime, however, it is important that officers from my department provide full protection for households and private water supplies such as bore holes and wells. This is achieved by regulation under the Water Pollution (Jersey) Law 2000 and provision of incentives and education in order to reduce the risks of such water pollution occurring. The department also uses the Planning and Building Law to secure environmental gain such as extending networks in cases of new developments and in cases where private waste treatment is the only option, ensuring that these are fit for purpose and do not cause a risk to the environment.

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

In that case would the Minister also consider bringing legislation in order for properties to connect up to the main services by accessing adjoining fields without having to pay very often a ransom price that is currently being charged by landowners if there is no alternative route or obviously no intention to fund main services?

#### **Deputy R.C. Duhamel:**

The issue of legislation or charge to make water connections is something that is due to be considered with the Water Strategy that my colleague the Minister for Transport and Technical Services is bringing to this House very soon.

#### **3.16.2 Connétable S.A. Rennard of St. Saviour:**

As a farmer who spreads slurry I would like it to be noted that when you apply to spread slurry the Department of Agriculture gives you areas where you can go and where you cannot go. These are monitored by the Department of Agriculture. Would the Minister not consider it would be more advantageous to make sure that everybody was on main drains as these, I believe, if one has an outside privy, which a lot of old places now do have, these are not monitored, where farmers who spread slurry it is monitored? Would the Minister not consider that main drains would be much more important?

#### **Deputy R.C. Duhamel:**

No, the Minister does not share that opinion.

#### **3.16.3 Deputy G.C.L. Baudains:**

Many older properties make use of rainwater systems and use neither mains water nor wells or bore holes. Does the Minister believe we are currently doing enough in regard to rainwater harvesting?

**Deputy R.C. Duhamel:**

I do not and that, indeed, is one of the alternative directions I would wish to encourage. In the old days that perhaps the Constable of St. Saviour was referring to, that still exist in some far flung places of St. Saviour and the Parishes, people were known to drink their rainwater. That obviously does not run the risk of contamination by septic tanks or soakaways because it comes on to the roof structures and then is collected in barrels. It is about wise use of resources and considering each time we use water we are obtaining the best value and not just extending mains services for the pure joy of it.

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

I do not think there is any joy in having to spend hundreds of thousands of pounds or millions of pounds by the department having to extend services. That said, would the Minister, when he is sitting around the table of the Council of Ministers, support the Minister of Transport and Technical Services in moving forward in putting wayleaves in place so that we are not putting money into landowners' pockets where there is a ransom strip when people require to cross somebody's field, *et cetera*, or even their garden or a private road, so that this can happen at a modest cost by the person who requires this service? I am not talking about developers. I am talking about the ordinary householders within the Island who do not have the ability to find the funding that some of these ransom strips are demanded.

**Deputy R.C. Duhamel:**

I agree with the Constable and with the general sentiment that it must be fundamentally wrong for landowners to hold out for ransom strips in order for pay for connection of services to the mains services. But that being said, if there are other alternatives that can provide suitable treatment of waste materials or, indeed, possible supplies of water then those alternatives must have proper representation as well.

**3.16.5 Deputy J.H. Young:**

According to written answer number 22 of the Minister of Transport and Technical Services today, there are 2,250 premises in the Island that are currently relying on septic tank or soakaways for their own waste disposal. That is 2,250 situated in the water pollution safeguard areas of the Island. What help is he giving to the owners of those properties to ensure they can identify if their systems are working well and are properly maintained? What is he doing about that?

**Deputy R.C. Duhamel:**

My department runs a farm risk map that has been developed and is online and the map is for farmers and other property owners to assess the risk of spreading agricultural slurry on specific fields. The slurry application, as we all know, is permitted on certain fields as long it is not spread within 50 metres of a bore hole or well and that other conditions as to it being reasonable to spread these materials on a field apply. That is why the department runs a closed season, if you like, between 14th October and 13th January most years when we have high rainfall and the higher potential for contamination of bore holes to occur. That said, there is a body of work that is being undertaken. Members will know that the Water Pollution (Jersey) Law was agreed by the House in 2000. Within that Water Pollution Law it did give the Minister power to set up water catchment management areas. There are inherent problems on a wider scale with the quantity of nitrates in our drinking water, as has been suggested most years by the Jersey Waterworks Company, and this Minister has firm intentions to move the debate on in terms of providing proper water services to

Islanders under the powers the Water Pollution Law gives me. The timetable for delivering this is by 2015.

**3.16.6 Deputy J.H. Young:**

If I could ask the Minister to clarify his answer because I think he missed the main point. My point was what is he doing to help those 2,250 owners of septic tanks maintain them so they do not pollute their own bore holes and their own water supply?

**Deputy R.C. Duhamel:**

The Department for Planning and Environment, as Members know, does not have extensive monies to pay for the servicing of people's independent bore holes or sewage systems. If, indeed, that is something that Members would wish my department to involve themselves with then answers or questions and suggestions on a postcard would be welcome.

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

This again appears to be a question of funding. Perhaps everything should be channelled once again into Treasury's lap. Could I ask the Minister to support that idea of gaining extra funding for this?

**Deputy R.C. Duhamel:**

I have indicated in my answers to the questions earlier that, indeed, having general taxation being applied to solving these problems is just one way of solving the problems and there are a number of Islanders who would wish not to have the State, if you like, intrude in their affairs and I think those wishes have to be respected while at the same time looking at what is in the Island public good.

**3.17 Deputy G.C.L. Baudains of the Minister for Treasury and Resources regarding the resolution of the problems with J.T.'s billing system:**

Would the Minister, as shareholder representative, advise whether the Jersey Telecom billing problem is still ongoing and, if so, who is responsible, can it be resolved and does this problem in conjunction with fibre-optic issues and broadband limits have the potential to adversely affect J.T.'s value?

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

As previously advised to the Deputy the decisions taken by the J.T. board in regard to the change of its operating platform as well as the move to fibre and the underlying broadband services are decisions taken in the best interests of the company but also, I have to say, from the position I have as the Minister for Treasury and Resources I believe in the best interests of Islanders and particularly of economic growth. It is, of course, for the board to make these decisions and it is the Treasury's role to hold that board to account and that is a responsibility I hold extremely seriously. I have previously indicated that I am reviewing with my Assistant Minister in the Treasury the overall framework and the objectives of the company, and that is exactly a healthy thing to do. J.T.'s strategy is correct and its implementation and what it is doing is ambitious although difficult and challenging, as has been seen by the fundamental change in the billing system that is not just a billing system, it is the whole of the financial architecture. On value it is probably worth saying that since, as far as the States accounts are concerned, J.T.'s value has increased from £105 million in the 2010 accounts to £183 million in last year's accounts. Indeed, if one was to take the Manx Telecom valuation now publically listed that would indicate that J.T. today, on those terms, would have a value of the region of £350 million to £400 million.

[11:15]

### **3.17.1 Deputy G.C.L. Baudains:**

The Minister did not answer part of my question about whether the billing problem can or cannot be resolved. We know that cheques are no longer acceptable, bills arrive months late and some firms owe Jersey Telecom hundreds of thousands of pounds because of these delays. Does the Minister not agree that firms that normally put their own interests before that of their customers end up with problems and it may affect J.T.'s value in that regard?

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

I am more than happy that the Treasury acts on behalf of this Assembly and holds companies we are responsible for to account and to say tough things in private to those entities, and the Assistant Minister and I do so. We ask tough questions. But I have to say J.T., in respect of what is described as a billing system, would have made a disservice to users, consumers, the Island and the shareholder if it had not put a comprehensive new financial platform in place. With all big financial transformations there are implementation issues and J.T. needed to deal with some. There were some billing issues but all the information I have including, which I can send to the Deputy, updating exactly how many people have been calling the call centre, the seconds it takes to answer them. They have taken the issue seriously, they have dealt with the problems they are dealing with and I would ask the Deputy to reflect on the positive action that has been taken to date in doing the right thing, in making sure their financial systems are capable of dealing with the future rather than just simply criticising because I do not think it is entirely fair.

### **3.17.2 Deputy J.M. Maçon:**

Does the Minister accept that to simply take all the complaints J.T. receives at face value is not necessarily the whole story as people like me have given up complaining because of the bad service we are receiving. **[Approbation]**

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

If a bad service is because there was a billing issue that was in the period up until Christmas when J.T. completely changed not just the billing system, it is not just the printing system that ended up with billing, it is the entire financial architecture of the company. I asked the company with my Assistant Minister and the Treasurer: "Exactly how many dress rehearsals did you have on that? What did you do about data migration?" On all those issues, and frankly issues went wrong, but they prepared well and they have responded. If the Deputy has an issue, then please call the J.T. line. It is being answered, I think, 90.2 per cent of calls are being answered by agents within 40 seconds. They have put resources into dealing with consumers' questions and consumers now have better information about their bills, when it is being incurred and are assisting consumers to ensure they are getting best value and they are understanding charges.

### **3.17.3 Deputy J.M. Maçon:**

Supplementary, Sir. I did one better than calling the J.T. I went in personally and I have not received a reply from them since 2 months from talking to them in person. How can the Minister expect me or other members of the public by implication to have confidence in J.T.?

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

I regret that the Deputy did not get an answer. It is quite unfair for Members that might have an isolated issue to somehow cast aspersions. There are hundreds of people who have had their questions and their queries on a new bill and none of us like change. I did not understand my new bill but I understand now that the new bill format, once I looked at it, was providing much better information and the roll-out of J.T. in providing customers with better information, more accurate information, timely information rather than just simply the end of their month on mobile uses, *et*

*cetera*, is providing better customer service. I will take up the Deputy's question. Indeed, I will take up any other question that Members may have and I will get it solved but at the moment 90.2 per cent of calls are answered within 40 seconds.

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

I am concerned what I am hearing from the Minister. Can he tell us: is billing done off-Island? He talks about a call centre. Is that on-Island or off-Island? If so, what that does do to our unemployment numbers if we are employing people from off-Island to run these particular areas?

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

The call centre, despite the fact that I have already answered this question previously, is on-Island. I would also remind the Connétable before he starts casting aspersions on J.T., on the one side we want lower prices and an efficient company and therefore J.T. does need to run an efficient and competitive service that, of course, is in a competitive market with other telecom providers that are not operating in Jersey. I would remind the Connétable of the amount of apprentices and people that are being employed in terms of rolling-out the fibre issue that the Connétable also and other Members have criticised. Now I find it somewhat ironic that the complaints to Islanders are not whether or not fibre is happening but the fact that it is not happening fast enough. Clearly we cannot win but J.T. is taking local employment seriously and has helped to get some young people back into work and that is a good thing.

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

The Minister did not answer the question about billing off-Island but while I am on my feet I too, like the asker of the question, had a query that went on for 3 months before I had it resolved. It had to be resolved eventually because I wrote to the chairman of Telecom but I should not have had to do that. I would be telling the public who are listening here today, if you have a query write to the Chairman himself and then something might happen because if he has sufficient correspondence he will do something about it further down the line.

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

Can I thank the Member who sent me some Tunes for my voice? I am most grateful. I would not be the best operative in a call centre today but I will try to do my best to answer questions. The Connétable simply continues and I do not understand. There is a disconnect between what I hear about the customer service from J.T. giving and the isolated examples that I hear from a number of Members. I have just had a message. The J.T. call centre, somebody has called it and it was answered within 10 seconds. I will take the Connétable outside and perhaps he can call with Deputy Maçon to solve their issues straight away and we will get them solved. **[Approbation]** He does not need to write to the Chairman or me or ask questions in the Assembly. The call centre here in Jersey is delivering and I congratulate J.T. and thank all of their hardworking staff who have dealt with the financial transformation that is providing better customer service.

**3.17.6 Deputy R.G. Le Hérissier:**

I am sure the Minister would acknowledge he made a little slip in that he did not accept the notion that the bills were in fact emanating from the U.K. Perhaps he would like to clarify that. I wonder on a broader issue would the Minister tell the House what lessons he feels he has learnt from the recent ruckus over the billing?

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

I think the misnomer is the bills are posted from the U.K., those that are posted and those that J.T. saves money on by filing most bills obviously online now. I understand that is a postage issue but I am not going to tell J.T. again to be protectionist in relation to that. I think it is the post that is the

issue there. Lessons learnt: clearly J.T. has learnt a lot of lessons in the fibre-optic roll-out and, indeed, the billing system. But we should not underestimate the scale of transformation of this entity. This was a States department 10 years ago running on States systems, operating effectively as a committee of this Assembly. They have moved in one of the most fast-moving, dynamic worlds quickly and they are responding. They are evolving and they are serving Jersey's economic growth and serving Jersey's community. I am proud of what J.T. is doing. They are learning lessons. That is the dialogue we have with them there, and we are looking at their objectives. We are going to ensure that we are aligned completely with the Minister for Economic Development to ensure that the objectives of this Assembly are those objectives with J.T. and they are remunerated and motivated on that basis. It is ongoing lessons, learning lessons every day. You do not get everything right all the time but you learn and improve and that is what they are doing.

**Deputy R.G. Le Hérisier:**

I do thank the Minister for that but what lessons has he learnt? That was the question.

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

I have learnt that you have to be extremely well prepared in States questions **[Laughter]** but you have to know everything from dripping taps to Deputy Maçon's telephone issue to the Connétable of St. John's absence of technology and the fact that he still does not have an iPad and we have to print out issues for him because he does not receive email. **[Laughter]** We have to be apparently an expert on everything that these infrastructure companies own and clearly we have to raise taxes also, apparently, in order to fund the infrastructure because this Assembly sets up these entities and then wants to micromanage them. I do not think that is quite right.

**Senator S.C. Ferguson:**

I have a comment, Sir, that it is not that...

**The Bailiff:**

Can we have a question?

**3.17.7 Senator S.C. Ferguson:**

I have a question too, Sir. It is not the fact that the replies to the calls are replied to quickly but were the explanations available immediately? I am, in fact, in discussions with J.T. because the bills are appalling if you are trying to read them online. Does the Minister not think it would be a good thing to have the J.T., bills as easy to deal with for the public as those for J.E.C. (Jersey Electric Company) and the Water Company that are also available online?

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

I look forward to the day when I get some agreement and I satisfy Senator Ferguson on something **[Laughter]** because I just simply never achieve that, and on April Fool's Day I do not know. Let us be clear. J.T. provides water on largely either a rateable value or a litre business. The J.E.C. provides a standing charge and a tariff for water. J.T. is running an internet business, fixed line data on a plethora of tariffs and I would remind the Senator, and I think she knows this because I answered this in a question at her Corporate Services Panel, there was indeed a focus group, including members of the Senior Citizens Association, that directly reflected what J.T. did with those bills, including giving a big total and an explanation. J.T. listened to their customers with a focus group but, of course, there still need to be improvements made. Just to say J.T. did this without consulting would not be fair.

**3.17.8 Deputy G.C.L. Baudains:**

The Minister made several comments. He said he was proud of what J.T. is doing. I would suggest that a lot of Islanders would not agree with that. He said he gets better information on his phone bill. I can only presume he must be using an alternative supply to Jersey Telecom because I have not seen any change in my phone bill. Worryingly, he said there was a billing issue. Will the Minister admit that the billing issue is ongoing; and my original question was will it ever be resolved and if so, when?

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

I have been very clear. The billing system was about a fundamental change in the financial architecture, root and branch, of J.T. and there were data transportation issues that you only know despite however many dress rehearsals. There were issues and they needed to be fixed and J.T. probably needed to fix them more quickly than I would have wanted. But these issues are further improving, they are holding further dialogue with customers, they are constantly listening to what customers want in terms of more information and better formatting and this is a never-ending endeavour. Good is never an end point. It is constantly improving. I would say there were issues, they have tackled them and they have been tackled well by the board. If there are further improvements they are going to be made.

**Deputy G.C.L. Baudains:**

I asked would the Minister admit that the situation is ongoing and will it ever be resolved and if so, when? He failed to answer.

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

The Deputy wanted me to admit his pejorative. I have acknowledged there were issues about the billing and the whole financial transformation. It could have been better but everything is fine with the benefit of hindsight. Simply to criticise entities and States departments for trying to do the right thing and change sets out a culture where we are simply going to mean organisations do not do anything at all. I do not criticise for change, I compliment it and encourage constant improvement. That is the way that I would respond to States departments doing change and States-owned entities rather than simply admitting the fact that they have done something and whipping them in public.

**3.18 The Connétable of St. John of the Minister for Planning and Environment regarding the supervision of slurry spreading:**

Could the Minister advise when the closed season is for spreading slurry on land and what action if any is taken by the Department of Planning and Environment at the start of the closed season to inspect slurry pits and tanks to ensure that they are empty of fluid or solid silt?

[11:30]

**3.18.1 Deputy R.C. Duhamel (The Minister for Planning and Environment):**

The Water Pollution (Jersey) Law 2000 allows for approved codes of practice to be approved by the Minister. The Code of Good Agricultural Practice for the Protection of Water is one such code - the Water Code - and it sets out voluntary measures that farmers can take to prevent water pollution. As part of these water pollution prevention measures the Code specifies a closed period for the application of slurry to agricultural land. The most recent closed period was from 14th October 2013 to 13th January 2014, coinciding with high rainfall. The department takes a risk-based approach to regulation and enforcement to prevent officer time being spent on low-risk inspections. It also applies a light touch to regulation where possible to enable businesses to decide how they wish to operate within the laws, policies and voluntary codes. In relation to the last closed period a letter was sent out to all farmers in May 2013 reminding them of the closed period

dates and their responsibilities. In addition, the 7 farmers who applied for a derogation to apply slurry during the previous closed period were visited individually in the summer of 2013. They were asked to detail what measures they had put in place to minimise the chances that a derogation would be needed the following year.

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

Are some slurry tanks underground subject to an examination of those units to ensure that no caking or silting-up is happening within the sumps and are the sumps fitted with paddles? Others are above-ground slurry tanks. A number are covered. How are these inspected to make sure the paddle wheel is being effective in keeping the liquid from caking?

**Deputy R.C. Duhamel:**

I do not have that information with me at the moment and I will ask the department for it and give the Constable a fuller report.

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

I wonder if the Minister would agree to review the dates of the closed period with a view to making them more flexible. As an example of the winter we have just had, October and November were very mild. The grass and cover crops were still growing and could take use of the nutrients that farmers could not spread so they are storing-up slurry from that time right up until 14th January and that was incredibly wet, as was February. We have a case where farmers are storing slurry when they could be spreading in good conditions and end up spreading in conditions that are not so good.

**3.18.4 Deputy R.C. Duhamel:**

As I mentioned in a previous question, it is my intention to come forward under the Water Pollution Law with water catchment management orders and define water catchment management areas. Within those areas and those orders there will be an opportunity for more fine-tuning as is required in order to minimise the potential pollution problems.

**3.18.5 Deputy S.G. Luce of St. Martin:**

I would like to back-up what the Constable of Grouville has just said. This closed period stops farmers using slurry when it can be taken up by crops and when the ground conditions are favourable. It also forces farmers to spread slurry when the ground is waterlogged on many occasions. Can I ask the Minister... I would say to him this policy is causing more problems than it solves and can I ask him if he would consider abolishing it all together?

**Deputy R.C. Duhamel:**

Before moving towards an abolition I would have to take advice to see whether or not that was the best way of solving the problem. Indeed, the States have invested some £1.5 million of taxpayers' monies and an additional £750,000 of farm business investment has taken place since 2005 to ensure that farms have had the ability to store at least 4 months of slurry and dirty water. That is principally for dairy farmers. Potentially the storage problem has been solved. There is an opportunity afforded by weather windows and the ground conditions to spread slurry. Everybody is saying that there should not be an abolition of spreading slurry on the ground but mainly that when such an action takes place it should be done with due regard and respect to other people's bore holes, and indeed the wider catchment facilities for providing the Island with drinking water. I will look at it, I am looking at it but I think the extreme measure that the Deputy has suggested will not be the final outcome.

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

The Minister says that the 4-month closed period and the storage facilities have cured the problem but the problem arises when the Island finds itself, after 4 months of not being able to spread slurry and all its capacity is full and ground conditions are unfavourable, in a completely uncomfortable position of having to spread slurry when the soil is incapable of taking it. This regime needs to be looked at in great detail and I think the department does not take into account that Jersey is a very special climate, a very special farming regime.

**The Bailiff:**

Ask a concise question if you would, Deputy.

**The Deputy of St. Martin:**

I would urge and ask the Minister to reconsider this.

**The Bailiff:**

A concise answer if you would, Minister.

**Deputy R.C. Duhamel:**

The Island is some 45 square miles and half or thereabouts is used for agricultural purposes. The number of dairy farmers has come down to 27 or thereabouts and the number of cattle has substantially reduced from previous times. The problem is not as big as the Deputy is suggesting and I think the appropriate measures will be taken.

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

I am surprised at the last answer we have just been given, given that the Minister says there is something like 4 months' supply or capacity for slurry to be held on farms. When caking occurs within a slurry pit or tank, this reduces the volume of liquid that the tank can hold. Now, unless the officers from his department are inspecting these tanks on a regular basis prior to the closed season to make sure they are not holding 50 per cent or 40 per cent or caking or silt, then the capacity that that farm or any farm will have will be greatly reduced. Will the Minister make sure if he sets up an inspection regime that these tanks are inspected and the caking is removed so the tanks can hold the correct volume?

**Deputy R.C. Duhamel:**

Yes, I will but, equally, I will also pay attention to perhaps encouraging Island farmers to move to different systems for fertilising their land, in particular based on crop rotation.

**3.19 Deputy G.P. Southern of the Minister for Housing regarding the expenditure of the rental income estimated for the years 2014 to 2018:**

Will the Minister give a breakdown of how the £240 million rental income estimated for the years 2014 to 2018 in the business case, which accompanied the proposition entitled *The Reform of Social Housing*, P.33/2013, is to be spent and, in particular, how much is to be returned to the Treasury?

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

Of course, as Deputy Southern said, this was all laid out in P.33 on page 45. However, of the projected rental income of £240 million in the years 2014 to 2018, £64 million will be spent on maintenance, £30 million on net overhead expenditure, £20 million on finance costs and £153 million in that area will be returned to the Treasury. This results in a net loss of £27 million due to the additional costs associated with bringing our stock up to decent homes standard and the cost of borrowing. This loss is projected to be recovered by year 10 of the plan as a result of the additional

rents generated from the rent policies and the new properties built. During the period 2014 to 2018 the housing company, Andium Homes, will be undertaking a major programme of refurbishment and new-build projects costing £175 million. Andium Homes will be utilising proceeds from existing property sales and borrowing from the States of Jersey to deliver homes standard and provide the much-needed additional housing as all laid out in P.33.

**3.18.10 Deputy G.P. Southern:**

Can the Minister point out how the return of such a large proportion of rental income is not replicating the system we had before whereby the priority given to the Treasury to claim rental income took over from the ability to maintain housing? Is he not in danger of making the same process again?

**Deputy A.K.F. Green:**

No, I am not in danger of making that mistake again at all. That is why we have a very clear 30-year business plan which shows the money that will be paid to the Treasury and how the other monies will be spent and where the sources of money will come from. This is a very robust, properly-checked business plan. I might say that the company will be in receipt of £1 billion worth of assets free of charge - at no cost - and it is not unreasonable, therefore, that they make a return this time.

**3.18.11 Deputy T.A. Vallois:**

Could the Minister for Housing confirm whether the dividend return from the company to Treasury has been included in a Memorandum of Understanding and whether that will be included in the transfer regulations that are due to be debated by the Assembly in July, I believe?

**Deputy A.K.F. Green:**

Yes, that is under discussion at the moment but it certainly will be very clearly either in the Memorandum of Understanding or in the Regulations. It will be very clear. We are discussing that at the present time.

**Deputy T.A. Vallois:**

Can the Minister just confirm then that the Memorandum of Understanding has not yet been agreed?

**Deputy A.K.F. Green:**

It is under discussion at the present time.

**3.18.12 Deputy G.P. Southern:**

I will put it a different way then. Does the Minister not agree that, in ploughing such a large portion of the rental income of Andium into return to Treasury, he is effectively making his tenants pay additional rents in order to support the income support scheme?

**Deputy A.K.F. Green:**

That case may have been existing in the past. The way I see it now we are getting £1 billion worth of assets at no charge from the Treasury and we are making a very modest return in place of that.

**The Bailiff:**

That brings questions on notice to an end. We come now to questions without notice, although before we do that can I just inform Members of a lodging: P.45 Chief Minister election: Island-wide vote, lodged by Deputy Mézec, and a report, R.43 Land transactions under Standing Order 168(3) - Apartment No. 8, Block A Les Quennevais Park - transfer of the Public's flying freehold

ownership and cancellation of existing 99 year lease, presented by the Minister for Treasury and Resources.

#### **4. Questions to Ministers without notice - The Minister for Social Security**

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

In transferring what was the Invalid Carer's Allowance to the Home Carer's Allowance from funding by the taxpayer to funding by social security contributions, was it the intention of the Minister to reduce those who can offer home carer's care for, say, parents by requiring them to have a full contribution record for at least one month during the previous quarter but one; thereby reducing the number of people who can volunteer to do this caring effort in our society when the demand is going up?

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

No, there was no such intention. However, it is a condition of a social security contributory benefit that there has to be a contribution record of some sort. We chose the very minimum which, as the Deputy explains, is one month and we also made due note of the credits received for home responsibility which would apply to women.

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

Does the Minister not consider that this is reducing the number who can apply for this particular benefit and is he considering reducing what he calls this minimal level still further?

##### **Senator F. du H. Le Gresley:**

I am not aware that the changes have created any difficulties with people making applications. If the Deputy is aware of any particular cases, if he would bring them to my attention I will give it further consideration.

##### **4.2 Connétable D.W. Mezbourian of St. Lawrence:**

What provision, if any, is made by the Social Security Department to enable those who cannot drive for medical reasons to have access to reduced travel costs such as subsidising the bus service?

[11:45]

##### **Senator F. du H. Le Gresley:**

I have to say, in response to the Connétable, that I do not think any of this comes within the responsibility of my department. If she believes it does I would happily look further into it, but I do not see that these issues relate to Social Security.

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

Just to follow on from that, is it not the case that in the past cards were available for disabled bus passengers, for example, to use that and there was a transfer so that a component came under income support? If that is the case, is there sufficient provision in income support arrangements already for those with mobility issues to use public transport?

##### **Senator F. du H. Le Gresley:**

I am at a bit of a loss with these questions and the direction they are taking. The issue of people on income support who have mobility difficulties, there is a component within income support - 2 levels - which is assessed and included in an income support claim. It may be that those monies can be used to buy tickets on a bus or a taxi maybe once a week or whatever, but I cannot think how these questions are targeting my department because I am not sure they are our responsibility.

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

If I can reiterate perhaps with a supplementary, is it the case that the department still issues cards or, rather, are there people on income support who, as a legacy, still have bus passes that would have been issued by his department and will those individuals also still be in receipt of a component, whereas new claimants are not able to receive a card for travel purposes?

**Senator F. du H. Le Gresley:**

Now we are getting to the nub of the problem. I think we are talking about health insurance exception cards, which were done away with when we introduced income support. A holder of a health insurance exception card was entitled to free travel on the buses. I think there was a slight legacy of arrangements made, but certainly the only people I am aware of now who have entitlement to free bus passes are people in receipt of an old age pension.

**4.4 Deputy C.F. Labey of Grouville:**

Would the Minister consider introducing a flexible social security contribution arrangement as they have with National Insurance in the U.K. for our fishermen who, in the case of this winter, were unable to go to sea for 2.5 months in some cases?

**Senator F. du H. Le Gresley:**

There has been concern raised with the department about the plight of our fishermen and it is something that the department officers are looking into in conjunction with the Economic Development Department. Quite rightly, we are looking at situations where we can reduce, as far as possible, the contribution requirements in the relevant quarter for fishermen who are having financial difficulties. As to whether we will be making changes, there is a programme of work scheduled for probably next year now to look at introducing new classes of contributions other than the 2 that we have, but that work has not really started yet.

**4.4.1 The Deputy of Grouville:**

As the demands will be going out in the next few days and as some fishermen are going out of business as we speak, would he consider an expedient timescale to address this at this time, even if it is a temporary measure?

**Senator F. du H. Le Gresley:**

The difficulty with social security contributions is it is a legal requirement. We would have to change the Social Security Law that would require primary law changes, so that could not be done in a hurry, and it would probably be wrong to do it in respect of one particular group of people on a one-off basis. I would reiterate, if any fishermen or organisation involved with the fishing industry is having difficulty or the receipt of their latest bill is presenting them a difficulty, they should come in and talk to officers in the department.

**4.5 Deputy R.G. Le Hérissier:**

Is the department monitoring the number of people who, given the radical changes in pension provision and indeed the expansion, for example, of zero contracts, are really going to be without proper pension provision? If so, has the Minister got an estimate, say, for the next several years and will he be considering auto-enrolment as a way of dealing with what could be a growing issue?

**Senator F. du H. Le Gresley:**

The Government Actuary has completed the latest review of the Social Security Fund which, of course, provides provision for pensions. I will be presenting the findings of that report to States Members in the next few weeks. There are clearly issues around people who are not making adequate contributions in relation to receiving a full pension and the findings in the report will help guide us as to whether we need to make changes going forward.

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

On a supplementary, though, is the Minister committed to a solution like auto-enrolment were he to discover large gaps in provision?

**Senator F. du H. Le Gresley:**

I believe that we need to take some steps to make sure that, going forward, people have adequate pensions. Maybe that answers the Deputy's question.

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

Is it not the case that Disability Transport Allowance for many on income support is being subsumed by the requirements of the household medical needs - so their medical needs - and, in general, what progress has the Minister made, in conjunction with the Minister for Health and Social Services, to develop access to G.P. services for those on low incomes in future?

**Senator F. du H. Le Gresley:**

The Deputy has confused me as to why the Disability Transport Allowance fits in with access to G.P.s. The Disability Transport Allowance no longer exists, although there are a few people who are having it phased-out. Maybe that was not the correct terminology. In regard to work with G.P.s, which is presently underway with both my department and the Health and Social Services Department, the process has been slow but we have put more resources into dealing with the issues. We had intended to use an off-Island consultancy but we decided to do the work locally. The Ministerial Oversight Group is now meeting monthly to monitor progress and we hope that we can stick to the timetable set by the States.

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

Which is to deliver something by what date?

**Senator F. du H. Le Gresley:**

The amended proposition of the Minister for Health and Social Services was by the end of September. At this stage I would very much doubt that we will have full proposals, but we will certainly be at a stage where we can present to Members our findings to date.

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

The Minister just half-answered my question. I was going to ask a question about sustainable funding for primary care and the Minister has basically confirmed that it is not going to be delivered by September 2014. Can he tell Members when he thinks it will be in its entirety?

**Senator F. du H. Le Gresley:**

I was referring to the model of primary care, not the sustainable funding, which is a separate element of the proposition. The issues around sustainable funding are really a matter for the Minister for Treasury and Resources in conjunction with the Minister for Health and Social Services and myself.

#### **4.8 Deputy J.G. Reed of St. Ouen:**

Just following on from Deputy Hilton's question, what progress have the 3 Ministers made in developing a sustainable funding mechanism for primary care?

**Senator F. du H. Le Gresley:**

The issue is complex, as I am sure the Deputy would understand being on our Scrutiny Panel. The question is really tied-in with the development of the next Medium-Term Financial Plan and bids are presently being put forward, particularly by the Health and Social Services Department, as to

the growth required to meet the requirements of the delivery of a new model of primary care and also the cost of a new hospital, *et cetera*. The work really relates to the bids and the funding for the next Medium-Term Financial Plan, which is work well underway at the Treasury.

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

Does the Minister propose that the sustainable funding mechanism for primary care will not only be brought to the States but decided prior to the next Medium-Term Financial Plan?

**Senator F. du H. Le Gresley:**

I firmly believe that the 2 Ministers have a responsibility to bring out proposals to the States, but the funding mechanism will certainly be part and parcel of the next Medium-Term Financial Plan.

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

I am aware of the excellent work the Minister is doing here but he must be aware that the public believe that the current payment system is not working, hence the big shift, for example, to Accident and Emergency. Can the Minister inform the House whether the group's work is based on the fact that we are going to have to abandon the current system and develop other alternatives? If so, which are they considering?

**Senator F. du H. Le Gresley:**

It is too early in the development of proposals to give any direction to the Assembly and to the Deputy. I would challenge whether the co-payment system that we have for G.P.s and the refund through the Medical Benefit System is not sustainable. I suggest that it is a system that is done in some other countries and it just needs refinement. It is a question of how that refinement is obtained.

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

The U.K. is talking about £10 a visit. Is that the kind of refinement that the Minister is seeking?

**Senator F. du H. Le Gresley:**

I think the Deputy is perhaps not taking into consideration that G.P. practices are private businesses and they are quite at liberty to charge whatever the patient is prepared to pay. We pay a set amount out. The control of the costs of going to the G.P. very much rests in the hands of the practitioners and their representative body, which is the P.C.B. (Primary Care Body).

### **5. Questions to Ministers without notice - The Minister for Transport and Technical Services**

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

Two weeks ago in this Assembly I questioned both the Minister for Transport and Technical Services and the Minister for Planning and Environment over the Pine Walk, the state of the oad and the footpath underneath. Could I ask the Minister if he has made any progress in that department, please?

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

As I pointed out last time, this falls under the responsibility of the Environment Department. T.T.S. are assisting with this. We would like to expedite this as soon as possible because it needs to protect the road above and also we would like to get it fixed as soon as possible to assist tourism.

#### **5.2 Deputy M.R. Higgins:**

Following on from my earlier question, will the Minister elaborate on all the meetings and discussions he has had with the Minister for Treasury and Resources regarding the 'Hoppa Bus' and also tell us what the reaction of the Minister for Treasury and Resources was? Is funding going to be forthcoming or not?

**Deputy K.C. Lewis:**

Hopefully in the future. T.T.S. did put in a bid, which was not supported. I had many meetings with the Minister for Treasury and Resources and the Assistant Minister for Treasury and Resources and the Treasurer of the States regarding various T.T.S. projects, of which this was one.

**5.3 Deputy G.P. Southern:**

Is the Minister optimistic that this time he might be able to push through funding for a 'Hoppa' service in town and this environment to take in the essential places we need it to?

**Deputy K.C. Lewis:**

I am confident in the future that a 'Hoppa'-style service will be travelling through town, call it what you will: 'Hoppa Bus', 'Hop-on/hop-off.' As soon as we can get the funding together and expand the service we will do so.

**5.3.1 Deputy G.P. Southern:**

Would that hop-on/hop-off service be low-cost or no-cost?

**Deputy K.C. Lewis:**

That is yet to be decided. It could be sponsored by many of the businesses in St. Helier.

[12:00]

**5.4 Deputy J.H. Young:**

The Minister, in his written answer 17 today, sets out a so-called basis for ignoring a States decision made in January 2011 and in September 2010 to provide a site for waste recycling operators. Is he really telling this Assembly that it is for him as a Minister just to ignore these policies, specific decisions that were made by the States, and ignore the policies of the Island Plan that make it quite clear that a waste recycling centre should provide such a facility?

**Deputy K.C. Lewis:**

I am all in favour of a waste recycling facility. As the Deputy is well aware, we are planning such a facility at La Collette, but it is not within the remit of Transport and Technical Services to provide skip services for all the private companies in Jersey.

**5.4.1 Deputy J.H. Young:**

He knows that what he is effectively saying is he wants to see the proliferation of waste-sorting activities going on in all sorts of unsuitable sites throughout the Island, causing problems for their neighbours and what have you, when he is the custodian of the largest area of waste facility in the Island where he is investing public money into a facility for this very thing. Why should he not make it available, by tender if necessary, for private operators?

**Deputy K.C. Lewis:**

Whether a site is suitable or not for a skip service, that is a matter for Planning not for me. As I said, we do not have the space to accommodate skip companies from all over the Island.

**5.5 Deputy M. Tadier:**

Will the Minister advise whether any research has been undertaken into whether or not Island-wide kerbside recycling would result in more recycling being done and thus the targets being met?

**Deputy K.C. Lewis:**

I would greatly encourage kerbside recycling throughout all the Parishes on the Island. Many Parishes do kerbside recycling to a greater extent than others. Some do good recycling and some are glass-only, but it is something that I would sincerely encourage.

**5.5.1 Deputy M. Tadier:**

Would he encourage it to the point of providing a service himself, albeit in conjunction with the Parishes, to make sure that all of the Island, no matter where one lives, can benefit from kerbside recycling rather than the current system of having a postcode lottery?

**Deputy K.C. Lewis:**

As I say, I would encourage it but I do not think there is any point in T.T.S. duplicating services we already have. The Parishes take care of their own refuse. If the recycling element could be included in that, that would have my full support.

**5.6 Deputy J.M. Maçon:**

Will the Minister be bringing to the Assembly for debate or implementing any of the recommendations in the recent review of the taxicab service during the remainder of his term and if not, why not?

**Deputy K.C. Lewis:**

Yes, in the not too distant future.

**5.6.1 Deputy J.M. Maçon:**

Can the Minister explain whether that will be via States debate or by Ministerial order through his department?

**Deputy K.C. Lewis:**

Yet to be decided, but I think I would like to bring it to the States.

**5.7 Deputy J.A. Hilton:**

Several months ago I asked the Minister for Transport and Technical Services whether he would carry out some work on the crossing at New Cut and King Street to make it a pedestrian crossing. Can he inform Members what progress he has made on this project, please?

**Deputy K.C. Lewis:**

I am not sure what progress has been made on that. I need to consult the Engineering Department.

**Deputy J.A. Hilton:**

Can the Minister please come back to me in email just to confirm exactly what is happening, thank you?

**Deputy K.C. Lewis:**

Indeed.

**5.8 Connétable M.J. Paddock of St. Ouen:**

In light of the Assistant Minister for Treasury and Resources' statement this morning with regards departments seeking funding for projects, could the Minister tell the Assembly would he be seeking

funding to extend the sewerage networks within the country Parishes and certainly in the Parish of St. Ouen where we have some definite problems?

**Deputy K.C. Lewis:**

Yes, indeed. I would agree with the Constable 100 per cent. As Members are aware, we have put in a bid for £75 million for a new sewerage plant but, additional to that, my department is in talks with the Minister for Treasury and Resources and his department regarding expanding the foul sewer network into the rural areas. I do not think it is realistic to say that we can put every house on the Island on main sewers, but we will do the best we can to include all the conurbations both north-east, north-west and all points in between. Where we cannot put main sewers in for reasons of topography or distance and expense we will, working with the Minister for Planning and Environment, authorise small pocket plants that will do a similar job.

**5.9 Senator L.J. Farnham:**

Has the Minister's department had a chance to assess the damage to the Island's beaches following the harsh winter storms and, if so, decided if any action is necessary to restore the beaches, especially where the sand levels have decreased significantly?

**Deputy K.C. Lewis:**

Yes, indeed. A lot of work was done on the sand levels, even during the recent storms we had, to alleviate as much flooding as we can. A considerable work was done down at Beaumont to reduce the level of beach there. Beaches were moving about 10 or 12 feet at a time, so that is definitely ongoing work; not to mention the damage that we had to infrastructure, which I believe at the moment is running to some £850,000.

**Senator L.J. Farnham:**

Could I just briefly congratulate the T.T.S. Department for their excellent work in that area?

**Deputy K.C. Lewis:**

I thank the Senator for his comments.

**5.10 Deputy S. Pinel of St. Clement:**

Can the Minister give an estimated date for the completion of the works at Snow Hill car park? Thank you.

**Deputy K.C. Lewis:**

I believe the Deputy is referring to the Phillips Street shaft arrangements. That is ongoing, there have been some delays. The contractor has had a few problems with the strata. The main shaft is complete in Phillips Street and the tunnel boring has started, but there have been some delays with the rock strata, I believe. Work is definitely ongoing. I am not in a position to give a date at the moment.

**5.11 Deputy R.G. Bryans of St. Helier:**

Some time ago I raised with the Minister the concerns the parishioners have for a rather dangerous crossing at the bottom of Trinity Hill. I wonder if you could just tell me if there is any progress on that particular work

**Deputy K.C. Lewis:**

Yes. I am familiar with the area the Deputy refers to. It is quite a dangerous corner and our senior engineer has been down to look at it several times to see what can be done. This work is ongoing, but it is a very difficult and dangerous corner, I would agree.

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

Some time back I wrote to the Minister about car parks in St. Martin's. Specifically where in one car park a large number of vehicles under one single ownership are being kept on a permanent basis. These are public car parks funded by taxpayers and could I ask the Minister: has he made any progress and will he give a guarantee to resolve this issue before the summer senior starts?

#### **Deputy K.C. Lewis:**

Yes, indeed. I believe it was somebody selling second-hand cars. This has been reported to the department and is ongoing and I believe the department is liaising with the Parish police regarding that.

### **5.13 Deputy M.R. Higgins:**

Again, following up on one of the other questions about the funding of extending the main drains... The Minister said that he had talked to the Treasury, can he tell us how that was received? Is he getting funding for extending the main drains and will that be in the Medium-Term Financial Plan?

#### **Deputy K.C. Lewis:**

Yes, the talks with Treasury have been very fruitful regarding this and also we will fund out of own T.T.S. rolling programme.

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

Surely the important thing about the safety involved at the crossing of the foot of Trinity Hill is not that his officers should have gone and taken a look, but that he should come up with some sort of solution, because this is a death trap at the bottom of Trinity Hill where there is a blind corner. However you do it, it is a very dangerous corner. When will the Minister come to the House with some solutions?

#### **Deputy K.C. Lewis:**

I would agree entirely. It is a very dangerous corner. As I said, I am very familiar with the area. But putting a zebra crossing on a corner is equally as dangerous because it gives people a false sense of security. We could put a zebra crossing further up the hill or down the hill, but people will take the shortest route across, which I believe is to the supermarket.

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

To follow on, is that like putting a zebra crossing in front of a yellow give-way line in several places in town, is that equally dangerous?

#### **Deputy K.C. Lewis:**

I would agree, but they are not ours.

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

Will the Minister look into the question of lighting of zebra crossings? Particularly at night, well, obviously at night, sorry. The ones in St. Brelade Bay and St. Ouen are particularly dangerous and a lighting set up, such as you can get in America, where if somebody steps on to the crossing the lights come on. Something like that, why can we not have that?

#### **Deputy K.C. Lewis:**

As the Senator is well aware, we are doing a considerable amount of work in St. Ouen at the moment, and I will ask engineers to check that.

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

I had not even put my light on then. **[Laughter]**

**The Bailiff:**

Oh, right. I must have failed to tick you off.

**5.17 Deputy M. Tadier:**

I think we have got a psychic link which has developed now, Sir. Will the Minister be conducting any type of general review of circulatory systems, given the fact that I suspect in many places around the Island where traffic lights are involved, systems are sub-optimal and could be enhanced by a simple rethink of layout?

**Deputy K.C. Lewis:**

Yes, and in fact that work is ongoing. There are several computer programs which are department-run which deal with that very problem. In fact when we had the problem with the rock fall at Mount Bingham a lot of the lights were changed by a computer to prioritise east and west. So that is being done and is ongoing.

**5.18 Deputy T.A. Vallois:**

Could the Minister advise what is happening with regards to a traffic network survey that the T.T.S. were carrying out in St. Saviour with regards to the school network?

**Deputy K.C. Lewis:**

Yes, that is in its draft form at the moment. The White Paper should be available in the not too distant future.

**5.18.1 Deputy T.A. Vallois:**

Sorry, could the Minister explain why it has taken 2 years?

**Deputy K.C. Lewis:**

It was very extensive and it had to involve consultation with the Parishes involved, both St. Saviour and St. Helier. There was a lot of work done with all the schools involved, and even the parents.

**5.19 Connétable S.W. Pallett of St. Brelade:**

Due to the lack of movement from the department the Parish of St. Brelade is carrying out its own speed reviews to speed limits in our Parish. Is the Minister going to be carrying out a review or pick up his review of Island speed limits generally?

**Deputy K.C. Lewis:**

Yes. That is work that is ongoing. If the Constable would like to provide me with any information he has with problem areas I am more than happy to look at it.

**5.19.1 The Connétable of St. Brelade:**

It has been ongoing for an awfully long time. Is he working on the Island-wide speed limits at the present time or has the work been shelved?

**Deputy K.C. Lewis:**

There have been several put through recently, various speed limit amendments have gone through in the last few weeks.

**5.20 The Connétable of St. Mary:**

Is it not true, Minister, that there will be a consultation on speed limits launched in the second quarter of this year? That is the information I have from the department and the information I have been giving to my parishioners.

**Deputy K.C. Lewis:**

Yes, indeed. It is all part of the works going on with St. Ouen, St. Mary, St. Lawrence, St. John and various other Parishes.

**5.21 The Connétable of St. Mary:**

Supplementary, if I might? The Minister should be aware I am referring not to that work regarding the village centre improvements, but to an Island-wide consultation which I believe will be launched in second quarter.

**Deputy K.C. Lewis:**

Yes, my team will be touring the Parishes.

**The Bailiff:**

Very well. That brings questions without notice to a close. There are no matters under J, L, K, so we come to Public Business.

**The Connétable of Grouville:**

Sir, I would like to withdraw or rather delay my proposition if that is all right for later in the day to be put on the agenda for the next sitting? There is a current planning application that is live and the Minister for Planning and Environment will be making a decision, I think, on Friday and I think debating my debate might compromise that position. If I could delay and put it off to the next meeting.

[12:15]

**The Bailiff:**

That is projet 24?

**The Connétable of Grouville:**

Indeed, Sir.

**The Bailiff:**

You want to defer that until the next sitting? Thank you very much.

## **PUBLIC BUSINESS**

### **6. Draft Financial Services Ombudsman (Jersey) Law 201- (P.9/2014)**

**The Bailiff:**

The first matter is the Draft Financial Services Ombudsman (Jersey) Law - Projet 9 - lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Financial Services Ombudsman (Jersey) Law. A Law to establish a Financial Services Ombudsman and for related purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

In the autumn of 2009 the States voted to accept an amendment from Senator Breckon to the 2010 Business Plan to give legislative drafting time to a new Financial Services Ombudsman Law for Jersey. As Members are aware, Jersey already has a financial regulator, the Jersey Financial Services Commission, a Depositor Compensation Scheme and, with Member's support today, an ombudsman will be created to consider complaints from customers of Jersey financial services providers. This is an important further piece of consumer protection legislation. Not only for Jersey residents but also international customers of Jersey's international financial services industry. Consumers will have access to a free alternative disputes resolution process that meets recognised standards for alternative dispute resolution. That is the British and Irish Ombudsman Association criteria of independence, fairness, effectiveness, openness and transparency as well as accountability as seen in the European Commission guidelines. As a large number of financial services providers operate across both Jersey and Guernsey the ombudsman represents an excellent opportunity for pan-Island co-operation from the start of the scheme. A Channel Islands ombudsman will bring likely benefits of improved consistency and efficiency for both customers and financial service providers to the 2 jurisdictions as well as cost savings. It is therefore intended that the ombudsman will be operated in partnership with Guernsey who are drafting their own legislation based on our law. On this basis the ombudsman scheme can be operated as a joint venture with shared staff, resources and premises. As Jersey has led on the development of a pan-Channel Islands ombudsman, the scheme and its operation will be physically based in Jersey. Currently, if a customer has a complaint about financial services provided in or from within Jersey there is nobody with official powers to take on that complaint. Therefore, the only option is the pursuit of legal action for any unresolved complaint, which can of course be costly and daunting. The ombudsman will have powers to investigate complaints, and if upheld, make awards of up to £150,000 to put complainants back into the position they would have been in had the problem not occurred in the first place. To be clear, the ombudsman is not a regulator, does not issue penalties on financial services providers or set rules for them. In addition, it is not a compensation scheme awarding money from its own funds. The ombudsman will consider individual complaints brought by a customer against a financial services provider and determine that the provider must compensate the complainant or take certain steps if a complaint is upheld. Complaints must be within the jurisdiction of the ombudsman, meeting certain criteria as to the complainant, individuals and a small business. The act complained of must relate to relevant financial services businesses provided in or from within Jersey and the time limits. The ombudsman is a quasi-judicial role, so the law sets in place measures to ensure his or her independence. These include provision that the office of the Financial Services Ombudsman and the ombudsman to be independent from the Minister and from the States and for the appointment of a board whose membership must be a majority of non-financial services and whose role is to appoint the ombudsman, maintain the independence of the office and act in the public interest. Some areas regarding the scope of the ombudsman and the funding of the office for the Financial Service Ombudsman by the financial services industry are to be detailed in secondary legislation. To that end a consultation is currently underway on 2 Orders concerning the detailed scope of financial services that will be covered by the ombudsman, and on a proposed further category of complainant. A consultation is being prepared on the funding proposals, and this Assembly will in due course consider Regulations to cover these. The finances of the office of the Financial Services Ombudsman must be independently audited and submitted to the Minister for laying before the States with the annual report. The annual report will include information on the case load and the ombudsman's approach in deciding complaints. Giving this feedback to the financial services industry can be useful to inform future complaints' handling. While there will be restrictions on information disclosure, the ombudsman can disclose information to the J.F.S.C. or other statutory bodies to assist them in carrying out their duties. Data from the ombudsman on complaints can be useful for regulators, both for supervisory purposes and of course for developing regulation. A Memorandum of

Understanding will be drawn up with the Jersey Financial Services Commission describing how the bodies will co-operate in carrying out their respective duties. The primary legislation before Members today sets the framework for the ombudsman service. I would like to take this particular opportunity to thank the Economic Affairs Scrutiny Panel for the work that they have undertaken in preparing a report and reviewing this particular piece of legislation. As a result of the review it has led to the lodging of an amendment, which I will deal with in due course, but the work they have undertaken has been extremely helpful. Further consultation is already underway to define the full scope of the scheme and the funding model will also be consulted upon. Shortly the recruitment process will commence, assuming Members approve this proposition, to select and appoint the chair and the board of the ombudsman service. Regulations for the final details of the scheme will be brought to this Assembly as soon as possible. In summary, I hope Members will welcome this important, albeit overdue, piece of consumer protection legislation and also give it their full support today. I propose the principles.

### **The Bailiff:**

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

#### **6.1.1 Deputy M.R. Higgins:**

This is one piece of legislation that is long overdue. As the Minister knows, in my former career at the Financial Services Commission I drafted all the Regulations for this piece of legislation way back in 2003. Eleven years have gone by before this legislation has come before the States. What has changed in those 11 years? In terms of the original proposals, the sum put forward has risen to £150,000 from £50,000. Which is fine over the 11 years, allowing for inflation; good. What has also happened, and in fact I will be asking questions later when we start looking at the detail, why have we adopted a board? Why have a board when the original proposals were for a corporate sole, such as the Data Protection Commissioner. After all we use the Data Protection Commissioner pan-Island. She is acting in Guernsey as in Jersey. So why have a board? Boards, to my mind, when you look at what the board is doing it is nothing that could not be done by the ombudsman themselves, at less cost, or is this another case of having, dare I say it, jobs for the boys. More boards, more bodies that will have a large sum involved, where over a period of time they will determine their own salaries. The third part of the law that is different is primarily the relationship with Guernsey. Obviously the original scheme was for Jersey only. If we look at the body of this draft law, most of it is concerning provisions with Guernsey. Saying what happens if? This and that, transfer. So again, Guernsey has not yet adopted it, they may say they are going to, but it does not mean to say it is a done deal until it is signed. I personally would not be surprised if Guernsey back-out at some point. I am quite surprised to hear the Minister saying it will be based in Jersey although there are provisions in this law for the transfer of personnel and functions to Guernsey. Although I welcome the Financial Ombudsman scheme, it is long overdue and it is a necessary requirement for any modern financial state. I do have concerns that it appears to be largely a work in progress. There are so many consultations that are still yet to happen, and yet we have had 11 years being prepared for this and yet we are still consulting. So when will the law finally come in? Yes, we have a framework, but when will people get the benefit of the law?

#### **6.1.2 Senator A. Breckon:**

The Minister for Economic Development touched on some of the history of this, but it goes back further than that because it is nearly 16 years ago that the recommendation came from the Edwards Report which was published in November 1998 and it was titled *The Review of Financial Regulation in the Crown Dependencies*. It said at the time that Jersey's financial services business should have a statutory ombudsman. It goes back a long, long time. Following that a task force was established, and this was with a former Finance and Economics Committee in 2002. At the

time it just seemed to wither on the vine. Senator Le Gresley was then Chief Executive of the Citizens Advice Bureau and he was a member of that working group in 2001, 2002 when the industry, I have the list of it somewhere, were well represented. So it is a long time ago that this was supposedly to be coming into being. I remember as well at one of the Annual General Meetings of the Citizens Advice when the former Chief Financial Ombudsman from the U.K., Mr. Walter Merricks, came to the Island and gave a very effective presentation and offered to assist in this, and that is probably about 7 or 8 years ago, I do not remember exactly when, although the Minister mentioned that, but I brought amendments to various things in 2004, 2005, 2007 and finally in 2009. The difficulty I had is that in order to get it into being I had to remove something from the law drafting programme. Just to give Members some idea of my frustration, whenever I suggested taking something out, some Minister or President or whoever would stand up and say the sky was going to fall in if we did not have this. An example of that in 2007, I proposed removing the review of the Licensing Law in 2007 and I was told at the time: "This must go ahead." Of course it still has not been done. There were other examples of where somebody stood up to say the sky was coming down: "This must not be removed." So that was some of the difficulty. The principal ombudsman scheme goes back to Sweden in 1809. We are not breaking any new ground here, and in fact the Isle of Man have had a scheme since 2002. They boasted that they were the only offshore financial jurisdiction with a Financial Ombudsman Service. I argued at the time many years ago that this would be an opportunity for Jersey to fly the flag and say we are one of the best, we can demonstrate that because when occasionally things do go wrong we have a no or low cost remedy for disputes, usually with the individual against the might of an institution. The other thing that was missing, in the U.K. and elsewhere there was things like the Office of Fair Trading, the Financial Services Authority and an ombudsman scheme that helped consumers collectively or individual to remedy disputes. We have none of those things. Therefore, as the Minister has sort of admitted, we are now coming to this rather late. The other frustration, it was agreed by the States, I think it was about 5th October 2009 and it has still taken a long time for a decision of the States, and it is not there yet, because there are Regulations to flow from this, and that probably will not happen this year. Although there is some degree of backdating disputes, which I welcome and I know Deputy Southern has an amendment on that. But it is ... especially when we have people in 2001 and 2002 on working party looking at bringing something into being.

[12:30]

Imagine their frustration about what a waste of time that was. Why did we bother, they gave their time freely and willingly to this debate. The other thing, obviously I welcome this, but my frustration is it has taken so long. That is not just a personal frustration, it is the many people who have suffered because of various decisions of high street banks and others to carry out various things, and that has been considered now to be unfair, or mis-sold or whatever it is. There are issues out there where people do feel frustrated, they do feel aggrieved and they have had in some instances nowhere to go. They have been, on some occasions, able to use the services of the U.K. Financial Ombudsman Service, depending where and what the investment was, to get some redress, and that has happened. I do hope that following this that the Regulation and things that flow from this will not take too long, because it is people out there ... I have seen where some finance houses have issued a letter to people and say: "Go to the Financial Ombudsman." Of course we do not have one. The other thing is Members should not forget that we did not have a Financial Services Commission years ago either, and sometimes they are restricted in what they can do. They have only really got a nuclear option, which is to withdraw somebody's licence. They can have various investigations but there is no real redress mechanism. There is a great deal of grass roots - let us call it that - dissatisfaction with this situation where the might of the institution to take people's money and not be accountable for it. This I think is a way that will return some of the balance. The fact that the ombudsman is there is very effective, and I know that from things I have seen in

the U.K., it is very effective in remedying disputes. It is referred to the ombudsman, and suddenly some institution changes their tone and comes to the table prepared to talk and to even settle. I have seen that in practice. Although Members may have some fears about that, but when it is obviously set up and running there will be initially a lot of inquiries, I think this will level out and I think that has been demonstrated elsewhere. Finally, I would say that an ombudsman is considered like a kite mark, and other areas use it, even for undertaking services, removals, things like that; there are ombudsmen schemes because the trade itself recognises that when things do go wrong, if this service is available to people it is a benefit to trade. The traders can say: "Well, we do have our own scheme that will remedy matters if and when [hopefully not very often] they do go wrong." I think it is welcome. Just finally, the Clothier Report did say that we should have Public Sector Ombudsmen. I think they underestimate the amount of work that might be required, but perhaps it is something that can be looked at for other areas of life, if there are problems. But there needs to be problems, not just having it for the sake of it. With that, I should say I do welcome this, but I hope the Minister will not dilly-dally when it comes to the Regulations and we see something sooner rather than later.

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

In 2009 the States took the decision to approve the creation of a Financial Services Ombudsman. Here in 2014 those Members of this Assembly who have followed the workings of the current Economic Affairs Scrutiny Panel will know that since our formation in 2011 we have been calling for, on a very regular basis, that decision to be implemented. It is therefore very good and welcome news that we finally have this proposition P.9 before us today. In reviewing the subject the Economic Affairs Scrutiny Panel decided that we would conduct a 2-stage review. The first part being a desk top study to make sure the primary legislation was fit for purpose. The second being a much more detailed piece of work looking at the Regulations. I can report to the Assembly, and Members have our comments in front of them today, that in the Scrutiny Panel's opinion this proposition is indeed, and to quote our advisers, fit for purpose judged against the criteria for an eligible complaint. Members will also note that we questioned the Minister more specifically on 3 points: the chairman, systemic remedies and the charging of complainants. On the first issue the panel are now assured by the Minister of the independence of any future chairman, not least because States Members will be able to object to any future chairman they consider will compromise the independence of the ombudsman. Secondly, on systemic remedies the panel are satisfied that further consultation will need to continue between the Economic Development Department and the Financial Services Commission. This issue was certainly not sufficiently compelling to halt this primary legislation at this stage. Finally, on the point of charging the panel are grateful to the Minister for bringing the amendment that we also have before us today. As a panel we were very clear in our thoughts that this scheme should not have the ability for the ombudsman to award costs against the complainant. We felt it was vitally important that any complainant should not be deterred or put off in any way by the possibility of having to pay costs. While we accepted the Minister's view that it would only be in cases of vexatious or fraudulent claims that costs could be awarded against the complainants, we as a panel felt that the principle of free access for all should apply. As I said, we are grateful to the Minister for agreeing to amend the wording in this section. I am not going to dwell further. This is a very important day and this is an important decision that we are being asked to take. We need to get on and agree this primary legislation. Members may ask about Orders and Regulations, but in the big scheme of things, they are not important at this stage. The important matter is to approve this proposition and allow the Minister to press ahead with the detail, detail that will allow us to approve the Orders and Regulations as soon as possible so our Financial Services Ombudsman can be in place and working just as quickly as possible.

### **6.1.4 Deputy J.H. Young:**

I think I would like to begin by making a declaration. I, in the past - I think in common with many people in Jersey - have had occasion to make complaint to the financial service providers running a business through Jersey and found that the scope of regulation was not there. I am therefore pleased with this. I do not think I have got a current interest; those complaints were past. It has concerned me for some time that there was a general perception that we were such a well-regulated Island through the J.F.S.C. that when things went wrong, one could always turn to that body. When one looks at the scope of the ordinary business of people, not the ultra-sophisticated kind of trust business and funds and so on, I think you will find that this law that we are now being asked to approve will very effectively bridge that gap, in other words, make up that gap, because I think it has been far too long. We are in a situation where in the United Kingdom there has been for a long, long time arrangements in place in the financial services industry whereby complaints procedures could be put. For example, low-cost endowment policies in the early 1990s, whereby there were compensation schemes and a procedure for complaints in place, and yet endowment policies were sold into the Island and there was no recourse to any external complaints body. One's only source was to complain to the company themselves and the stock answer was: "No, but we are operating outside of the U.K. rules and therefore you fall outside of it." There was nothing ordinary people could do. Obviously very well-resourced people and mega-deals could go to the Royal Court, but ordinary people could not. So we still are in a situation where we have major U.K. plcs providing business into the Island. I do not think I will name them, but it is pretty close. There is one U.K. plc that provides mortgage products on immovable property in both Jersey and Guernsey through local subsidiaries. I just looked up the 2013 balance sheet for that U.K. plc and I find they have got £430 million worth of loans on their books in Jersey, and of course that is a lot of borrowers. So I feel confident, I am really delighted that we have this piece of legislation today. I hope I have read it properly, and so I straight away checked out those things: "Mortgage providers, where are they?" and I turned to Article 9, which says that the scope, relevant financial services businesses, they are listed there in Article 9 of the law today, and in particular, credit providers are talked about in schedule 4. We have got a list of credit businesses, and there I see item 2(b): "A loan secured against immovable property either by hypothecation or a mortgage or any other matter" so I am assured. Unfortunately with the fine small print, one finally gets disappointed sometimes, that you think it is in, but then lo and behold, some surprise happens and you find it is not. So I am reading this at face value and I think if that is an example of the thoroughness that this work has been done, I am absolutely delighted, because that seems to say to me that that sort of business will be within the scope of the complaints procedure. A couple of things I think strike me, being that I want to be sure: I read the Scrutiny Panel's report carefully and I think it is an excellent report. Page 3 of the Scrutiny report lists down a series of points that the expert advisers came up with, then I read the Minister's comments in the back, and with the one exception of the charging complainants for fees, I was delighted that the Minister had made that amendment, because I myself was at the point of drafting one. When I first found it, I thought: "This cannot be right, big red mark on that" because it does undermine of course the whole purpose of what we are doing here and it spoils it. It is not necessary to get into the whole arena of whether a complaint is frivolous or not. What is frivolous to one person, to an expert kind of civil servant-type person, is not frivolous to an ordinary person and so I am really pleased that is out. But there are other issues in there. For example, I think this issue of the independence is really important. If we end up with somebody who is just somebody from a financial services business running this, I am really troubled about that. I want to see real independence here. I know we are told: "Do not worry, the Minister will not appoint somebody like that and they will go through the Appointments Board" but we have seen it so many times and you look down the names, and I can tell you, if you look down the members of who is on the J.F.S.C., you will find people in those sorts of connections, quite close to what I have been saying. Now, nothing wrong with that in the case of J.F.S.C., but this is a different animal. I think that I would like to see some strengthening about independence there and I think this question of

systemic complaints, I do not think this can be just brushed aside. An ombudsman that starts to see a level of complaint and starts to see common patterns in problems that come to light should be empowered to take some action in a positive way in drawing attention to systemic issues, because after all, unless I am wrong, using my example of mortgage providers, you do not have to register under the Financial Services Law to be a mortgage provider, I do not think. I tried to find it, cannot find it; or at least the major plc, I could not see its subsidiaries are registered under the Financial Services Law. They are not regulated here. What we have got is people that will run businesses that will sit outside of the Financial Services Law and codes and so I think it is important that systemic failures that come to light as a result of the ombudsman's work are addressed and there is some method there.

[12:45]

The annual report to the Assembly, it is a significant matter, because it is their opportunity to tell us: "Here is a problem here. We want you to do something about it." I found the Minister's comments, I regret to say, a little bit complacent there and not really looking at it from, as it were, the ordinary persons end of the spectrum, but perhaps looking at it from the financial services, J.F.S.C. end of the spectrum. But I think it is a really excellent piece of work and I am delighted to see it. It is well overdue. A couple of things in it I am not keen on. I do not like this bureaucratic thing about you have 6 months to complain. That is the time limit if you have gone through the proper firm's complaints procedure. That troubles me for all sorts of reasons. People have perfectly *bona fide* complaints out of time and there needs to be some flexibility. I am really quite anxious about the Guernsey involvement, hence my question of flights this morning. If we cannot get there, is it really going to work in practice, and why do we need to do that, really? Are we so hard-up that we have to have a joint scheme? The funding for this, I was delighted to see, is coming from the levy from the finance industry. That is good, that is sensible. Do we really need to have that over-closeness of Guernsey, because I do not think we should be afraid? There might be some differences and on the amendments I think that point will come back again. For example, what if there is a backlog of complaints? Who is going to get priority, Guernsey or Jersey complaints? What about the size of the complaints? I think there are issues there. I hope the Minister will not interpret my remarks as negative. What I want to do is I think we want to get this into legislation and try and be aware of these issues and try and enhance them and improve them over time, and very much as well I think we have got a great model here for the Government Ombudsman, because I really think that is such an omission, that we should look now to that Government Ombudsman for Government services. So those are the things I wanted to say, and I am supportive obviously of the law.

## **LUNCHEON ADJOURNMENT PROPOSED**

### **The Bailiff:**

The adjournment is proposed. The Assembly will reconvene at 2.15 p.m.

[12:47]

## **LUNCHEON ADJOURNMENT**

[14:16]

### **The Bailiff:**

The Assembly is debating the principles of Projet 9, the Draft Financial Services Ombudsman (Jersey) Law 201-. Does any other Member wish to speak on the principles? Very well, then I invite the Minister to reply.

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

I heard a comment which I will treat with contempt and ignore on the basis that it is not relevant to the said debate, I hope. Clearly Members have had a good lunch, hence no further appetite for questions at this stage. I will try to address as quickly as I can the points raised by the Members who did raise questions before the lunch break. Deputy Higgins kicked off and reminded Members of his previous life at the J.F.S.C. and his involvement in this important area. I would just say to the Deputy that the regulatory landscape has clearly changed quite significantly in the period since he was at the J.F.S.C. He asked in particular why was a board structure being used. Well, in today's world, that follows best international standards, and in fact just about all ombudsman structures are set up in a similar way. The board protects the independence of the ombudsman and allows for better oversight, and I would say to Deputy Higgins that perhaps if he felt particularly strongly, which he appeared to when he raised the point before lunch, he could of course in the run-up to the lodging of this proposition have raised the matter with me. I would have been happy to listen to his points, or indeed, the option existed to bring forward an amendment, which of course he could have done. He did ask about the timing, and of course that is an important point, and one I am sure other Members will be particularly interested in as to when they are going to see the doors of the Financial Services Ombudsman open. I cannot give an exact date. I have been asked this before. There is a process to go through yet before we can get to the opening. Of course, once this law hopefully is approved by Members today, it goes before the Privy Council and comes back. We have got the appointment process of the new Chair, we have got the board to be appointed. There are, as the Deputy points out, a couple of consultations underway which are necessary for the scope and the funding and of course they have to follow in that order. Of course once those consultations are complete, the results will be passed to the ombudsman for them to consider, which is appropriate and clearly determines the independence of the ombudsman, which is important, in fact, essential. In summary, I would hope that towards the end of the year we would be in a position for the doors to open. It may well be that a decision is taken on the advice of the ombudsmen themselves, once established, to make it a clean date start at the beginning of January 2015, whichever the final date is following the order that I have laid out. There is of course the period of retrospection. That is a matter of course we are going to come on to debate in some more detail later on, but at the moment it is set at 6 years, so whether the ombudsman opens in September, November or January makes not so much difference in the outcome, because of course it will go back to the date of 1st January 2010, which is the start date set within the legislation before Members today. The other comments, Senator Breckon very kindly reminded Members of the amount of time it has taken to get to this point. I do not wish to dwell on that any further, other than to say to him that I am at least the Minister who has brought it forward and we are standing here debating it today. I do agree with him, it has taken longer than it should have done, but we are here now and I think that is a matter that I am pleased with and I am sure Members will be as well. So I can assure him there is no dilly-dallying, I think was the phrase he used, going on any further in this regard. I thank the Deputy of St. Martin, the Chair, of course, as Members know, of the Economic Affairs Scrutiny Panel, for the comments that he made, for the work of his panel, which I have already referred to and I have already highlighted the fact that there is an amendment that Members will have to consider to Article 17, an amendment that I have laid myself as a result of concerns raised by the Economic Affairs Scrutiny Panel with regard to potentially charging, and that deals with that matter. Finally, I think Deputy Young made a wide-ranging number of comments. Overall he was supportive, and I thank him for that. It is of course a low-cost - this is one of the points he raised - and simple dispute resolution outcome, and he was making the point in the absence of an ombudsman, as Members are obviously very well aware, the recourse is only to the Royal Court or through legal process, which is expensive and daunting for many people, hence the need for this ombudsman. He raised a number of other points. He talked about systemic complaints. Of course they will be flagged-up in the annual report, and of course as the Financial Services Ombudsman is an independent body, it can of course make its own representation to other

statutory bodies, such as J.F.S.C. or elsewhere, if it sees fit. It is an important point that the Deputy raised, but it can indeed and will be, I am sure, dealt with in due course. There was one other point he did make that I think needs to be just covered, and that is in relation to the 6 months for complaint. He seemed to be concerned about that. That will not of course apply to historic complaints and it would only apply looking forwards on the basis that the particular complaint is active with the firm that is seeking to resolve it, in other words, the financial services firm to which the complainant has an issue. If they can prove to the ombudsman that they are going through an appropriate process and still actively considering and dealing with the complaint, then on that basis there is an opportunity for an extension up to 6 months, so it is not an automatic 6-month period. I think that covers all the questions raised by Members. I maintain the principles.

**The Bailiff:**

Very well. All those in favour of adopting the principles, kindly show; those against. The principles are adopted. Deputy of St. Martin, I take it you do not want this referred to your Scrutiny panel?

**The Deputy of St. Martin (Chairman, Economic Affairs Scrutiny Panel):**

No, thank you, Sir.

**The Bailiff:**

Very well. Then turning to the individual Articles, Minister, would you like to take parts 1 and 2, first of all? How do you wish to proceed?

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

What I was going to suggest, if Members are in agreement, if we did Articles 1 to 10, because we have an amendment with Article 11, so I thought I could take 1 to 10, make some observations and then deal with 11 after that.

**The Bailiff:**

Very well.

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

I will just briefly make comments with regard to Articles 1 to 10, or indeed, I should say those that are relevant. Article 1 is of course the interpretation provision. Article 2 establishes the Office for the Financial Services Ombudsman as a body corporate with a board of between 3 and 5 members, including a chairman. Article 3 provides that the general functions of the Office for Financial Services Ombudsman are to secure resolution of complaints independently, fairly, reasonably, effectively, quickly and with minimum formality. The office should offer an alternative to the court proceedings points that we have covered to date. Article 4 provides for the appointment of the principal ombudsman and other staff for the office. Article 6 provides the arrangements with Guernsey and for adaption of the scheme to European standards. The law can operate independently for Jersey alone. That is a point I think that Deputy Young was raising. He was concerned about the Guernsey involvement. This scheme is set up and the law is prepared that it can, if necessary, operate alone. That is not the intention. We would prefer to operate and intend to - and there is an intention in Guernsey as well to do the same - as a pan-Channel Islands ombudsman, but it is set up to do so independently if absolutely necessary. Moving on, Article 7 provides the conditions for referring a complaint to the ombudsman. Article 8 determines who is an eligible complainant. Article 9 sets the framework for determining what is a relevant financial services business. It does so - and I know Deputy Young again referred to Article 9 - by casting the net very widely and then it requires the Minister to narrow the scope by order to exempt classes of businesses where it is not appropriate for the Office of the Financial Services Ombudsman's

services to be available. Finally, Article 10 determines who can be a respondent to an ombudsman complaint. In normal circumstances, it will be the financial services provider whose act or omission is the subject of such a complaint. That is briefly the details of Articles 1 to 10. I would be very happy to answer any questions should Members have any.

**The Bailiff:**

Very well. Do you propose the relevant schedules as well, that is schedules 1 to 4, which are created by those Articles?

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

Yes, Sir.

**The Bailiff:**

Very well. Are they seconded? **[Seconded]** Does any Member wish to speak then on any of Articles 1 to 10 or the schedules? Deputy Higgins.

**6.2.1 Deputy M.R. Higgins:**

Can I ask the Minister: he said earlier that the scheme is going to be based in Jersey and that is assuming even if Guernsey agree. Can he explain then why under Article 6(3) it says: "In the case of the arrangement described [whatever, it has got] provision for transferring all of the functions of the Office of the Financial Services Ombudsman to the corresponding body under the Guernsey scheme and for abolishing the O.F.S.O. (Office of the Financial Services Ombudsman) following the transfer." Why is that provision in there if it is going to be in Jersey? In the schedules, schedule 2 under: "Budget 4" it says: "The establishment and operation of the Office of the Financial Services Ombudsman are funded primarily by financial services providers in a manner that maintains the independence." I did miss it earlier, I must confess, when I was glancing through my notes, but it was always intended that the scheme would not be chargeable to complainants, it was always going to be free to them, so I believe there is an amendment on that and I will be supporting that amendment, because it must be free for individuals. You have also got here again, it was the wording "generally free to complainants" and I was concerned about that. Again, my question was also on: "(3) Case fees", if you could explain why under (2)(d) it says: "Requires the Office of the Financial Services Ombudsman before prescribing or varying such a scheme to consult on it [that part is fine] and to refer an increase in a fee to the Bailiff to be considered by Jurats if that increase is disputed by the consultee or in any circumstances specified in the Regulations." That is not a question, as I see, of going to the Bailiff in a judicial capacity. It seems to be extra-judicial.

[14:30]

In other words, the Bailiff and Jurats, you have got them involved rather than going to the court to adjudicate on whether the fees were valid or not. Could the Minister please explain that?

**The Bailiff:**

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

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

Thank you to Deputy Higgins for his questions. With regard to Article 6(3) that he referred to, quite simply the issue is about flexibility. It has been agreed in dialogue with Guernsey that the scheme would be operated out of Jersey. We have led on the project. They are supportive of what is being proposed. However, what the Deputy has picked up on is that in the future, there may well be an agreement that there could be a greater extent emerging of functions. Indeed, it could in the

future move to Guernsey for whatever reasons, but that would be a matter for the ombudsman to decide upon. What I pointed out earlier on is the fact that it will be opening and the office will function out of Jersey. What he sees within the law allows flexibility for future changes, should they be agreed upon and implemented at some later stage. With regard to funding, he is absolutely right, it is free, and in fact I think he made the point about potential charges. Under amendment 17, which is an amendment that I have lodged myself, which I hope Members will approve, that removes any doubt in that area. With regard to the case fees, I am not entirely sure of the point on that. I think, as far as I am aware from my note, that it is in relation to the case fees. The Bailiff and Jurats are from the J.F.S.C. fee system, not relating directly to the ombudsman, which is what I think the Deputy is referring to, so I think that answers all the questions.

**Deputy M.R. Higgins:**

Could the Minister just repeat that last bit? Sorry, there was noise here and I did not hear it.

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

From what I can see, the Bailiff/Jurats is from the J.F.S.C. fee system, not relative to the ombudsman scheme, but I do not know if the Solicitor General wishes to add anything to that point.

**The Bailiff:**

Very well. All those in favour of adopting...

**Deputy M.R. Higgins:**

Sorry, can I ask if 6 and also schedule 2 can be voted on separately, please?

**The Bailiff:**

Article 6, yes, certainly. The schedule, let me see, because that is referred to in Article 2, so I think you have got to take Article 2 separately, because Article 2 says: "Schedule 2 makes provision" so if you are going to vote against schedule 2, I think you have got vote against Article 2.

**Deputy M.R. Higgins:**

That is fine, Sir, as long as we can take 2 and 6 separately. Thank you.

**The Bailiff:**

So we will take 2 separately and 6 separately. Very well. On that basis then, for convenience, shall we vote on Articles 1, 3, 4, 5, 7, 8, 9 and 10, in other words, all the others? All those in favour of adopting those other Articles, kindly show; those against. They are adopted. We will now then move to Article 2, which includes schedule 1 and schedule 2. Do you ask for the appel, Deputy? Yes, the appel is asked for then in relation to Article 2. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 40</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy M.R. Higgins (H)		
Senator A. Breckon		Deputy J.M. Maçon (S)		
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				

Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

**The Bailiff:**

The other matter is Article 6. Would you like the appel on that too, Deputy? Very well, the appel is called for then in relation to Article 6 and the Greffier will open the voting.

<b>POUR: 39</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy M.R. Higgins (H)		
Senator S.C. Ferguson		Deputy J.M. Maçon (S)		
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				

Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisser (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

**The Bailiff:**

Very well. So that means the Assembly has now adopted Articles 1 to 10, so we will now come to Article 11, where there is an amendment lodged by Deputy Southern, so I will first of all ask the Minister to propose Article 11 in its current form.

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

Article 11 provides the 3 timing conditions for the complainant’s eligibility: “The act or omission complained of must not predate 1st January 2010. The complaint must not be premature and it must not be too late.” I propose Article 11.

**The Bailiff:**

Yes, is that seconded? **[Seconded]**

**6.4 Draft Financial Services Ombudsman (Jersey) Law 201- (P.9/2014): second amendment (P.9/2014 Amd.(2))**

**The Bailiff:**

Then there is an amendment lodged by Deputy Southern, so I will ask the Greffier to read the amendment.

**The Greffier of the States:**

Pages 42 and 43, Article 11: (a) in paragraph (1)(a) for the words “1st January 2010” substitute the words “1st January 2005”; (b) in paragraph (5)(a) for the words “6 years” substitute the words “10 years.”

**6.4.1 Deputy G.P. Southern:**

It seems a while since I have done an amendment. I must have been slacking or something, but nonetheless I hope it is like riding a bike and I can still do it. Where to start? Start with the 6

points I make on page 3 of my report explaining why I think that what we have here is too restrictive, and extending the time period over which we can operate improves and in fact, I think, makes the whole proposition much better indeed. The 6 points I make there interestingly came out of a whole series of questions over the past quite some time about provision of financial services, and in particular, the mis-selling of P.P.I.s (Personal Protection Insurance) which has been rife over the last decade. The points I make there in points (a) to (f), there is no recourse presently to enforce repayment of mis-selling on some Jersey companies, that the U.K. authorities have no powers in Jersey, hence the whole reason for this particular piece of work. The Minister has no evidence of a problem in pursuing P.P.I. against Jersey companies he said at one stage. The Minister does not know the size of the problem and has refused to investigate how many claims may be involved. He has refused to investigate how many P.P.I. cases there might be, but certainly on the mainland, there are enormous sums of money involved in P.P.I. mis-selling and there is no reason, I do not think, to suggest that a similar level of mis-selling occurs here. But nonetheless, the Minister, as part of his comments, says that this is a relatively small element in there. The Minister is only aware of a small number of successful claims, and the Minister offers no evidence to support his choice of timing and he is not prepared to extend the timing conditions for eligibility. So there is a starting point, and basically the starting point came to me because I received a complaint by somebody who had been the subject of mis-selling of personal protection insurance, and this dated from 2005. It is a long-running battle she has had and was getting nowhere with it, and eventually came to me and I brought it to the Economic Development team and they helped me sort it. It took some time and it was not easy, hence the ombudsman should be making things a lot easier than that, but nonetheless, it dated way back to 2005. The first misselling was 2005 and it continued for a number of years, so I believe a starting date of 2010 - and we will come back to it later - is absolutely inappropriate for this particular piece of work. In the comments from the Minister, he says a number of things. The time limits, he says, are in line with those of the financial ombudsman schemes in other jurisdictions, and he states that as a bald fact and then refers to the consultation that took place, the 2011 Economic Development consultation on the Financial Services Ombudsman, including a specific consultation question on the suitability of a 6 or 10-year time limit. Now, when you look at that particular consultation, and in particular I refer here to August 2011 to the summary of the consultation details, what you find is the question: "Comments will be welcome on the most suitable time limit, 6 or 10 years, to be used in section 9(3). There were 13 responses, of which the majority support [9 of that 13] a 6-year period. This accords with the U.K. and Isle of Man schemes, so 6 years will be adopted." A bald statement, and again elsewhere on page 4 it says: "A 6-year general time limit on complaints was supported by respondents and will be adopted. This accords with both the U.K. and Isle of Man schemes." Bear in mind though the Isle of Man and U.K. schemes started way before us. The Isle of Man had the ombudsman present in 2002, so they have been taking these cases all the way through the previous decade and yet we are saying we cannot go back that far. When one examines the list of correspondence, the purpose of the consultation was to invite comments about the proposed structure and funding of the financial ombudsman scheme to ensure it best meets the needs of customers and Jersey's financial services industry. So one wonders how much response did they get from the needs of customers, and the answer is that of the 32 respondents, which go from Barclays Wealth right the way through to Volaw Trust and Corporate Services Limited, there is one single representative of the customer, 31 from the industry - they are always very well-organised - and one from the customer. On behalf of the customer, Jersey's Citizens Advice Bureau made a contribution which was very straightforward on this particular issue. "We consider that a 10-year period is more suitable to tie-in with other relevant legislation, such as life time of judgments." Ten years, they say, because that ties-in with the Jersey system. That indeed is supported by the words in the main consultation document where it says, and I will just read for a moment, if I may, 1.2 because I think it is absolutely shocking: "The 1999 Edwards Report recommended the introduction

of an ombudsmen scheme for financial complaints in the Crown Dependencies and it has been under consideration in Jersey since then.” So 1999 the recommendation was there, get on with it, and we still have not got it yet today. Other people have said that this is absolutely shocking. When it comes to the time limits, this is what the consultation had to say: “The reasoning behind the second limit is that financial services products can be long-term commitments, for example, a 25-year endowment policy” and we heard something from the previous speaker about endowment policies: “so problems may only come to light years after the initial investment decision. These limits are similar to the U.K. scheme, which uses 6 years, and the Isle of Man scheme which also uses 6 years. In Jersey, however [note that ‘however’] the limitation or prescriptive period for contract is more generally 10 years so a decision will need to be made about whether to use 6 years or 10 years.” The habitual time is 10 years in Jersey for length of contract and there is absolutely no reason why we have to go down the U.K. or Isle of Man route and choose 6 years, and no justification has been given for it really, whatsoever. It is not difficult because that is the normal rule for Jersey companies and Jersey contracts. Then we look at, in particular, these P.P.I.s because that was my starting point and I believe one of the most common means by which ordinary members of society came across this particular issue, this mis-selling or perhaps it might be a better way to describe it, fraud, from absolutely faulty policies. I refer to an article, I think it is a *Daily Telegraph* article, which goes into some depth about P.P.I. and has the figure £18 billion in terms of P.P.I. compensation in the U.K.

[14:45]

£18 billion. I wonder what proportionately that is in Jersey. “Banks have agreed to pay the equivalent of almost £400 to every adult in Britain as the country’s biggest mis-selling scandal continues to grow. Compensation payments for payment protection insurance reached £18.4 billion, twice the cost of the Olympics. The banking sector ignored warnings about the way it sold P.P.I. products for almost a decade.” What decade was that? Why is it appropriate that we target that particular decade in this particular mis-selling and it goes on to say: “Banks face the first serious accusations of mis-selling P.P.I.s in 2001 but continued selling the product until it was banned by regulators in 2009.” So in terms of this particular aspect, which may be very significant, certainly in the U.K., I would expect it to be significant in Jersey, that was not stopped until 2009. When does our compensation scheme start? Nothing before 2010. Those 31 financial services salespeople, those 31, would certainly pick 6 years and start in 2010, please, because that means that this particular incident was over by then. We will not catch a single one of those because we set the time limits too rapid, too short. So I believe if we are to be taken seriously when we say we want a scheme, we want an ombudsman and we want it to have teeth or we want it to deal with the issues, we cannot then have a starting point of 2010. Think about it, if you do a survey of how long does it need to be retrospective, and you do that survey in 2011 and you are given a choice of 10 years or 6 years and you go for the shorter one, where does that end up? From 2011 less 6 years, why it is 2005. So what was being consulted was a starting point of 2005 at the short end back then. It has taken a number of years to get through to this stage and I am saying that 2005 was the right starting point. Why are we not doing it now? In terms of 5 years, 6 years or 10 years, 10 years is appropriate, that takes us back to 2005 and that is exactly when we should be starting. Now, the joy of this body every now and then is that individual Members can take a vote and make a difference. This might only appear to be a minor difference, a small difference, but I urge Members to support this more extended length of time because that way it will sweep in far more of people who have been mis-sold to, have been defrauded by the system than otherwise. If we start at 2010, I think we miss all of these people and we know we are missing all of the people, we are setting up something that is not effective. I urge Members to support my amendment.

**The Bailiff:**

Is the amendment seconded? **[Seconded]** Deputy Higgins, do you wish to speak?

#### **6.4.2 Deputy M.R. Higgins:**

Just very briefly. I would just urge Members again to support Deputy Southern's amendment. Bear in mind how long it has taken us to bring this legislation to the States. It has been a scandal, that is all I can say, a scandal, going back all those years and people have lost out on compensation on this and many other schemes and if the States are not prepared to support this amendment they are just showing contempt for the public because it is our fault. We should have insisted on this scheme being here much earlier. Please support the amendment.

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

Regrettably I stand to oppose the amendment lodged by Deputy Southern. I make some initial comments. The Trading Standards Department does receive from time to time complaints with regard to P.P.I., which is the area that Deputy Southern is particularly concerned about, and other Members I know as well, and quite rightly so. Currently they have 3 live cases outstanding which indeed could be relevant to the ombudsman when it gets fully established and opens its doors. I mention that simply to give Members an indication of the likely numbers of cases that there are around at the moment. I also raise the point ... Deputy Southern pointed out that he brought forward a complaint that went to him, an individual who had a concern over a P.P.I. dating back to 2005, well before the proposed start date as ombudsman. As Members will be aware, that start date is from 1st January 2010. The case that Deputy Southern brought forward was investigated, the Economic Development Department did assist with that and it has reached resolution. I think that makes the point that despite the fact that the start date of the ombudsman may be 1st January 2010, there are cases, as proven by Deputy Southern himself, that can indeed get resolved, and do get resolved, in any event. I think that is a point that is worth making. There is a clear and logical rationale behind the time limits that we have set in the draft law under Article 11. First and foremost, the intention of my department was to introduce an ombudsman scheme, which is aligned with international standards and is recognised as being as such. As I have already mentioned, the majority of ombudsmen operate a 6-year general time limit. Of those the U.K. - that is the largest ombudsman service in the world - the Isle of Man, Ireland all operate a 6-year time limit. In 2011 - it was a point that the Deputy referred to - Economic Development carried out a consultation on the Financial Services Ombudsman and it has included a specific question on the suitability and workability of a 6 or 10-year time limit. We propose a 6-year time limit to ensure consistency with the existing schemes that I have referred to and we were supported by the majority of those who responded to the consultation, and that included the Citizens Advice Bureau who supported the proposed 6-year time limit. The starting point means that from the day that the ombudsman service opens complaints can be considered about events occurring on or after 1st January 2010, as I have said, and on a rolling basis it will go back 6 years in the future. The start date is the cleanest date, immediately after the States decision that was taken to introduce the ombudsman. There are also, in certain circumstances, a situation where an earlier date before 2010 can be considered. That is defined with the law. I draw Members' attention to Article 11, paragraph 5, which states, and quote: "Two years after a claimant could reasonably have been expected to become aware that he or she had a reason to complain in relation to the act of the complained of." So in certain circumstances it is still possible under Article 11, paragraph 5, for individuals to seek redress. Whatever the starting point, it may serve to disappoint a small number of people and that is unfortunate. Our approach to the start has also influenced Guernsey to adapt a degree of retrospection, even though their starting point at 2nd July 2013 will not be as generous as that that is contained within Jersey's draft law. It would be disproportionate to increase, in my view, the general time limit to 10 years effectively across the whole affected financial services sector simply to cover a small number of purported P.P.I. complaints, as the Deputy refers to. So, in fact, it

would then be a rolling 10-year retrospection that would occur and it would cover the whole of the financial services sector. There would be significant attendant difficulties with recall and record keeping for the length of time. Members will recall the Taxation (Accounting Records) (Jersey) Regulations 2013 which we debated in May and June last year to ensure full compliance with international standards with regard to record keeping. These Regulations mandated that every person in receipt or possession of any income or of any profits arising from the carrying on of the business or from the letting of property across the Island maintain their records for a period of 6 years. It would, of course, be problematic for one part of our law to require retention of records for one period but for another to allow the pursuit of claims for nearly twice the defined period. A 10-year general time limit would further complicate the analysis, much of which has already been carried out, estimating the likely utilisation, staffing and the costs of the proposed scheme. It is also important, given the stated political will of both Jersey and Guernsey to run a joint scheme that parity is achieved wherever possible in order to ensure a quality of treatment and costs to industry and to eliminate arbitrage between jurisdictions. There is nothing to indicate that Guernsey would consider introducing a 10-year limitation period and given their approach is already to have a reduced element of retrospection, the prospects of achieving a unified limitation position at 10 years are considered remote. Concerns about P.P.I. mis-selling have existed for many years, U.K. consumer groups raised concerns back in 2000 and some Members have already mentioned that. The U.K. Financial Services Ombudsman highlighted concerns in 2001 and 2005 as well and referred the issue to the U.K. regulator in 2008. So it is very hard to pinpoint a satisfactory date other than that chosen in the draft law linked to the decision to implement an ombudsman taken by this Assembly. In summary, neither Scrutiny, the independent advisers or the majority of those consulted, including as I have said the Citizens Advice Bureau, felt there was anything wrong with our proposal contained in the law for 6 years retrospection. I would therefore urge Members to reject Deputy Southern's innocent sounding and perhaps seductive amendment for the reasons that I have stated. Thank you.

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

First of all, I am not sure why the Minister tried to suggest that Guernsey would be put in a position where they would have to follow Jersey's suit because he already told us that Guernsey already want to pursue a different avenue. They are looking at 2013 and we are not. So there is a discrepancy there any way, which is perfectly workable. We do not need to consider that as one of the arguments. This is not simply about P.P.I. selling or mis-selling, we all know, I suspect, of cases in our own constituencies or indeed in the wider Island constituency where individuals have come up against issues of this nature, which would have been able to have been dealt with by a financial ombudsman had one been implemented earlier. I remember this being debated in the 2008 Senatorial elections. There were candidates there who were saying: "We need this, it needs to be done now" and in fact it should have been done already back then. There should already have been a service. We do not need to go into detail about particular case, partly for brevity sake because they are so complicated but also because some of these may be ongoing. I have here a text that was sent from the Economic Development Department by the Minister to a constituent of mine, this person would have also been contact with the Constable of St. Brelade and no doubt with the other Deputy - he is shaking his head - and I suspect other Members. Senator Breckon will be speaking later as well. He says, I will quote briefly: "My department met with officers from J.F.S.C., we did not go into the specifics of any particular case, however we are keen to reiterate that the J.F.S.C. does not have the power to resolve individual complaints." So where does she go from there. The Minister's response to this lady was: "As you know, the States of Jersey are in the process of introducing a Financial Services Ombudsman to cover complaints from consumers against financial service providers as an alternative to the court system. However, the ombudsman will not be in operation until 2014." That offers some kind of hope to the lady because: "Oh great,

how there is going to be a Financial Services Ombudsman” but when we consider that this event took place in 2008 and on the face of it it looks like this was somebody who was conned out of a lot of money, because of the nature of the incident, this person who was registered with Jersey Financial Services was not able to be prosecuted for any criminal actions because of the way in which he contorted money - is that the right word? Extorted, I think, is the right word. Extorted money allegedly from this constituent. So this would clearly be of assistance in this case and she has had people telling her: “You are absolutely right, there is nothing that you have done wrong, you have been a victim here, we should have had an ombudsman set up.” Surely the argument is that there must be others like this woman and her partner who are facing very difficult times, the prospect of having to sell their property and everything that goes with it, being uprooted with young children.

[15:00]

The question has to be asked, if there are really so few of these individuals that the Minister is saying, whether it be P.P.I. or other cases, what is the harm in extending it another 5 years? It is something that we should have brought in. Not us necessarily but our predecessors should have brought in. If the numbers are so few that is fine, the ombudsman will not have much work to do will he, or will she? But if, on the other hand, the numbers are very significant then we also have a need to make sure that if so many people have been falling through the cracks in the past because of the lack of an ombudsman, there is a demand for that. So we cannot have it both ways. If the numbers are so few that is fine, it will not create much of a workload for the new ombudsman. If the cases are so many, then that is also an argument for extending back another 5 years. So I think really this is one of those amendments which the Minister could have accepted and could have accepted quite easily because ultimately it is a benefit to vulnerable individuals in our society who have been facing issues like this perhaps historically and more recently. This is not something that the Minister should be opposing. So I do ask Members to support this amendment.

#### **6.4.5 Senator A. Breckon:**

I will support this amendment for a couple of reasons. I mentioned earlier that it has been a long time coming since November 1998 when the report first surfaced. I am aware of the case that Deputy Tadier has just mentioned and then it is a question of to where people go? Where have they been going? The answer is they have been going nowhere. They have been going round in circles and they have been frustrated by that. The Minister mentioned the Isle of Man but of course they have an Office of Fair Trading in the Isle of Man, they do not have one here. There are other such organisations in the U.K. that are proactive towards consumers, they are consumer facing, and they will take up the cudgels individually or collectively on issues. Just to show the scope of that, there was something I picked up at the weekend about an organisation in the U.K. and that is Financial Conduct Authority. It just shows the depth that they have got and where they will go when they feel they need to. What it is saying here is that this city watchdog will look at funds from pensions and endowments and life insurance, which people have been paying into that have now closed to new business. The probe includes policies sold as far back as the 1970s and closes in 2000. The funds held an estimated £150 billion, and they are concerned that in some cases people have been continuing to pay without being told that there are options to switch. The Financial Conduct Authority wants to ensure that providers do not penalise people in these situations. One concern is that insurance firms charge higher management fees on older products to subsidise new products. A possible outcome of the review could be that providers are forced to make it easier for policy holders to switch to alternative products. The Financial Conduct Authority will ask firms to provide representative samples of their policies rather than look at every individual case. That is an example of where somebody is going back over 40 years. Of course, there could be people in Jersey who are affected by those very things. Where do they go? Will they be covered? There are

questions to be asked there and for those reasons I do not see the harm in extending this a little bit further. It does not have anywhere near those powers and we do not have the organisations that are doing some of this investigative work on others behalf. For those reasons, I would ask Members to support his amendment because I think it is worthwhile to do so because there are people out there in the community who are frustrated because they have been given literally the run round around and these are not things for tuppence ha'penny, these are a significant part of their life, it is their homes, it is the investment they have made in their future insurance policies and endowments and things like that. I think giving this little bit of leeway, which I do not think is excessive in the circumstances, is worth supporting and I ask Members to give that consideration.

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

I will be brief. It has taken me at least an hour to get my head around these 2 different dates and I think I am just there. If we had not been so tardy in the House we would have already had this scheme up and running. So Article (5)(a) is the 6 years after the Act to which the complaint relates would take you back to 2008. It is quite simple. But we have not gone that far back because, as Deputy Southern said, there were 32 comments and 31 of them for the industry, very good and all very nice. The Assembly has just been told by the Minister for Economic Development that we passed some tax law that we said people only would need to keep their records for X amount of years. I am telling you know that there are records around for us going back in our banks and loans and whatever; if you owe them money they will find you. Now, do not tell me they are going to wipe that after X amount of years, it does not work. Again, this overall thing, it is always just that little push. The Minister said: "We want the same as everywhere else. An international service for an ombudsman." But we have just moved on the principal law that they do not have to be in the financial services industry. They probably will not be but we will not put it in in law. We will not put it in law. So we have moved a little way. Again the myth of Guernsey is chucked out the window because they are making it legal as of 2nd July last year. We are working with a different ombudsman over the Islands. I am sorry to the Minister, Senator Maclean, who thinks there are only 3 little cases out there. We do not have it in law. Annoying as they are, when the P.P.I. people ring you or email you and you tell them where you are they basically forget it because they know ... they have been arguing with the top officers. They do not want you as a customer because we do not have it in statute. We have not got what the English ombudsman said: "If you have mis-sold it, you will repay it." It is quite easy to do it yourself because I know people who have done it, rather than go through these annoying people that some people do not understand and they do, they pay a percentage in commission. That is fair enough. So we do not know what we do not know, we do not know how many people are out there who could benefit under this. Even if it is a few hundred pounds, that is the people who really need this service. As I said, we have timed ourselves out under 5A because we should have been up and running. It would have been 2008 that people could claim from so giving them an extra few years, 2005, I do not think Deputy Southern is asking for too much. Please, just see the sense of this because it can be done. As I say, you owe anybody money they find you. A tax record that we passed in this House that everyone is going to destroy information on anybody under that is a red herring, frankly. I am sorry if I am misquoting the Minister but that is exactly how I see it. It is not too long, it does not go back too far. In fact I would probably be generous and if the Minister had accepted the amendment to (a) I would have probably lived with the 6 years ... the (b) were Deputy Southern has put it to 10, but ... yes, I think it could be done, but what I am saying is it is up to Deputy Southern whether he takes them in 2 parts, but I do know this has been coming for too long and if we cut people off on 1st January 2010, I would not like to be those people. We have known it has been coming, we know they were mis-sold intentionally and it is the people who relied on these P.P.I.s and other sorts of insurances like your endowment mortgages, which is now falling short in the hundreds of thousands of pounds. This will capture ... there will be something around the corner. There will be something around the

corner but we will be up and running then so I do not want to cut off anybody before a reasonable date. So what we have been offered is a few years longer than it should be, possibly, because we as an Assembly have got it wrong again. We have taken much too long to get to this starting date. So, please, think of the little people out there and do not tell me that there are only 3 cases outstanding. As I say, they do not come near the offshore bank accounts and that is what we look like. We cannot be seen from England in the banking world and they do not really want to know because it is not passed by our ombudsman, whoever he is. I really hope that this time we will support Deputy Southern and not be led-off with Guernsey cannot do it, the tax is going to be chucked away and their records are not going to be there. To me, it does not make sense. It should be there and they will be there. Thank you.

#### **6.4.7 Deputy J.H. Young:**

I will try and be brief. I think Deputy Southern has done us a service by picking up this particular point. Like many others, I regularly get fed up with getting text messages from U.K. firms about P.P.I., I think they must run into the hundreds now, being pushed around by ... I do not know how they get the numbers but they do, reminding us of course that there is a regime elsewhere. It is a very longstanding regime that U.K. financial services providers are well used to working within, to work within the regime that we are now going to put in place. We are used to that. Certainly as Deputy Martin says, better to not destroy their records. My experience working for a law firm and locally is that people keep records much longer than the statutory minimum. Because only in that way can they defend themselves from claims. So I do not think there is going to be a practical problem. Financial services are long-term, pension issues, annuity issues, 10, 15, 25 years not uncommon and problems come to light late. I think it is important, I think this key point law, why be the same as U.K., debts in Jersey are enforceable in law in 10 years, in 6 years in the U.K., those systems are different. It is one of our strengths. While I was listening to the debate thinking: "What clues do we have?" and I looked back into the proposition we are due to debate next week from Senator Breckon and there I see the reminder in there about the judgment in Alternate Investments where the Royal Court permission on 26th January 2007 made very strong comments about the lack of such a scheme in Jersey and how this is something that should be addressed. The Minister himself made a statement in 2009 giving a commitment that would be done, and of course in the meantime we had the events of Sunstone in 2004/5, which came to light in 2008. I think all that demonstrates why the approach that Deputy Southern has suggested to the Assembly is the right one. Let us not half do the job, let us do it properly. Let us put in place the framework so we can all feel: "That is it, job done now. It was late but it is a good scheme and there are no gaps and loopholes in it." I still hope the Minister will accept Deputy Southern's amendment.

#### **6.4.8 Deputy R.G. Bryans:**

I am just trying to look on the iPad to see if I could find a reference to this time delay. I think it is true what the Minister has said about the 6-year requirement. It is hard for me to remember and I cannot find it very quickly on the iPad, but I know in the U.K. things that relate to what they call due diligence, which is the information that relates directly to whoever you deal with in financial services you have to provide information relating to your passport and where you live and various things like that. Equally though there is a compliance requirement that relates to the Anti-Money Laundering Law that says that whatever dealings you have with whomever you deal with in the financial services you have to keep records for, I think it is right to say, 6 years and beyond that point the records can then be destroyed. The reason is just to really verify that the advice given could be measured at some point in the future. I think there is an actual date. I have just found the H.M.R.C. (Her Majesty Revenue and Customs) one which is the requirement for 5 years but I think the Jersey one, I could be corrected, is for 6 years. I just wanted to clarify that.

#### **The Bailiff:**

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

**6.4.9 Deputy G.P. Southern:**

Just briefly, or as briefly as I can. Just to put this in context, I believe the dates that I did talk about for P.P.I., mis-selling, the critical period where people have been defrauded is from 2001 to 2009.

[15:15]

Despite the Minister saying it is all insignificant over here, it is only small numbers, I really do not believe that. When you look at the U.K. - I have just drawn my attention to - Natalie Ceeney of the Financial Ombudsman Service said last month about the number of complaints about P.P.I. was starting to decline. She said when the Ombudsman which steps in when customers and banks cannot reach an agreement was receiving 2,000 new cases each working day instead of 3,000 a few months earlier. So 2,000 cases it has peaked. But the key is that if we bring our Ombudsman for 2010, we have missed a whole chunk of ordinary people that have been defrauded through this system. I know it only sounds like something that is relatively small but what I am talking about, the person that came to me, the debt that she was repaid was £7,000 and this is a single parent, mother of 2, who is holding down 2 jobs to pay her way. That £7,000 for her was a significant amount of money and it was important. It was not hundreds of thousands but £7,000 for her was significant. Again, the Minister appeared to be saying: "Well, we have already solved that particular case through the good offices of my officers in E.D. (Economic Development)" and he seemed to imply that we can settle it at Ombudsman and if necessary we can use E.D. as well, so there would be 2 systems operating; the Ombudsman with its timescales and if there was something else that was outside that then we would simply do it through a second system. That was nonsense, a real poor argument. Then he said: "We wanted to be aligned with the U.K. and the Isle of Man standards." The question has to be then why can we not have better standards than theirs. Absolutely no reason, I do not believe, that we should not attempt to have a Jersey system which has got better standards and does take in those people who have been defrauded since 2005. He then talked about: "Ah yes, there is also this subclause of 2 years when you should have known" but that does not apply anymore because everybody knows now that P.P.I. takes place and if they have been charged P.P.I. then they are aware of it, so that 2 years will not kick-in because everybody knows or a lot of people know and ought to have known now that this is operational. Over the 10 years I think we are talking about 6 years as the minimum and, I believe, I am informed by Deputy Higgins, that he believes that it is 6 years for a paper record but an electronic record can be 10 years and beyond. So an electronic record nowadays, 10 years and beyond. Reference again was made to the fact that the vast majority of all of these consultations was with the deliverers, the suppliers of these services and not with the customers. Senator Breckon pointed out that there are still investigations going on in the U.K. that new areas for the F.C.A. (Financial Conduct Authority) investigating pensions and endowments, these long-term schemes, that will maybe, it is coming to the surface again. Absolutely. Then Deputy Martin says think of the little people. Let us get that protection in place. Let us, if necessary, get it better than the U.K.'s system but ensure that we have got that protection in place for our people. I think that is the mindset in which we should be voting to make sure that the ordinary people of Jersey have as full a protection as we can give them in this scheme. I call for the appel please.

**The Bailiff:**

The appel is called for in relation to the amendment of Deputy Southern. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 21</b>		<b>CONTRE: 25</b>		<b>ABSTAIN: 1</b>
Senator A. Breckon		Senator P.F. Routier		Connétable of St. Brelade
Connétable of St. Helier		Senator P.F.C. Ozouf		

Connétable of St. Lawrence		Senator S.C. Ferguson		
Connétable of St. John		Senator A.J.H. Maclean		
Connétable of St. Martin		Senator B.I. Le Marquand		
Connétable of Grouville		Senator F. du H. Le Gresley		
Deputy R.C. Duhamel (S)		Senator I.J. Gorst		
Deputy R.G. Le Hérisier (S)		Senator L.J. Farnham		
Deputy J.A. Martin (H)		Senator P.M. Bailhache		
Deputy G.P. Southern (H)		Connétable of Trinity		
Deputy of St. Ouen		Connétable of St. Peter		
Deputy of Grouville		Connétable of St. Mary		
Deputy M. Tadier (B)		Connétable of St. Ouen		
Deputy T.A. Vallois (S)		Connétable of St. Saviour		
Deputy M.R. Higgins (H)		Deputy of Trinity		
Deputy J.M. Maçon (S)		Deputy S.S.P.A. Power (B)		
Deputy G.C.L. Baudains (C)		Deputy K.C. Lewis (S)		
Deputy J.H. Young (B)		Deputy E.J. Noel (L)		
Deputy R.J. Rondel (H)		Deputy A.K.F. Green (H)		
Deputy N.B. Le Cornu (H)		Deputy of St. John		
Deputy S.Y. Mézec (H)		Deputy J.P.G. Baker (H)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		

## 6.5 Draft Financial Services Ombudsman (Jersey) Law 201- (P.9/2014) - resumption

### The Bailiff:

The debate returns to Article 11 in its unamended form. Does any Member wish to speak on Article 11? All those in favour of adopting Article 11 kindly show. Those against. It is adopted. Minister, how do you wish to proceed? The only other amendment is your own amendment to Article 17, which I imagine Members would be content to take it as amended. Are you happy to propose the rest of the Articles?

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

Yes, Sir, with your agreement and with Members agreement I would like to propose the remaining amendments on the assumption that Members will accept the amendment that I have put forward, which removes the power of the Ombudsman to award costs, and that was as a direct result of a request from the Economic Affairs Scrutiny Panel.

### The Bailiff:

Are those Articles seconded, that is Articles 12 to 27? **[Seconded]** Does anyone wish to speak on any of those Articles? All those in favour of adopting Articles 12 to 27 please show. Those against. They are adopted. Do you propose the Bill in Third Reading, Minister? **[Seconded]** Does any Member wish to speak in Third Reading? The appel is called for then in relation to the Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 45</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				

Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

## **7. Draft Taxation (Miscellaneous Provisions) (Jersey) Regulations 201- (P.13/2014)**

### **The Bailiff**

The next matter on the Order Paper is the Draft Taxation (Miscellaneous Provisions) (Jersey) Regulations - Projet 13 - and I will ask the Greffier to read the citation.

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

Draft Taxation (Miscellaneous Provisions) (Jersey) Regulations. The States, in pursuance of Article 2(1) of the Taxation (Implementation) (Jersey) Law 2004, have made the following Regulations.

## **7.1 Senator P.M. Bailhache (The Minister for External Relations):**

The purpose of the draft Regulations is to bring the existing Double Taxation Regulations of 2010 and the Taxation (United States of America) (Jersey) Regulations 2006 into line with the Taxation Exchange of Information with Third Countries (Jersey) Regulations 2008. All 3 of the sets of Regulations are concerned with the exchange of tax information to the international standards and Members will recall, I am sure, that difficulties experienced with the French authorities called for the 2008 Regulations to be amended, particularly in respect of the right of appeal provisions, and because of the circumstances these amendments were dealt with by the Assembly as a matter of urgency. The same urgency was not required in respect of the other 2 sets of Regulations because no difficulties had been experienced with jurisdictions with which Jersey has Double Taxation Agreements, nor with the USA. However, it is important that there should be consistency between the 3 sets of Regulations. In addition to Projet 13 there is an amendment proposition, also in the name of the Minister for External Relations. The need for this arose because subsequent to the lodging of Projet 13 some technical changes to the wording of the draft Regulations were identified as being necessary to ensure that in referring to the leave to apply for judicial review the wording was consistent with wording used elsewhere. The key change to the 2010 Regulations in matching the amendments to the 2008 Regulations is in replacing the existing ability to appeal to the Court, and subsequently to the Court of Appeal, with an application for leave to apply for judicial review. No requests for information have been received to date from D.T.A. (Double Taxation Agreement) partners. D.T.A.s include an article on exchange of tax information, which is to the same standard as the exchange of tax information under T.I.E.A.s (Tax Information Exchange Agreement) so for the 2006 Regulations covering the U.S.A. (United States of America) the draft Regulations provide for their repeal in their entirety and for the U.S.A. to be added to the list of jurisdictions included in the schedule attached to the 2008 Regulations. With the making of the proposed Regulations the U.S.A. will be covered by the 2008 Regulations as amended. This will simplify the provisions relating to the exchange of tax information so that there will be one set of Regulations dealing with requests received under a T.I.E.A. and one set of Regulations relating to requests received under a Double Taxation Agreement. So I move the principles to the Regulations.

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

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

#### **7.1.1 Deputy J.H. Young:**

Could I ask a question of the proposer? Obviously I can see the entire purpose of this is to make sure as far as possible our statutory regime does not allow anybody to use Jersey as a hiding place for illegal tax avoidance. But I do read in an Article on page 12, it sets down there circumstances in which - as I understood this to be saying - if a notice is served on one of these overseas jurisdictions, which I include the U.S.A., about the provision of notice, is that there are circumstances when the taxpayer cannot be informed about that, and that seems to be listed in Regulation 3(5)(e). That troubled me a little bit because obviously one reads all about these extradition proceedings when people get taken off to the U.S.A. to face offences, and there seems to be some situations where they are not allowed to see the evidence against them. Obviously that is in a question of a very different context but here we have got financial services rules. Obviously I may have misunderstood this provision here but please in summing-up could the Minister please explain just a little bit more to help me understand what we are doing here and make sure this does not go too far.

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

Slightly on the lines of Deputy Young, and I am a bit confused. This is an issue that may come up in the details but there are references to the fact where we cannot provide a name we will provide a number. The whole intention of getting away from the secrecy and everything is somehow all confused and I would be obliged if the proposer could identify why are we talking about people giving account numbers rather than talking about people or corporate entities in the first place?

[15:30]

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

If no other Member wishes to speak I call on the Minister to reply.

**7.1.3 Senator P.M. Bailhache:**

I will deal with both those points now, although they seem to me to be relevant to the detail of the Regulations rather than to the principles, but dealing with Deputy Young's point first. There are occasions when an inquiry is taking place and it is the same as a matter of fact in a criminal investigation too where the Tax Authority, if it is not sure that any offence has been committed it thinks that something might be wrong but it is not sure that an offence has been committed or that some tax evasion is taking place, might not wish the taxpayer to be aware of the inquiries that were being carried out because if the taxpayer were aware it would, in effect, tip him off and therefore enable him to move money from Jersey to some other jurisdiction and then the country making a tax investigation would be left with the fact that information might not be satisfactorily sufficient in Jersey and you would have to pursue other inquiries in other place. Some countries are more insistent than others about the notification or non-notification of a taxpayer when a request for information is being made but with the guidance issued by the O.E.C.D. (Organisation for Economic Co-operation and Development) I think I am right in saying that the importance of confidentiality, so far as the inquiries are concerned, is regarded as important, and that it is necessary sometimes to obtain the consent of the country which is carrying out the tax inquiries to notify the taxpayer that the inquiries are taking place. So nothing changes in the Regulations which are before the Assembly in that respect. Deputy Le Hérissier asked about numbers and names. Occasionally when a country is carrying out a tax investigation it does not know the name of the account holder. It suspects that a particular individual into whose affairs it is carrying out an investigation may have an account in Jersey and he wishes to have information about that account, but the only information it has is the bank account number itself. So it cannot notify the Comptroller in Jersey of the name of the account holder but it can identify the account itself, and this is generally regarded in practise as sufficient to ensure that this is not a fishing expedition where the Tax Authority is going on a trawl at large and does in fact know that there is a genuine inquiry under way.

**Deputy R.G. Le Hérissier:**

Can I ask for clarification? I am a bit confused. I thought quite rightly in the trumpeted moves to transparency and the move away from opaqueness that we were getting away from that. I still do not understand it. If a foreign jurisdiction asks for information or has reservations about how a person is conducting their tax affairs, is a name given to the Jersey authorities and if not how on earth do we know who we are investigating? I just cannot work it out.

**Senator P.M. Bailhache:**

I am sorry if my explanation was not sufficiently clear but I thought I had dealt with it.

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

I thought you had, Minister.

**Senator P.M. Bailhache:**

I will try again. If a Tax Authority is carrying out an investigation into the affairs of Monsieur Le Brun, let us say, and it believes that Monsieur Le Brun has a bank account in Jersey and perhaps it is the name of a nominee or it may be in Mr. Le Brun's name himself, but the only information that the Tax Authority in France may have is the bank account number itself. The name of the bank, the address of the bank and the account number in question, which it seeks to investigate. In those circumstances it cannot give the name of the account holder, because it does know it, but it does have the account number and that is generally regarded as sufficient information to enable the Comptroller of Taxes in Jersey to carry out inquiries in accordance with the Tax Information Exchange Agreement.

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

All those in favour of adopting the principles kindly show. Those against. The principles are adopted. Senator Ferguson, do you wish this matter to be referred to your panel?

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

No, thank you.

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

How do you wish to propose the Articles, Minister? There is, as you say, an amendment. I assume Members are content for you to propose the Articles as amended by your amendment to Regulations 10 and 15?

**Senator P.M. Bailhache:**

I would certainly ask Members to agree to allow me to do that.

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

Are Members content? Do you propose the Articles *en bloc*?

**Senator P.M. Bailhache:**

I propose the Articles *en bloc* and would be happy to answer any question on any individual point.

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

Regulations 1 to 17 are proposed as amended. Is that seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations? All those in favour of adopting the Regulations kindly show. Those against. They are adopted. Do you propose them in Third Reading?

**Senator P.M. Bailhache:**

Yes, Sir.

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

Is that seconded? **[Seconded]** Does any Member wish to speak in Third Reading? Those in favour of adopting the Regulations in Third Reading kindly show. Those against. They are adopted in Third Reading.

## **8. Ratification of the Agreement on the Exchange of Information relating to Tax Matters between the Government of Jersey and the Government of Hungary (P.12/2014)**

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

We come now to the Ratification of the Agreement on the Exchange of Information relating to Tax Matters between the Government of Jersey and the Government of Hungary. I will ask the Greffier to read the proposition.

**The Assistant Greffier of the States:**

The States are asked to decide whether they are of opinion to ratify the agreement between the Government of Jersey and the Government of Hungary in the exchange of information relating to tax matters as set out in appendix 1 to the report of the Minister for External Relations dated 29th January 2014.

**8.1 Senator P.M. Bailhache (The Minister for External Relations):**

This is yet another of the agreements which the Government of Jersey has entered, on this occasion with the Government of Hungary, for the exchange of tax information, and I move the proposition.

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

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? All those in favour of adopting the proposition kindly show. Those against. It is adopted.

**9. Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 10) (Jersey) Regulations 201- (P.17/2014)**

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

We come now to the associated Regulations. The Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 10) (Jersey) Regulations, and I will ask the Greffier to read the citation.

**The Assistant Greffier of the States:**

Draft Taxation (Exchange of Information with Third Countries) (Amendment No. 10) (Jersey) Regulations 201-. The States, in pursuance of Article 2(1) of the Taxation (Implementation) (Jersey) Law 2004 and following the decision of the States to adopt Projet 12 of 2014, have made the following Regulations.

**9.1 Senator P.M. Bailhache (The Minister for External Relations):**

This is the familiar amendment to the 2008 Regulations to enable the ratification of the agreement with Hungary that the States have just agreed to be included in the schedule to the Regulations and I move the principles of the Regulations.

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

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

**9.1.1 Deputy R.G. Le Hérissier:**

Slightly off and obviously I am a bit slower today even than usual but I wonder if the Minister could tell us how many requests are made? We are continually putting these through. We were told for a long time, and are still told, that this is indeed an excellent way of fighting the lack of probity in some areas, *et cetera*. How many requests are made under these agreements?

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

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

**9.1.2 Senator P.M. Bailhache:**

I do not think it is possible to say that in relation to any particular country there are a particular number of requests. With the Republic of France, for example, it is in the public domain now that I think 16 requests had been made up to the time of the difficulties at the end of last year. With some other countries very few or no requests in fact are made. Some countries, if one wanted to place an average on it, I would think would be in the region of 3, 4, 5, 6 requests. But, as I say, from some countries there are no requests for information at all. But those countries that do make requests have expressed their satisfaction to the O.E.C.D. with the way in which these requests are dealt with and it is a very important way in which the Island shows that it is a transparent jurisdiction and one that co-operates with the international community.

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

All those in favour of adopting the principles kindly show. Those against. They are adopted. Once again, Senator Ferguson, do you wish this matter referred?

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

No, thank you.

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

I invite you to propose the 2 Regulations, Minister.

**Senator P.M. Bailhache:**

May I move the 2 Regulations together?

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

Are they seconded? **[Seconded]** Does anyone wish to speak on the Regulations? Those in favour of adopting the Regulations kindly show. Those against. They are adopted in Second Reading. Do you propose them in Third Reading, Minister? Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading kindly show. Those against. They are adopted.

**10. Tasers: deployment and use in Jersey by the States of Jersey Police (P.18/2014)**

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

Now to an item which will no doubt be dealt with equal expediency: Tasers. I ask the Greffier to read the proposition.

**The Assistant Greffier of the States:**

The States are asked to decide whether they are of opinion - to endorse the intention of the Minister for Home Affairs to authorise the deployment and use of Energy Conductive Devices (Tasers) by the States of Jersey Police Force in accordance with the following principles - 1. A Taser will only be deployed in circumstances where Firearms Officers are authorised to carry firearms. 2. The deployment of a Taser shall require authorisation by an accredited Tactical Firearms Commander. 3. Tasers will be available for deployment – (a) from the Armoury at Police Headquarters; or (b) from a locked safe contained in a police vehicle. 4. Tasers will only be deployed to and used by Authorised Firearms Officers. 5. Once the deployment of a Taser has been authorised, usual supervision will apply and the individual Officer's usage must be justified and compliant with all existing legislation and associated A.C.P.O. (Association of Chief Police Officers)/Service guidelines.

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

It is within my authority as Minister to authorise the police to purchase certain new types of equipment, in particular, in a matter like this, it would be a policy decision. But because of difficult sensitivities and concerns I decided some time ago that it was right that I bring first a proposition to this Assembly seeking the support of the Assembly for what I intend to do. My Scrutiny Panel, not the current Scrutiny Panel but the previous Scrutiny Panel, spent quite a lot of time working on this and produced a very detailed report, for which I thank them. They suggested quite a lot of improvements and additional information in the Proposition and Report, which has been added. I am going to begin by unpacking the proposition. As I have said, it is a proposition to support my intention to authorise the States of Jersey to purchase Tasers but there are very clear safeguards that will be put in place in relation to this. Firstly, a Taser would only be deployed... now deployed in this context means taken out of the box, as it were, taken out of the container in which it was, in circumstances where firearms officers are authorised to carry firearms. That will create a very high test for deployment because it will be sufficiently high to warrant that firearms are also going to be there alongside them. I would just mention that we have 30 firearms officers currently who are trained specifically in the use of firearms and they would be trained separately and specifically in the use of Tasers. Secondly, the deployment of a Taser would require the authorisation by an accredited Tactical Firearms Commander, that is, in fact, the equivalent of inspector level at least, so they are senior officers, we have 11 of them. Tasers would only be available for deployment in 2 places, either from the armoury at police headquarters or from a locked safe contained in a police vehicle. They are not going to be generally available, that is very important. They are not going to be hanging on every police officers' belt. It is only going to be specific officers for specific purposes, *et cetera*. They would only be fired by authorised firearms officers. Finally, once a deployment has been authorised the usual arrangements for supervision will apply and the usage, that is the actual firing of it, must be justified and compliant with all existing legislation and associated both with United Kingdom guidelines and also local service guidelines.

[15:45]

Following from this that Tasers will not be generally deployed but will only be deployed in response to specific and very high-risk situations. I want now to move straightaway to the 2 main arguments in favour of this. The first argument is that they are needed in order to bridge the gap, in what the police refer to as to the continuum of force, between the baton and the bullet. If Members would care to return to page 10 of the report they will then see a list of the continuum of force. The police are committed to use the lowest level of force that is consistent with public safety in any situation. The continuum starts with a police officer just being there, then moves up with the officer talking to a person or giving instructions. Then it comes to the lowest level of force in terms of controlling the offender in some way with the body. Then there is taking him to the floor or striking them with the body and then CS spray followed ... and we are moving up here, although we are moving down the page we are moving up in terms of the degree of force used. The next is the expandable metal baton, commonly known as an ASP, although ASP is, in actual fact, a brand name rather like Hoover or Dyson. Next upwards is the use of a police dog to take hold of an offender. Then next up is the baton gun, this is referred to rather confusingly in my own report as a launcher, which I think has made people wonder what we are launching but this is something that fires a rubber bullet. Then the next up from that is where the gap exists, where Taser is in the continuum of force but not available at the moment in Jersey. The problem is that the rubber bullet is often ineffective and it is difficult to use in an enclosed space because of its tendency to bounce off and hit the wrong person or hit the right person in the wrong place, i.e. in the face or the eyes. CS spray requires a close approach and in an enclosed space it affects the user and others present. A baton, an ASP strike, also requires a close approach and is likely to cause significant injury, particularly when applied to a person's arms. What does a police officer do when a person who is holding a sharp knife or something worse like a samurai sword or a crossbow and who is

threatening either other people or serious self-harm or harm to the police when that person will not put the weapon down? It is not safe to approach them and the use of a rubber bullet may just enrage them and make them more dangerous or suicidal. Let us consider the tragedy that occurred in Jersey during the summer of 2010 and in which 6 people were killed with a knife. What if the police had arrived when the knifeman was pursuing a victim outside the house? What if later he had come out of the house and run towards the police while wielding the weapon? Alternatively, what if a person is wielding a samurai sword in a main street with members of the public nearby? I understand that there was such an incident, although I do not know the exact details, recently in Guernsey that led to the firing of a Taser. These are not purely theoretical situations. In such a situation the police may have no option but to shoot the person with a firearm and the person may be killed. It is not fair on the police that they not be allowed to fire a Taser in such circumstances as a much lower level of force that is unlikely to cause any lasting harm. That is the first major argument. The second major argument is the flipside of the first. What if given the choice between firing a gun and risking killing the person on the one hand and continuing to allow the risk to go on on the other, what if the police decide to take the risk and the person with the weapon stabs or slashes a police officer or a member of the public or themselves? The police will then be blamed for not having acted in the situation. Is it fair that they should be exposed in this way? No, it is not and no responsible government should allow them to be left in that situation of risk either way, as I have described. Objections in relation to the proposition seem to fall into different categories. I am going to detail an objection and then seek to answer the objection, as it were, in advance. But those objections, I think, can sometimes be summed up with the phrase: "Tasers are not suitable for use in Jersey", it covers the various different categories. Here are my 5 objections, which I will seek to answer. The first objection, Tasers should not be available for general use in Jersey. That has been countered completely by the safeguards that are built into the proposition. Tasers are not going to be available for general use in Jersey. We have about 30 trained firearms officers and some of these are on each shift. They will be the only ones authorised to deploy and then, potentially, fire a Taser. They will be controlled by a trained officer at the level of at least inspector who will have first decided that it is such a serious situation that it is appropriate to deploy a firearm and that Tasers can be taken with them at a lower level of force. The second objection, Tasers are too dangerous to be used in Jersey. That is really an objection to Tasers being available for deployment or use anywhere. It is simply not borne out by the fact that they are available. They are available everywhere else in the British Islands and widely available elsewhere. I will give some figures in a moment of some sort of numbers of occasions when they have been used in some way. The objection is normally based upon anecdotal evidence of individual misuse of a Taser. There are a number of stories in circulation that relate to events that happened some time ago. There are dangers associated with the use of Tasers. The danger is particularly acute in cases in which a person has doused themselves with petrol or some other inflammable substance. Of course, officers are specifically trained not to use Tasers in that sort of circumstance. However, the more general danger is in relation to the fact that Tasers cause a person to temporarily lose control of their motor muscles so that they cannot move. This causes them to either freeze where they are or to fall over. There are obvious dangers in relation to a person falling over in an uncontrolled way. The risk in terms of interference with a person's heart, whether or not they have a pacemaker, is very, very low, that is because Taser delivers a very low current and I am going to go into some of the figures in a moment. The current delivered by a Taser is 0.0021 amps, that is approximately 1/480th of an amp; that is a very, very low current indeed. We normally have 3-amp plugs or 12-amp plugs, I think it is, or is it 9?

**Deputy R.G. Le Hérisier:**

Could the Minister go over those figures again? **[Laughter]**

**Senator B.I. Le Marquand:**

I will be producing some calculations for the benefit of the Deputy ... very, very low current. Members will find that on page 14 of the report and that is too weak to cause significant interference with a person's heart. I want to deal with the issue of voltage because there is a misunderstanding here. People very often talk about 50,000 volts. It is correct that the Taser arcs at 50,000 volts. In other words, in order to create the situation in which the electricity can be conductive through a person's body it will initially produce a potential difference of 50,000 volts. But the moment it starts to function that is reduced down to 1,200 volts. The key issue in terms of electricity is the power output and that is calculated by multiplying the voltage, 1,200, by the ampage, 1/480, which produces a net figure for arithmeticians of 2.5, which is very low indeed. That is equivalent, if we had a 220-volt current of an ampage of about 1/100th of an amp, very, very, low. It is not the power output that is the issue: that is not what makes a Taser work. Although the power output is weak the Taser has a major effect on the person tasered, that is because it causes the muscles of the person, other than the heart, which it does not affect in the same way, to tighten in the area affected. On Friday I asked the officer from the U.K., who came over to demonstrate the Taser, what it felt like. We had seen at the demonstration a picture of him being tasered, saw him on video. He said it was painful and he likened it to a very sharp cramp-like pain. However, he said that he recovered very quickly with no lasting effects. The purpose of Tasers is not to cause pain. It does cause pain, I am not hiding that fact, it is a painful experience. The purpose is to disable the person so that control can be gained over them without causing them any harm. A Taser fires 2 barbs, the higher one will hit a spot that is marked by a red dot on the person, it would normally be about here and a lower one strikes about 18 inches below. **[Laughter]** The barbs are like pins, there is a picture of them in fact in the report, which have a barb that prevents them from coming out if they have penetrated the skin and also a ring of metal so that they will not go in beyond a certain distance. If they penetrate the skin and the person affected has to be taken to a doctor in order to have the barbs safely removed, however, the barbs often do not penetrate skin or not penetrate it very far because of clothing. The risk involved in any given circumstance in relation to the firing of Taser has got to be assessed by the person thinking of using the Taser. That is what police officers and particularly firearms officers are trained to do, to assess risk and to use the lowest level of force possible. I remind Members that this is only going to be used as a direct alternative to a situation in which otherwise they might be shooting a person with a gun. The fact is that all use of force by police officers carries risks, that is why police officers always seek to use the lowest possible level of force. The act of taking a person to the floor in order to restrain them carries the risk of a head injury. Indeed, in the much reported case of Tomlinson during public disorder in London, when an innocent person was pushed over by a police officer, the individual, who had a heart condition, died as a result of being pushed over. The use of a police baton, an ASP, always runs the risk of a broken bone, even when it is used correctly. The use of a police dog in order to grab a person's arm carries obvious risks. The use of a rubber bullet carries risks in relation to the rubber bullet rebounding and striking a person in the face and there have, I understand, been fatalities as a result of this, although eye injuries are much more likely. A gun is designed to kill. It is a lethal weapon and the firing of a gun, a firearm, is, therefore, very high risk. But to give some figures, there are figures contained in the report but we have some updated figures, which I will pass over very quickly, as to the number of times in which it is used. The statistics of the U.K. go through different categories of use and what they mean by use is slightly different to the way I am using it. When I am talking about using it I am talking about firing it, that any case that is taken out and either pointed at somebody or operated in some way is treated as use. The figures of 2013 in the U.K., they had 10,380 occasions of which it was fired 80 per cent of the time, which is about 1,870 times. Tasers are much more widely used in the U.K. and are not just available to firearms officers and so the usage in Jersey is going to be less. However, the figure of 1,870 firings in the U.K. highlights the relatively low risk compared with the firing of a gun. The third objection, Jersey is such a safe place that Tasers are not needed in

Jersey. I am afraid this does not reflect the realities of modern life. I have already reminded Members that only 2½ years ago a man stabbed 6 people to death in St. Helier. Although it was a very unusual event it could be repeated. Indeed, the report contains some figures over a 10-month period during 2011 that identified 79 incidents in which a firearms authority could have been issued, although it was only issued on 10 occasions. They have done some updated figures from 2011 to 2013 where there were 47 authorisations over a 3-year period. But some of those authorisations were for multiple occasions, for instance, in relation to the trial of Curtis Warren and others. There was one authorisation, although in fact guns were available on quite a number of occasions. The sad fact is incidents have arisen in Jersey and will continue to arise where guns will need to be deployed.

[16:00]

What I am asking is that police officers, when guns are deployed, are also able to deploy a far less dangerous option alongside the guns. The fourth objection, that once deployed for one purpose Tasers are liable to be used wrongly for a different purpose. But this simply overlooks the very structured approach to the continuum of force, which I have already mentioned. In reality guns will have already been deployed. Alongside the guns the police will just deploy alternative levels of force. The question will be, what is the appropriate lowest level of force required? Situations will arise in which an ASP cannot be safely used and CS spray cannot be safely used because it would require a police officer coming within range of a weapon such as a sword or a knife. A rubber bullet cannot be deployed because it is in a confined space with a serious risk of an unpredictable rebound or it simply may not have the desired effect. If the police were minded to use excessive force in any particular situation, which they are not and if they are individual officers who are so minded we do not want them to be police officers, then they do not need a Taser for this purpose. Indeed, it is very unlikely that they would seek to use a Taser for this purpose because of the safeguards that have been put around the use of a Taser. Taser has an electronic recording system, it records every time it is fired and it records the length of time for which an electric pulse will continue and that is part of a permanent record in relation to the item. There are no electronic recording devices on a police baton to tell you how many blows were struck or whether injuries were caused. But on a Taser, which records not only the number of times it is fired but also details about each firing, one firing of a Taser will produce 0.0021 amps at 1,200 volts for 5 seconds. It can be stopped before the end of 5 seconds at any time but if the officer deems it necessary to continue beyond the 5 seconds then pressure will have to be maintained on the trigger and that will be recorded in the machine and that will have to be justified in terms of why he thought that that was appropriate. Other information in relation to the firing can be gained from the condition of the cords attached to the barbs leading from the Taser. Final argument against; that the expenditure is not warranted by the number of times they would be deployed and by the risk which arises from Tasers not being available. The financial argument; with respect to those who pay, I am sure some will advance this argument today, with respect I believe this is the weakest argument of all because I am talking about the reduction of the risk of a person being killed by the firing of a gun. However, if I put aside for a moment the most important issue of the risk to life there are compelling financial arguments. The cost of initial purchasing of equipment and training officers has been estimated at £32,000 to which must be added an ongoing figure of £8,160 per year. If one takes this cost and spreads it over a 5-year period it equates to under £15,000 per year. On the other hand the cost of a fatal shooting in terms of investigations, the inquest, perhaps public inquiries, *et cetera*, will be very substantial indeed. In addition if the fatality has resulted in circumstances in which there would not have been a fatality if a Taser had been available for use and used instead of a gun then there will be substantial reputational damage for the Island as well as a civil claim for damages resultant from the negligent failure of the Island to provide for a lower level of force to be used in those circumstances. This is a human rights issue. People who may be

shot have human rights even if they are behaving in an aggressive and dangerous manner and in accordance with those principles the minimum level of force should be used and that means we should have Tasers available in circumstances in which something has to happen in terms of very definite action. To summarise and conclude, I am asking the Members of this Assembly to support our excellent police force and its excellent leaders by giving them the tools which they need in order to do the job. There is a gap in the containment of force and this is putting both the police and the general public at risk. It also makes us vulnerable to civil claims if a person is shot or otherwise injured because a Taser is not available. Because of the degree of public concern in relation to Tasers the proposition puts in place the greatest, the highest, levels of safeguards in relation to use which exist anywhere in the British Islands. I ask Members to support the proposition.

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

Is the proposition seconded? **[Seconded]** Does anyone wish to speak on the proposition? No Member wishes to speak.

**10.1.1 Deputy J.M. Maçon:**

Being the Chairman of the Scrutiny Panel at the time who chaired the review looking into this proposition I feel that Members might expect me to say something on this proposal today. First of all I think we should thank the Minister for amending his proposition. Initially, there was not the amount of restriction on who may be able to use firearms, who may be able to use a Taser in that there was a potential for those who were not strictly firearms officers to be able to use Tasers. The evidence out there, when we looked at ... but that has been amended and so that is no longer there. The evidence, when we reviewed this, is more incidents occur about the potential misuse of a Taser when it shifted away from those highly trained firearms officers and, therefore, the panel was very clear that, in this context, it would not be appropriate for that to occur. I wonder whether the Minister, in his summing-up, could confirm what his position is because I believe that there has been a report of a review of the police service whereby Taser, again, is recommended to be introduced to the Island but also at a lower level of restriction about who can use Taser has also been encouraged. I just would like to know what the Minister's response to that particular aspect is. I did request it ...

**Senator B.I. Le Marquand:**

Can I just seek clarification so I can answer the question in due time? I am not aware of any separate report other than the Scrutiny Panel's reports so I am not quite sure what the Deputy is referring to.

**Deputy J.M. Maçon:**

It has been some time but I do believe there was some sort of external review of the police force that has occurred recently which did call for this. If I am wrong then the Minister can clarify that. I did request it when I was still on the Scrutiny Panel but I have not had it since. Moving on. When we undertook the review ... certainly this is a matter which many members of the public expressed an interest in and there was certainly a polarised opinion either way on this particular matter, some expressing grave concerns, almost to the extreme of having a total distrust in the police in anything that they can do. On the other hand other people had total faith in the police and completely agreed with the proposals and that it should be used. So it certainly is something that you did not tend to find too much of a middle ground about. When we conducted our review we did look at the other jurisdictions that had Taser, in particular Guernsey, and I want to show Members a bit of information, which is on page 35 of our Scrutiny Panel report, which I think for me it was a comfort when looking at this particular subject and it is point 83 within that report. It looks at how Tasers have been used within the island of Guernsey. We do have to get used to the language, as

the Minister outlined, when we are looking at Tasers, that there is a difference between when a Taser is issued, when it is drawn, when it is aimed or red-dotted and when it is eventually discharged. What it tends to show is the number of times in Guernsey when it is even issued, that means that the police would be able to take it out to an incident, was very low although there was a peak at a maximum of about 41 times in one particular year, 2011, but it tends to average around 10 times a year within the Guernsey context one way or another. So to begin with it has got a very low use. Now, that can be seen as a benefit because it shows that if people do have a concern about it, it is not tended to be used very often. Again, it does go back to the financial argument of why are you spending money on something when in fact we have got other pressures which need to be spent on and we are buying equipment which is not going to be used particularly often. Members will come to their own decision about that. Looking at the Guernsey example, but also wider afield, what it does tend to show is the most ... the Taser itself tends to have a deterrent effect by the time it is drawn and red-dotted on people; that tends to get the message across to say that the police mean business and usually that tends to have a more significant effect and that does in turn reduce the amount of times it is discharged on other people. So that was a comfort when looking at this particular review to me personally. There are a few points which I would like to respond to in the Minister's opening speech which I would like to touch on. He did use the, obviously, very sad situation of the summer 2010 using that example. My panel did consider these types of scenarios about when it could be used. One point which really should be made is whether the police had Taser or not that event would have occurred regardless because they were not there in time when that event happened so it would not have made a difference in that particular example. So that does not mean you should not have them but it means that if you are going to look at this in the round you do have to bear that in mind. Something else which needs to be thought about is while the figures, when recorded, about when a Taser is fired are recorded what perhaps would be more useful would be when it was recorded and there was a successful hit because there are some times when a Taser is used and perhaps when only one of the pins hits or neither of the pins hit which means, again, you are looking at how effective is this in the round if there are examples where Tasers are used and does not even hit the target. Again, the police, of course, would have an opportunity to reload and go again but again it all needs to be looked into in the round about how effective is this particular device when carrying out policing duties. I would also caution this argument around the police need the tools in order to be able to do the job that they have got to do because logical argument will show that that could lead down some very worrying and troubling civil liberty type places which we may not want to go. So it does have to be thought about in those types of terms as well. Looking at the main proposition, again I certainly was pleased with the safeguards that were recommended eventually in the report and how that would be dealt within the armoury, perhaps in some locked safes in vehicles around the Island if this were to be drawn out. There are some other points which I want to make which is when we did ask for the evidence about who would be the most vulnerable if Tasers were to be deployed and we did find ourselves in a dilemma in saying that those people because what we have ... sorry, the point I am trying to make is Taser in the average population, if it was used on someone, yes, it would not be lethal. However, what we do have to accept is even if Taser was used to the full extent where it was finally discharged, it can be fatal for certain groups of people and we cannot get away from that. Granted it is a small amount of people who would suffer from that particular aspect but we do have to ask about, who is this particular group people. Those people who are more vulnerable are those who are pregnant, under the influence of alcohol, under the influence of some sort of narcotic and also those who have some sort of mental health problem.

[16:15]

Let us take pregnant women out this equation for the moment but those other 3 categories are those who find themselves most likely in the categories where the police are going to be called out to deal

with a particular incident. So you find yourself in the dilemma where those who are most vulnerable of having some sort of injury or some sort of bad reaction to the final use of Taser being those who are the most likely to find themselves being used with it. In which case where does that particularly leave us? What should we do in that situation? There is not an answer; it is just a decision that Members have got to decide for themselves. One final point that I want to make is something which certainly came through in the Scrutiny Panel was very much from the police side how they did not want the Taser to be downgraded away from any of the firearms trained officers and, of course, that has been completed. So, from sitting in the place where I was concerned about this to begin with, looking at the evidence, I am much more comfortable with what has come forward to almost a point of being neutral. I am concerned about people having Tasers than basically sitting in the police armoury and not really being used and gathering dust and whether that is a particularly good use of public funds. I wait for the Minister's stance because I have not quite been convinced about that particular argument but I would hope and encourage Members to drag out again our Scrutiny report they have any other questions or concerns because I found out that a lot of the information contained there may answer those concerns.

### **The Bailiff**

Does any other Member wish to speak? Yes, the Connétable of St. Martin.

#### **10.1.2 Connétable M.P.S. Le Troquer of St. Martin:**

I made some notes on the subject for the debate today, unsure whether I would need to speak or not. I am going to speak early. I was going to wait for more Members but I think there is a bit of reluctance initially for people to be speaking. What I will try to do is to convince Members who have doubts whether they should support the proposition or not to do so. Before starting, I would like to advise Members that I was a member of the Scrutiny Panel that examined this issue in anticipation of the pending debate. I went into that review with other members with an open and questioning mind and Members must believe me that I had no preconceived ideas. We have heard that the Minister has addressed and answered and accommodated many of the queries and concerns that we and others raised during the Scrutiny review. I am unsure but I think the Taser Scrutiny Review resulted in more submissions from the public to Scrutiny than of any recent Scrutiny review, although we know that some of the answers that came through were questionable. There is a public concern on this matter and rightly so. Members may be wondering what else I have to offer. Well, I would advise those Members that do not know that I served as a police officer for over 28 years in the States of Jersey Police Force. This is not a conflict of interest. As I have just said, I went into Scrutiny with an open mind and I have not discussed what I am saying today or intending to say today with any current officers or any of my former colleagues in the States Police. During my police service, I served in a number of specialist units, but I was never an authorised firearms officer. I never applied to become one and I am sure that I would not have been suitable either or whether I would have passed the rigorous selection process involved as a member of that small, highly trained and professional group of police officers. However, as a police officer I did attend many violent incidents during my career, some with knives, some with crossbows, some with firearms. I attended these various roles, including 'first at the scene' of firearms incidents on a number of occasions as a beat officer, as a police motorcyclist and a police car driver, then later as a supervisor in the rank of sergeant, and then later as an inspector and, therefore, at firearms incidents as the initial silver commander prior to the arrival of a chief inspector or superintendent, and even the Chief Officer. I also attended a firearms manager's course with the West Mercia Police once I had reached the rank of inspector. I say these things because I really wish to impress on Members today that I have worked with officers at the scenes of firearms incidents and operations. There is a considerable difference from watching a film on television or at the cinema to being at a live firearms incident. It is for real. It is stomach churning. The concentration that

you have, the adrenalin there, it is for real. I cannot imagine the thoughts and what must be going on in the minds of those officers holding a rifle or a handgun at the scene of such an incident. I have watched the professionalism of the States Police firearms unit in action, those instant decisions they are having to make, and every single action that they take accounted for. I think this Assembly should acknowledge, and I am sure they do, the dangerous role undertaken by each of those authorised police officers during every operation they undertake on behalf of the public of this Island. I probably only joined the police force because of my weekly viewings of Dixon of Dock Green as a child and a bit later on of Z Cars. On joining I was issued with a pair of boots, a cloak - we still had cloaks - a wooden truncheon, a radio, a whistle and a clip-on tie for safety so it could be pulled off. The metal helmets were no longer, the helmets that had given rise to the name "copper". We had a thick composite cork-type helmet. We were not to place a chin strap underneath our chins in case somebody pulled our helmets backwards and strangled us. Officers were not permitted to have a pair of handcuffs, personal handcuffs, but could draw them from police stock at night, just for the nightshift. Of course, those handcuffs were not allowed to be seen by the public in case it offended them or they felt threatened. Life moves on. Equipment has changed, the evolution of everything in life. Handcuffs became the normal issue for day and night use, later to be replaced with quick cuffs and specialised training was given. The wooden truncheons were replaced with a metal truncheon, a metal stick, the retractable ASP. Again, training was given to the police officers for their use. I never had to use the truncheon or ASP because I was also taught to speak and listen to people. Being the first at the scene of many incidents, especially on a motorcycle, and at my size, you had to be able to speak or run fast. **[Laughter]** We were later issued with CS spray and again we were trained, and indeed sprayed with it as part of our CS training. We had to experience the effect. There was no training for the whistles and they were withdrawn. The only reason I mention all these things is because time moves on and we have this equipment that is being developed and becoming available. We have heard today - we have it in the proposition - we are the only police force in the whole of the United Kingdom without Taser. However, that is not because we have the safety concerns of Tasers. It is because it was illegal to export them to us until 2012 when the States Police and the Minister immediately recommenced their attempts to bring Taser to the Island. Had that restriction not been in place, then I suspect this Island, the States Police, would have had Tasers for many years under a different Chief Officer and probably without the debate that we are having today. I can understand that some members of the public have concerns and reservations on this emotive subject. I think they have been alluded to already during this debate and I am sure they will be later. I think some people initially believed the proposition would result in States Police officers walking down the street, armed-up, in their words, with bright yellow Tasers in their belts. They look like a gun but, of course, they are not. I am not sure how else you would describe them because it is something you do aim at a person. Of course, a gun kills. We now know that officers will not be walking down the street armed-up with a Taser. This is simply not the case and the Minister has undertaken with the Police Chief that they will be issued only to authorised firearms officers during authorised firearms operations. This will be the highest level of safeguard restrictions in the whole of the U.K. The next concern of the public and, indeed, Members of the Assembly today was that of mission creep with the requirement of the deployment of Tasers being changed and lowered to lesser graded incidents. They could be used for general public order incidents outside of pubs and clubs, incidents that should and maybe could have been dealt with by other means, by talking to people, by backup officers arriving, or by ASPs or CS spray, and that creep becoming worse with the Tasers being issued to other specially trained officers. That means a lot more officers as has happened in the U.K. with other groups of police officers, police officers who are not firearms trained, undertaking just a Taser training course and being authorised to carry a Taser. I think that is when we would have seen Tasers on the belts of officers walking down King Street or Mulcaster Street and far more usage that we hope will never happen, and will never happen as in other

countries where it has. I am sorry, I would have not supported the Minister in today's proposition had the Minister not made that change and confirmed, if approved, then Tasers would only be deployed and used by authorised officers. Had he left it with the possibility of any officer trained being able to use it I would have not supported the Minister. There may be Members today questioning and believing that if this proposition is approved then the authorisation level will change very soon under a new Minister for Home Affairs later this year, not before November but later this year or early next year, or maybe under a new Police Chief in due course. If I could just suggest to Members that it would be a very brave new Minister for Home Affairs to make a change without the approval of this Assembly, especially with the wording of the proposition we have today. Secondly, it is likely that a new Minister could or would face a vote of no confidence bearing in mind today's debate. Thirdly, remember if the proposition is not approved today then there is no saying that a new Minister for Home Affairs, maybe in November, would approve the use of Taser without the tight restrictions being proposed today and without coming back to the Assembly at all. Surely it is better to approve something today that has tight parameters. Members have to remember there is no need for the Minister to bring a proposition to this Assembly as there is an exemption under the Firearms Law. It was the decision of the Minister for Home Affairs to bring this for debate. The law is referred to in 2 small sentences on page 10 of the proposition. It states that Article 33 of the law prohibited weapons: "Subject to paragraph 2, no person shall without the authority of the Minister have in his possession any weapon of whatsoever description designed or adapted to inflicting electric shock." It then goes with the exemption: "A police officer may purchase or acquire or have in his possession any weapon of the type referred to in paragraph 1 while acting in the course of his or her duties." I am satisfied that the wording of the paragraph on page 33 of the proposition states that any changes in the authorisation criteria would come back to this Assembly. That is what we are debating today and the crux of the debate, coming back if there is going to be a change. The Minister has spoken about a safe society. There will be others both here today and members of the public that say that we live in a very safe society in Jersey and, therefore, Taser is unnecessary. This proposition is not whether or not we live in a safe society. Of course we live in a safe society, but we cannot fool ourselves that violence does not happen on this Island. We have already alluded to the 6 murdered people a couple of years ago on a Sunday afternoon. I was on duty and involved when 3 people were murdered at teatime, 2 of them children, at the former Elysée Estate at a location with the offender unknown at the time when we got there. Serious violence still happens. I recall arresting a young man in a common room of a hostel who had walked from Havre des Pas to Clarendon Road one evening aiming a rifle at individuals along the street. Another elderly man pointed a replica - we did not know that then - at people in Burrard Street in the middle of the afternoon. One of my very first jobs back in 1975 was when a colleague and I entered a block of private flats in Clarence Road to be confronted with a man running towards us with a hammer in one hand and a screwdriver in the other. These are just a few of very, very many incidents that expose the public to danger and the police officers to danger. In my books, it is the public and it is those officers who come first. Low levels of violence in Jersey cannot be the argument against the introduction of Taser on the Island because the very next call received at police headquarters, maybe this afternoon, maybe next week, that one call maybe in the next decade, a police officer may use a Taser to incapacitate a person rather than have to use a gun and kill him or her.

[16:30]

If we were to use that argument in thinking that the Island is so safe, then why not reduce the number of trained firearms officers? Why do the Minister and the Police Chief need 30? Could he not manage with 20 or 15? It would be cheaper. Let us just have handguns: we do not need rifles or shotguns. The argument just does not make sense. The States Police have to be prepared for every eventuality that they are likely to face. Let us not be fooled that they happen in Jersey. We

have a search team in Jersey whose initial role is to undertake searches of buildings for explosives prior to specific events, royalty or Government Ministers and the like. We hope never to locate a terrorist device but we cannot assume because we have not had one they will not be there. I believe it is important that we must remember that it is the general public, our family and friends, every member of our society that top our list for protection, not the individual, he or she, who wants to act in a violent, aggressive manner with a weapon, be it a knife, a machete, a sword, a gun, replica or not. We owe it to the protection of those police officers who go out and do the job for us. In concluding, I would like to thank the Minister for arranging the presentation for the States Members on Friday afternoon that unfortunately only 5 Members were able to attend. I found it very helpful and informative. This proposition is divided into 5 parts, 5 principles, and I believe each should be seen as interrelated. I hope the Minister takes the whole proposition together and does not break each principle individually. I say to Members if we approve this today we are not authorising officers from the States Police to use Tasers. We are merely adding a less lethal option for those members of the firearms unit to have at their disposal. We could vote against this proposition and the next violent incident call involving a weapon, maybe a knife, pistol or gun, could be received in a couple of months' time and firearms officers will have to use lethal force because they had no alternative. I would encourage all Members to support this proposition. Such support would indicate the importance we give to the safety of Islanders and also show our support for the States Police firearms unit undertaking their dangerous role on our behalf.

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

Two youngsters were arrested: one for drinking battery acid and the other one for eating fireworks. The police charged one and let the other one off. This brings new meaning to the word "charged" and I thought we needed to reinvigorate the debate. It is a nuanced debate and I think that is what needs to be brought out today. I do not think there is a particularly right or wrong way to vote. There is not a right or wrong decision to be made on Tasers. There are, nonetheless, arguments on both sides that need to be considered. That is certainly what I found from being on the Scrutiny Panel. We have had previous speakers talking already. It is not clear cut. I do largely want to put forward the other side of the argument, which I do not think has been given much precedence up until now. There are various considerations here and, as I said, they are all qualified that they are not all clear cut. First of all, I just pose a rhetorical question. In days when we did not have calculators was people's arithmetic generally better or worse? When you played darts, for example, if you did not have an electronic darts system, were you pretty good at figuring out what the scores were? Then when we had calculators and tills in the shops, did the maths tend to go out the window, whether that is pre-decimal or post-decimal? I think the answer is yes. That is because we can become over reliant on technology. One of the first considerations to make, and it is not conclusive or it is difficult to draw conclusions from it, is that because generally speaking the level of policing we have in Jersey is very high and very skilled ... and the Constable of St. Martin alluded to it himself from his own experiences that he did not need to use all these pieces of equipment, whether they were ASPs or batons or pepper spray, because the first weapon in his portfolio was to engage with the public orally and to use engagement. That is what the police do very well. The issue that I have is that while it is always possible to make theoretical arguments as to why a particular new piece of technology is needed, the empirical evidence that we have in Jersey is exactly the problem: we do not have the empirical evidence as to when these Tasers would have been used practically. The issue is we are being told that they would be used or deployed alongside firearms to be deployed at the same time, and that is exactly the thing. There has never been a shot fired in anger in Jersey by the States Police. Of course, a lot of the deployment of firearms in recent times was to do with precautionary measures for the very high profile court case that we had. We could argue, of course, that that is because the police are doing such a good job that it hides the need and it shields the need. That is, no doubt, what the Minister will argue. But it

also shows that the need is not there. We live in a small community. *Man bieu p'tit Jèrri*. We live in a beautiful Island of Jersey, which is not the same, it is not an extension or an annex of the U.K. I think that is partly where the argument has come from. You could say that is slightly naïve and wishful thinking, but we are told on the one hand by the police that we need Tasers to be in their armoury, but we are constantly reminded that Jersey is very safe. St. Helier, in fact, the Police Chief has told us, is very safe. There might be a perception of violence or a perception that some people do not want to walk through the streets, but that is not the reality. You can walk through St. Helier very safely at night and surely that is part of the reason for having such an extensive network of C.C.T.V. (closed-circuit television) is that crime will be reduced and there is a deterrent effect there. So there is not the empirical evidence or the demand because there are so many incidents that take place. What is interesting to note as we look through the report, there are various examples. We have one on page 7, June 2013, no weapons were discharged. It was a deactivated handgun, so it could not have fired anything anyway. Of course, the officers would not necessarily have known that. It means the person could easily have been Tasered. We have seen that. I heard another story yesterday about someone carrying a chainsaw. Unlike what the Minister might be suggesting, that all of these incidents are historic, complete nonsense. We hear about examples of misuse and even deaths from Tasers all across the world, often completely innocent people being Tasered who suffer adverse effects. They are current; they are not historic at all. They are constantly going on. The idea of mission creep is necessarily one which has been addressed and which is for consideration. Again, if we look at the second example, that was all discharged and resolved without any need for further escalation. It was due to the skill of the police. August 2013, no firearms authority was requested on this occasion. On that occasion, they would not even have deployed a gun or a Taser if they had it in their armoury. The list pretty much goes on like that. The police are quite capable it seems, historically certainly, to be able to deal with incidents without even the need of a gun, let alone the need of any Taser to substitute for the gun. It has to be said the incident which has been called the Polish incident with the stabbing, the Tasers would have been completely useless there. That incident is very unfortunate and the Tasers or, indeed, the guns, which would not have got there on time, would not have made any difference. These are necessary considerations to make. What I am also interested in is the psychological impact that the increased perception of militarisation of the police has on the general public. We have a system of policing by consent where we employ police officers to do a certain job, which is deemed necessary for society. They do that with the tacit consent of the public. I remember the first time, for example ... and I ask Members perhaps to cast their minds back, especially if they came from a relatively sheltered existence and background like that of Jersey, the first time perhaps that they went abroad. For me, it was entering Montparnasse Train Station in Paris and seeing heavily armed police officers, military police effectively, walking around with the guns. I just remember the feeling inside: what have I stepped into here? Am I in the middle of a war zone? Again, that can be perceived as naïve, clearly. There was maybe a demand for that, but is this the kind of Jersey that we are necessarily wanting to move to? Has there been the proven demand for this in the past? The very fact that the Minister quite rightly has decided to make this a political issue by bringing it to the States Assembly for approval shows that it is not simply an operational matter for the police. It is a political matter for us to have an input in as well. The police and the Minister could have decided that it was purely operational and that Tasers would be deployed, *et cetera*, but I think quite rightly he has brought this to the Assembly and that needs to be noted. But it is also incumbent on us who have concerns to raise those matters at the same time. Ultimately, if we do not want to see mission creep, the only sure way to ensure that does not happen is not to have the introduction of Tasers in the first place. That is the only sure way. When Tasers were introduced into other jurisdictions, there will have no doubt been assurances that there would not be mission creep but, of course, arguments will ensue at some point that we have Tasers and surely we need them ready so that they can be used. What is the point in having them? After all, it is a less than

lethal option. I think that is an important phrase because it is not a non-lethal option, it is less lethal rather than less than lethal. That is something that the police acknowledge. I think that is the general thrust of the arguments. It is interesting to note that there have been arguments made on human rights grounds saying what happens if somebody is shot soon, whether that is a police officer who is shot by an assailant or potential assailant because they did not have the Taser or, in fact, somebody who is ultimately innocent is shot when a Taser could have been used. That is an argument which I think is relatively compelling but, of course, there is the counter argument. In the European Convention on Human Rights there are clauses about torture. The Minister has told us that it is a very painful experience to receive 50,000 volts across your chest. It is also interesting to note I remember the Minister was on television a while back. When he was asked by myself whether or not he would be willing to have the Tasers trialled on himself, he refused. He cited his age as if to say: "I am a bit too old for that, leave it to the youngsters to get Tasered." I am wondering if that is a consideration because Tasers will, of course, be able to be used on people of the Minister's age and above. There are no safeguards in there. These are all considerations which I think need to be put into the pot. I still remain slightly of the nuanced persuasion but I am likely to vote against this because I do not think at the moment Jersey needs Tasers. It is interesting that the Honorary Police have not asked for Tasers. They do not seem to be particularly keen to take Tasers themselves and they seem to do a very good job and handle difficult situations, again through the skill of their interactions with the public because they know often the individuals they are dealing with. All told, I probably will not be supporting this but I will be keeping an eye on it, clearly, and I look forward to the Minister's response.

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

I have somewhat spent some time, believe it or not, attached to C.I.D. (Criminal Investigation Department) in my time in the Honorary Police over a number of years. Also, on 9th May 1986 I had to take 32 firearms off a person who held his wife ...

#### **The Bailiff:**

I thought for a moment you said 1896, Connétable. **[Laughter]**

#### **The Connétable of St. John:**

Did I say 1986?

#### **The Bailiff:**

Yes, it was my mishearing.

#### **The Connétable of St. John:**

Thank you. I had to take 32 firearms and other ammunition, *et cetera*, off a person. That was all done by talking to the person concerned with my Constable's officer as it happened. Having had concerns of the introduction of Taser on to the armoury for the States of Police, I attended a presentation on Friday, the 28th, with 5 other Members of this Assembly, a presentation by a London police instructor. I went in there with a totally open mind. We were given several scenarios that demonstrated live action, which had been shot by one of these cameras that policemen wear either on their helmet or on their body, U.K. incidents where a Taser had been used. I put questions to the officer which he batted back with claims that no person had ever been killed by a Taser. I put it to him that Amnesty International claims that some 550 people have died since 2001 after being hit with a Taser, albeit from some medical reason brought on by the Taser strike.

[16:45]

This officer went on to tell us of other scenarios he had been involved in. I asked how long a duration a person would be zapped. The Minister for Home Affairs said it was 5 seconds, and then the officer explained various scenarios. Then by chance he told us that he had Tasered a man who weighed 22 stone for some 20 seconds. He blamed the chap as his fellow officers needed 3 pairs of handcuffs to be able to get his hands behind his back because of his size. But I thought: "Crikey, I am only 4 stone lighter than that fellow, or I was. That would mean I would be getting zapped for something like 15 seconds." I was dumbstruck. I thought: "Wow, this is ...". We are told that a person was zapped with a Taser twice due to the person having a thick coat on. They did not think they had got it through in the first one so they did it again and they got him in the legs. This was where the Chairman of the panel that reviewed this mentioned they get struck more than once. The instructor also showed where a Taser strike should hit a person, above or about the belt. But I do stand to be corrected because in 2009 TASER International - that is the manufacturer - issued a rare warning about the weapon, cautioning the police to avoid striking a subject in the chest. This warning came amid medical evidence that shots to the chest could induce cardiac arrest in some people. Given the 2 darts should not be more than 14 inches apart, I measured from my belt, 14 inches up here, and of course it is smack in the chest. Within the proposition on page 15, if you look at the proposition ... **[Interruption]** No, I am not giving way. During the proposition on page 15 on the first line below the diagram of the Taser or weapon it says: "Taser is most effective on or across large muscle groups, such as the chest, legs or the back." So they are telling us they are going to be using on the chest, although Amnesty International are telling us otherwise. I sincerely hope that I do not have that wrong. Having worked alongside a small number of rather ... I do not know if it is sadistic, I am not sure, there is one or 2 police officers, whether they be Honorary or States, in my 16 years in policing, that it would concern me if this were to get into the wrong hands within a police force. I am not saying that our States of Jersey Police Force or Honorary Police Force at the moment have got anybody of that ilk within the bodies. But I have worked alongside some people and I have seen scenarios which I was not very proud of even being close to those people when all this was happening. When an officer, States Police or Honorary, is cornered currently they use their negotiating skills to resolve all scenarios and this is where Deputy Tadier was coming from. Once Tasers arrived those skills started to get lost. They started to get lost within a very short period of time. Currently this Island is policed by consent and in general Jersey is held up by many other jurisdictions as a safe place with a wonderful police system going back, in our case, hundreds of years. We have got to 2014 without this equipment and I ask: "Do we really need it?" Just to follow the United Kingdom, which we are not part of, we are part of the British Isles or the E.U. (European Union) or even the U.S.A., as we are a backwater, this is Jersey, we do things the Jersey way. So one scenario that we were shown by the officer at the presentation was a domestic where a son had a carving knife in his hand, the police were called, they were obviously wearing their cameras, they walked into the room, one shall we say through that door there and one from the door behind me. The son stood up, his mother was somewhere in the room, with his carving knife and I would have expected a warning given to the son with this carving knife, but there was no warning given. The officers fired in to this chap. Yes, he raised the carving knife, but he went through the 5 different procedures they get to before firing it. But this officer did not do that. These 2 officers, one came through that door, one from behind, they saw the chap with the knife in there and they just pulled the trigger. I just question why no warning had been given, because it did ... that alone I thought ... I know they do it slightly different in the U.K. but when this was introduced in 2001, the first year they had 3,000, I believe it was or thereabouts, uses. It was used 3,000 times over the U.K. but more recently I think the figure is in excess of 10,000 times per annum. So that means there were no negotiation skills in that one, they just went in and pulled the trigger. That really set my mind thinking. This will give the Deputy of St. Martin and probably others - probably the other couple of Members who were there - something to challenge me on, if they so wish. But that is the way I saw that film and I mentioned it at the time. I am not saying I

am not going to vote for this but I have a number of questions I want the Minister to reply to. Has he and his Assistant Minister looked at the recommendations from Amnesty International? The number of people who have died after being stunned with a Taser are claimed by Amnesty International to be in excess of 500, 550 I think the latest figure is, but has he checked all those figures through? Will he also tell us how many times a gun has been used in anger by our States Police in Jersey? Is there a written policy on how the police are going to operate Taser, where is it and why is not in full detail within this package? Where are the training manual details and why are they not attached to the proposition in their entirety? Please explain how are Members expected to vote on this without all the information at hand? Is this as replacement for firearms or is it a form of physical punishment in all but name? Where are the safeguards to ensure that the young, the elderly and the disabled will not become victims? Please convince Members that Jersey needs this bit of kit in its police arsenal.

#### **10.1.5 The Connétable of St. Brelade:**

I will try not to repeat some of the comments from other Scrutiny Panel members but I was a member of the Education and Home Affairs Scrutiny Panel that undertook the original review, although I was not there for the report writing stage. I have to say I started off in the position of being a real doubting Thomas when it came to the introduction of Tasers. I wanted to know why we needed to introduce a device that apparently disabled individuals by shooting large amounts of electricity through barbs into an individual. Clearly I liked to understand as well why we needed Tasers and be sure that they were going to be used by the right officers at the right time. Unlike the proposition being debated today, the original draft proposition that we originally scrutinised included a second part to part one of this proposition. Originally the proposition included extra wording that a Taser will only be deployed where there was a specific threat of physical violence to any person which required a Taser to be made available as a necessary and appropriate level of response to that threat. That wording was clearly too wide-ranging in its potential use and implied that Taser would not have to be carried by only firearms officers. Looking at some of the Hansard of the hearings, on questioning the Minister for Home Affairs in a hearing Deputy Tadier suggested that this use was vague and non-specific and opened the door for the possibility those not normally carrying firearms would use Tasers. The Chief Officer of the States of Jersey Police in the same hearing almost immediately made it clear to the panel that there was absolutely no intention whatsoever to issue to any other than an authorised firearms officer. Clearly, though, there was a need to limit any possible deployment and use within the terms of the proposition itself. Recommendations put forward by the panel sought to address this potential for use outside of firearms authorisation and has led to the rewording of part 1 of the proposition which clearly and unequivocally states a Taser will only be used by authorised firearms officers in circumstances where they are authorised to carry firearms. Coupled with part 4 of the proposition, where Taser will only be used by authorised fire officers, I believe this will eliminate the risk of inappropriate use to an absolute minimum and seriously reduce the potential for serious harm to any individual shot or immobilised by Taser. Firearms officers are highly trained and they will be consciously aware of the consequences of their actions and the need, after any deployment of Taser - and that includes drawing of it, sparking of it, aiming or firing of a Taser - that they will have to justify their actions. Within that firing or any use of it ... many, many situations have been mentioned already but one of the ones is, for example, if somebody was on a wall or at height, that is something else if they were shot by Taser, the officer would have to justify in his report. For an officer, and a firearms officer, there is no place to hide if a Taser is used in any way at all. I think that was seen in the demonstration last Friday put on by the Minister for Home Affairs, where it was shown that the Taser itself automatically records you, so we have heard about that, and that any use will need to be justified by that officer. I mention that briefing that was put on by the Minister, which only 5 States Members attended, which considering the importance of the debate and the wide-ranging

views we have heard today, also the efforts put into the briefing by the States of Jersey Police, was particularly disappointing. To hear from a highly trained and experienced London firearms officer for me was invaluable and I thank States of Jersey Police for providing that opportunity. His insight into the operational use of Taser was particularly detailed and after the briefing he explained to me that the limitations on use that we are putting on a deployment and use of Taser in Jersey would impede his own officers in London where knife and gun crime is more prevalent. My view, after hearing that, is the intended use in Jersey will be in the right context. The Scrutiny Panel's first recommendation set out a need to include an assessment of instance in Jersey where Taser might have been considered for use. The report provides details of several incidents where Taser would have been considered as an alternative to a firearm, or, if circumstances had turned out differently, could possibly have led to the first shooting of an individual by a police officer in Jersey. I think we can count ourselves lucky today that an incident requiring firearms deployment has not led to a fatality or a serious injury. It has already been mentioned here by the Constable of St. John but in a video shot by the London firearms officer using body cameras it was clear decisions made by firearms officers were shown to be split second, as were seen by the Members that were there on Friday. It involved an incident with a young man in his own home who was threatening his mother with knife. At the moment he lurched forward - and I know the Constable of St. John has just said he should have been shouted a warning - anybody who saw the video would have realised it was a split second decision, he lurched forward with a knife towards his mother and towards a nearby officer, he was immediately disabled by Taser, cuffed and removed from premises in short order, rather than potentially being shot by a conventional firearm, which would have been the only alternative and potentially removed in a body bag.

[17:00]

I know that sounds a bit strong but that is what might have happened. The effects of the Taser on this individual were instantaneous but the effects clearly after being cuffed and picked up and taken out were again clearly minor. Much may be made in regard to the Taser device, I am not going to go into the voltage because I think the Minister has already told us all about the nuts and bolts and the figures, but it is 1,200 volts, it a small ampage and although disabling in the vast majority of firing it is of relatively low risk to an individual's health. Another comment made to me by the visiting officer in regards to the very small number of deaths in relation to the overall use of Taser was that these deaths were not attributable to Taser alone but underlying medical problems, and that is probably true. Any death, to say the least, is unfortunate but the overall benefit of Taser, I believe, vastly outweighs the risk where only the other option is to use a firearm. Does this justify its use in Jersey? Yes, I believe it does if it can prevent any individual potentially being shot, to be disabled, if in possession of a lethal weapon such as a firearm. In terms of any potential usage in Jersey a comparison with another jurisdiction is useful. The former Chairman of the panel I think has already gone on about use in Guernsey but it is important to remember over that 5-year period it was only issued 51 times and only discharged once. I have got no reason to believe that that sort of use would not be the likely use in Jersey. Similarly in the Isle of Man Tasers are only deployed by trained officers alongside conventional firearms. Usefully the report provides a chart showing the continuum of force beginning simply with the police presence, through handcuffs, take down, CS spray, ASP, dog, all the way to baton launcher and finally, at present, firearms. I said at the start that I needed to understand why Tasers were needed in a Jersey context. For me there is a clear gap in available options to States of Jersey Police in response to violent incidents. After the potential use at close range of an ASP to control a violent individual, or CS spray in the right circumstances, is something else that might be considered but an individual with a knife, a baseball or gun, what next is there? At present only a firearm, and that is a very difficult call to make for a firearms officer. This cannot be right when the option of a Taser is available. Not having the option of a Taser will leave States of Jersey Police legally and morally vulnerable should they kill

or seriously injure someone. Within the deployment of Taser itself various options exist to dissuade an individual from using a weapon. The site of a Taser alone could be enough, it would be enough for me, never mind the option of arcing the device or aiming the red dot prior to any actual firing. Amnesty International have been mentioned. In the Scrutiny Panel report, it is item 75 if you want to have a look at it, Oliver Sprague, who is the Amnesty International's U.K. arms programme director, has stated as saying to the Home Affairs Select Committee in the U.K. that: "We have always supported specialist firearms officers having access to Taser and there may well be a case for widening Taser deployment beyond firearms officers, for instance in severe life-threatening violence." This proposition does not look to go that far as only firearms officers will use Tasers. Amnesty Jersey sets out in its guidelines for use that rollout must be highly restricted and then only to specially trained officers. It will be. Similar parameters were required by the Jersey Rights Association who stated that it is clearly preferable to incapacitate an individual than to shoot and seriously injure. Taser is not a toy for the police to use at will. Officers will be held to account for both deployment and any use. Anybody subjected to Taser will be examined by the force medical examiner and provided with the necessary after care which will include a document outlining that incident, the physiological effects of a Taser on that individual and all relevant information on how to make a complaint. Of the 20 recommendations made by the panel, 40 were accepted either fully or in part. Explanations given by the Minister in regards to other recommendations have in general been accepted, 2 of which would clearly have compromised the position of the Police Complaints Authority's independence and that is something the panel did not want to do. It has been mentioned here before about a mission creep. It is one of my remaining concerns in future use of Taser, if it is considered right, by specially trained units or even officers in general. Any decision to widen use must, I believe, come back to this Assembly before being implemented. Be it through the Minister or be through an individual Member. The Minister may not be able to tie the hands of a future Minister but I will not support wider use without a full demand on any further need. Finally, I applaud the Minister for accepting the majority of the Scrutiny Panel's recommendations, which I fully endorse and I really do urge Members to support this proposition which will support our police locally.

#### **10.1.6 Deputy S. Power:**

Very briefly. I note the wording of the report and proposition. The very first line says to endorse the intention of the Minister for Home Affairs, to authorise the deployment and use of energy conductive devices. I think it is important that the Minister for Home Affairs has come to this Assembly for us to endorse that intention. I am not quite sure whether he could have signed a Ministerial Decision without the Assembly, maybe he could refer to that in his summing-up or maybe I missed it in his speech. I do note from the introduction that he supports the view of the last 3 Chief Officers or Acting Chief Officers of Police that it is highly desirable that the States of Jersey Police are able to deploy Tasers in appropriate circumstances. Irrespective of the technology of Tasers and technology of modern weaponry and the resources that the police can use to, as they say in the background report, save life and prevent crime and disorder, very few Members in this Chamber are qualified to deal with this kind of stuff and we have to rely on the people that we recruit to run the States of Jersey Police. I think that in this situation, in this debate today, this is not so much about Tasers as about confidence in the ability of the Chief Officer of the States of Jersey Police to do his job. As far as I am concerned it comes down to that today. We either back the Chief Officer in his recommendations to the Minister for Home Affairs or we do not. That is what this debate is all about. I support the Chief Officer of Police.

#### **10.1.7 Deputy R.G. Bryans:**

I just rise to follow Deputy Power, I totally agree with him. I just happened to bump into the Chief of Police at lunch time today and we had a discussion about crime and I said what was happening

basically and he said: “Well, youth crime has dropped yet again” which is a great accolade for all of those services who look after the youth of this Island. But then we got on to the subject where I said to him: “What is on the increase if that is on the decrease?” He said: “Domestic violence.” Domestic violence is not always about real crime and real hurt, sometimes it is just about a mental abuse and sometimes it is about secrecy. But I was just reading a report the other day that said last year 77 women died in the U.K. in relation to domestic violence. If we can give the police over here just something that gives them the edge on reducing that in any way, I think it has to be a good thing. Without going to the extent that has been really well articulated by the Constable of St. Brelade. I think it is necessary, I think it is the sort of thing that we need in our society, unfortunately. I do not particularly like it myself, I think it does encroach on certain freedoms but if it does anything to reduce the level of domestic violence then I think it is necessary.

**Deputy J.M. Maçon:**

A point of clarification from the previous speaker. I do not mean to be picky but he said that youth crime had fallen. Is it not more accurate to say that recorded youth crime has fallen? They are different things.

**Deputy R.G. Bryans:**

Yes, what we were discussing was the figures from last year. There was a fall from last year to this year and then in particular he said if you look at Greenfield now there is nobody up there. So that was the conversation.

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

Very briefly, I am I think probably the last of the 6 Members that attended the presentation by Home Affairs last week and I just wanted to say a few words. Firstly was to thank the Minister for Home Affairs for putting on that presentation. As the Constable of St. Brelade has alluded to, the person who came over from the Metropolitan Police is the top man in the U.K. on Tasers. He gave us an extremely professional presentation, one which certainly put any doubts I had in my head to bed. I would just like to correct, if I may, in my personal view a few things that have been said during the debate. The Constable of St. John told the Assembly that the gap between the 2 barbs when they were on the body had to be a minimum of 14 inches apart. In actual fact that distance is 4 inches and not 14.

**The Connétable of St. John:**

I did say I stand to be corrected on that.

**The Deputy of St. Martin:**

Deputy Tadier was mentioning 50,000 volts but it was quite clear to us that when the barbs are in the body it is 12,000 volts that passes between the 2 electrodes and the important thing is ...

**Senator B.I. Le Marquand:**

If I could just correct that, it is 1,200.

**The Deputy of St. Martin:**

Twelve hundred, sorry. I have written 1,200 and I have read it incorrectly. I am sure, as the Minister for Home Affairs has told us, the important calculation is the amps, which is 0.0021. I will be supporting this. I was supporting it before I went to the presentation but after the presentation I am even more assured that this is something we need. Thank you.

**10.1.9 Deputy J.A. Martin:**

I will be brief because I was trying to get in about half an hour ago when a lot of what I was going to say has already been said very well, especially by the Constable of St. Brelade. I would just like to explain why myself and Senator Ferguson were not at the display on Friday, because we were with the Chief of Police and others on the Jersey Police Authority but it did enable us to have at least a 30-minute discussion on Tasers. A few years ago I thought: "Tasers? Jersey? We are lovely Jersey." The discussion we had around the table was very similar to what I think the Constable of St. John said. He saw somebody who could have potentially put a carving knife through his own mother or a policeman. He was Tasered and not shot in the chest and not fatally wounded. Now, that to me just goes as tools in the box for our police because I do not want to be here standing one day and having to say to a relative: "We did not have that tool in the box." He may not have been warned, but when you are in that situation what would you rather the policeman be having if it was your relative: the means to stun or the means to kill? Firearms people are allowed to use it to go for the biggest mass and the biggest mass is the chest. I am very sorry, I think the Constable of St. John brought up some arguments ... he did say he was not sure which way he was going to vote but hopefully when you think about it, it really is something that in Jersey will be limited, it will be like everything else. I was very upset to hear him say: "Will it be used as a weapon of torture or violence?" He used one of those words. I do think we have got a lot more faith in our police on the streets to do this. **[Approbation]** But if we did not, as the Constable of St. Brelade exactly explained, they are recording devices. If you are tasering someone for more than 5 seconds it is there. There is no escaping it. It is no good saying: "Oh no, Chief of Police or Chief Inspector, I only hit him once with my baton, nobody saw me", it is recorded. I will leave it there. Loads has been said and I think a lot of people will think it is a sad day in Jersey but it will be an even sadder day when some of this violence, and it is among some families, when the only option is to shoot. We have to give this tool to our States of Jersey Police.

#### **The Connétable of St. John:**

If I could just repeat what I said: "Is this to replace a firearm or is it a form of physical punishment in all but name?"

[17:15]

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

I just wanted to remind Members briefly, for those of them that still might be undecided on this, the police already have a formidable armoury at their disposal. It is an armoury that contains a number of different types of firearms including snipers rifles, shotguns and handguns. Simply we are just asking to add a less lethal option to those options. I just want to turn briefly to an example the Constable of St. John used and Deputy Martin was on to it in a flash. In the United States ... you cannot make a comparison because police officers carry guns with them so they also carry a Taser. So they have a lethal option and a less lethal option. We are not proposing that. You cannot compare. Absolutely every time when you have a lethal option and a less lethal option ... well, Deputy Martin hit the nail on the head, I will not repeat it. I have looked just here on my iPad at the Amnesty press releases and they caution that Tasers are potentially lethal and they should be considered in the same breath as a firearm. That is exactly what we are proposing. In the very last line of their press release they say: "Tasers should only be kept in the hands of small numbers of specially trained officers and used only in a very limited set of circumstances." That is what we are proposing here today.

#### **10.1.11 Deputy N.B. Le Cornu:**

The introduction of Tasers can be summed up in one word; it is militarisation. Across Europe states are policing austerity, permanent austerity, with increased militarised police forces. You have seen it in Greece, you will see it in other states as well. What you are seeing today is that

further creep of the militarised state. The authoritarians will be voting for this proposition. I will not.

**10.1.12 Deputy J.A. Hilton:**

Just very briefly, I was at the demonstration also with the other States Members. I went in with an open mind and came away from there thinking it would be a useful tool in the armoury of the States of Jersey Police. I really just wanted to endorse what the Constable of St. Brelade said. I agree with everything he said so I am not going to repeat it. Thank you.

**10.1.13 Deputy M.R. Higgins:**

Very briefly, I am just going to state my own position on this. I have been opposed to the use of Tasers and I will not be supporting this proposition and I am prepared to even forecast that over the next 3 years, we will see a rise in the use of Tasers in the same way we saw a rise in the use of pepper sprays. If it is in the arsenal, it will be used. The officers will want to use it. Where restraints might be called for or another way of dealing with it, I am afraid it will not be used.

**The Bailiff:**

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

**10.1.14 Senator B.I. Le Marquand:**

I will try to reply quickly. Right from the start, I tried to introduce a system which would have less availability than in the U.K. My understanding in relation to the issue raised by Deputy Maçon is that of the Connétable of St. Brelade that, in fact, it was never my intention for this to be used by anybody other than authorised firearms officer. The issue was whether there was a category of use that we would need which went beyond the situation in relation to where a gun was deployed. We decided that probably there was not and, therefore, it was best to go with the recommendations of the Scrutiny Panel in relation to that. Yes, there is a physical risk associated with the use of Tasers but people are not directly killed by a Taser. It is an indirect risk. I am not denying that risk but there is also similarly a risk associated with almost every other physical technique for restraining people. In terms of the finances, the relevant numbers are 47 occasions in 3 years in which guns were deployed. 47 authorisations. More than 47 occasions of deploying Tasers if we would have had Tasers. I view Tasers essentially as kind of an insurance policy. Yes, some may argue: "Well, there will never be a situation in which a Taser will be fired instead of a gun." How does anybody know that and if a gun is fired on one occasion and a person is killed, there will be very, very major repercussions from that. In relation to mission creep, there is a very clear structure in relation to control and a very clear monitoring process. Officers are going to be appropriately trained in relation to the use of that. I will make a Ministerial Decision - assuming I am supported in this vote - to try to ensure that the policy is set clearly, that it is binding, as it were, upon my successor unless my successor makes a Ministerial Decision changing that. That is the best that I can do. I accept that the Taser is very painful and that was clear from watching the results of it, but that pain is not the purpose and it is certainly not being used or brought in as a means of punishment. So that is an answer to one of the questions of the Connétable of St. John. I believe the Connétable of St. John has completely misunderstood the Amnesty International details in relation to the firing of Taser. It is quite clear. It is normally fired at the chest. I think that he may have confused this with rubber bullets where there is advice saying that there are dangers associated in relation to firing a rubber bullet at the chest, certainly in relation to females, so I think there is a complete misunderstanding. The officer who was over was quite clear that he had had contact with an Amnesty International spokesman in the U.K. who was highly supportive of the use by specialist officers in the way which we are now proposing. The Connétable asked me 9 questions and I am not sure I am going to remember them all. Firstly, he raised the issue of the case we saw just as an example of something which happened I think in the northeast. The officer made a snap decision

on that occasion and that snap decision was to fire a Taser when a young man got up with a carving knife and moved towards either the mother or whatever. I personally would not have made that decision but I cannot criticise the officer who was there at the time who has to make that kind of life or death decision. Have I looked at all of the information in relation to Amnesty International? No, I have not because it was dealt with and covered most adequately in the Scrutiny Panel report, for which, I am very grateful to Scrutiny. Has a gun ever been fired in anger in Jersey? No, it has not but it might be tomorrow. We can never anticipate that. We would never have guessed that we would have 6 people murdered on one occasion with a knife which happened 2½ years ago. It is a kind of insurance. In relation to written policies, there is reference in the proposition to the A.P.C.O. guidelines but we cannot tie these things down by a States proposition because guidelines are going to change, they may evolve, they may improve and there may be additional safeguards required from time to time. Training manuals. People will receive all that information. I took the view that the Proposition, as it was, was more than adequately long without going into detailed training manual documents and things of that nature. I do not, with respect to the Connétable, think that that is necessary in making this decision. It is not a replacement for firearms. It is designed to be a lower level of force than firearms so that we will not have as high a risk of someone being shot but it is most definitely not there for punishment purposes. Use on the elderly and vulnerable. If a vulnerable person, someone who is psychiatrically ill, is wielding a lethal weapon in a public place, I am sorry, but they are representing a serious risk not just to themselves but also to the general public. That is the reality. We cannot say: “Because you are mentally ill, we should not be disabling you, but we certainly do not want to shoot and kill you.” That is the whole purpose. I may have missed some questions. There were 9.

**The Connétable of St. John:**

You mentioned that I said: “Amnesty International” about the striking a person in the chest. It was TASER International Limited who are the manufacturers of this particular weapon. That is what they said in 2009.

**Senator B.I. Le Marquand:**

This is contrary to the information that has been provided.

**The Connétable of St. John:**

Well, in 2009, they sent a note around to police forces not to aim at people in the chest.

**Senator B.I. Le Marquand:**

I have not seen that, so if that was so, that would be represented in the training information. It is certainly completely contrary to what I have seen and heard indeed at the demonstration. There was a firing into the chest area. The red dot is normally targeted at the chest. Sorry, I have to disagree there. I thank numerous Members who spoke in favour but I have to, I think, deal with one further point which is Deputy Le Cornu’s point about militarisation. In my view, with respect to the Deputy, it is the exact opposite of that. This is seeking to provide a lower level of force, i.e. something which is less lethal. Sir, I maintain the proposition.

**The Bailiff:**

Is the appel called for?

**Senator B.I. Le Marquand:**

I call for the appel.

**The Bailiff:**

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

<b>POUR: 40</b>	<b>CONTRE: 7</b>	<b>ABSTAIN: 1</b>
Senator P.F. Routier	Connétable of St. John	Deputy G.C.L. Baudains (C)
Senator P.F.C. Ozouf	Deputy R.C. Duhamel (S)	
Senator A. Breckon	Deputy G.P. Southern (H)	
Senator S.C. Ferguson	Deputy T.A. Vallois (S)	
Senator A.J.H. Maclean	Deputy M.R. Higgins (H)	
Senator B.I. Le Marquand	Deputy N.B. Le Cornu (H)	
Senator F. du H. Le Gresley	Deputy S.Y. Mézec (H)	
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Deputy R.G. Le Hérisssier (S)		
Deputy J.A. Martin (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy E.J. Noel (L)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy of St. John		
Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy R.J. Rondel (H)		

## **11. Draft Statute Law Revision (Miscellaneous Provisions) (Jersey) Law 201- (P.21/2014)**

### **The Bailiff:**

Very well. The next matter before the Assembly is the Draft Statute Law Revision (Miscellaneous Provisions) (Jersey) Law 201-, P.21, lodged by the Chief Minister.

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

Excuse me, Sir. In light of the time, I am quite happy to defer this to the next sitting. It is non urgent.

**The Bailiff:**

Well, it is a matter for you.

**Senator I.J. Gorst:**

Sir, I seem to get the indication that Members would like me just to carry on.

**The Bailiff:**

Yes, the next sitting looks very full, Chief Minister. Very well.

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

Sir, can we just agree then because I have a matter afterwards? Shall we just signal to Members now our agreement just to carry on and finish the Order Paper?

**The Bailiff:**

Well, yes, just to inform Members, I have given leave to the Minister for Treasury and Resources to make a statement so that will follow on the completion of Public Business. Very well, so I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Statute Law Revision (Miscellaneous Provisions) (Jersey) Law 201-. A Law to repeal the *Loi (1860) sur le transfert d'héritages* and the *Loi (1861) sur l'emprisonnement pour dettes*, and to amend certain provisions of the *Loi (1832) sur les décrets*, the *Loi (1880) sur la propriété foncière* and the *Loi (1890) sur la Cour pour le recouvrement de menues dettes*. The States, subject to the sanction of her Excellent Majesty in Council, have adopted the following Law.

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

Yes, there are 2 which, hopefully, are straightforward changes and removals arising from some work that the Legislation Advisory Panel have undertaken and the first is the requirement to appoint experts under the *Loi (1860) sur le transfert d'héritages* - the 1860 Law - in its place. Rather than the Connétables having to appoint those experts, it now falls to me to appoint them. We are removing that and where there may be a need for such valuations that those 2 Articles in that law require, the Royal Court will indicate the way that they wish that valuation to be undertaken. Therefore, there is no need to appoint those experts and, therefore, this will give effect to that. Secondly, it removes the ability for an individual to be imprisoned if they fail to fulfil a contractual obligation basically arising from a debt. That will also allow for the removal of a derogation which we have needed in the international covenant on civil and political rights. I hope that makes it clear and perhaps will try to answer any questions.

**The Bailiff:**

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

**11.1.1 Deputy J.H. Young:**

It is obviously very important but it is a piece of tidying up and it is all very French but is this a priority? What I am troubled about is there are a massive amount of laws that are in the pipeline and I would like to be assured that this sort of tidying up of the matter - because it did not seem to be anything more than that - is a priority and have we foregone time spent on other drafting work for this? Does this represent a priority?

[17:30]

### **11.1.2 Senator P.M. Bailhache:**

I wonder if I might be permitted to say as Chairman of the Legislation Advisory Panel that not a huge amount of time was spent on this particular item but the ability to ratify or the ability to ask the United Kingdom to ratify the international covenant on civil and political rights is something that has eluded us for probably 2 decades. We think that our law is in fact entirely compliant with the international covenant and we reply upon a judgment of the Court of Appeal which is set out in the Chief Minister's report to explain that. But the Commonwealth Foreign Office were not prepared to accept that our law was as straightforward as we say that it is and there are some redundant statutory references which this law is designed to remove. The result of that will be that the C.F.O. (Commonwealth Foreign Office) will be able to ratify this convention on our behalf and, internationally, it is very important that we should be seen to comply with what is a convention to which the rest of the civilised world complies.

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

Looking at the so-called redundant reference to imprisonment for debt, many years ago in my business life I had cause to call on this particular law where people had taken credit from one of my businesses, being that I was, back in the 1970s, a young businessman. At that time, you could lock people up for failing to pay their bills, in particular if they were going away on an extended holiday to some exotic place, you found out about it and, yet, they told you they could not pay your bill. They were abusing the system. If they were put in La Moye for a few hours, all of a sudden, they would pay this outstanding charge so they could go to the other side of the world on some exotic holiday. By removing this, it takes something out of the armoury of the Viscount's Department. They may not use it nowadays but I do not see why it should be removed because you do have unscrupulous people who will take advantage of small businesses and somebody who may have loaned them money. I am not in favour of removing something that I know worked because people take advantage of others. We have in this world more than ever now with the internet - and we are seeing all these frauds happen - people taking advantage of others. I do not believe we should remove something like this and I am just warning the Members here and the public at large about taking away something that has not been used for probably a number of years now but it has been used in my time, it worked and it resolved an issue. Otherwise, these people will be just laughing and there are enough unscrupulous people around laughing at the ordinary man in the street that gives them credit. Thank you.

### **The Bailiff:**

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

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

Perhaps if I could also respond to Deputy Young. Thanks to his intervention, we do now seem to have spent a lot of time speaking about these particular amendments, probably more than the time prior to him drafting them and getting them to this point. But he asks a very good question and point about the priority of legislation. He is right. The business of government does prioritise legislation. But with regard to these 2 particular changes, it is right that the Legislation Advisory Panel slowly works away on what might be considered to be minor amendments but perhaps have taken a number of years to reach a conclusion. I have to pay tribute to the current Chairman of the Legislation Advisory Panel because there are a number of longstanding issues which have been considered for many years which previous panels have struggled to bring to a conclusion. The current Chairman, with his panel members, has managed to bring them to a conclusion. They are not seen as a priority but they are just everyday items of law which need to be amended and that is what we are doing today. It is right that they come here for that amendment. With regard to the Connétable of St. John - and I am not sure if it just the lateness in the day - if he will just care to

look at the proposition, this is in regard to inability to pay and I would have thought that he would have supported that. Someone who is unable to pay. They physically do not have the financial means to pay. There are no assets to be confiscated, there are no funds to be frozen and they have no ability to pay. Is it right, in this modern age, that they should then simply be thrown into prison because they have no financial ability to pay? The particular incident that I suspect that the Connétable was referring to would remain the case and where those have the ability to pay or they simply refuse to pay or will not pay - which is I think the example that he was using in his speech - it would still be open for such a term of imprisonment to be imposed upon them dependent on the court's decision. This is about where someone has an inability to pay. They have no assets whatsoever upon which to draw and, therefore, they should not be imprisoned and I do not think that is right. I hope that the Connétable will reconsider his position because I do not think he would want to be associated with such a position. Of course, as the Chairman also said that that will mean that we will no longer need to have a reservation that was entered on our behalf. I maintain these amendments.

**The Bailiff:**

All those in favour of adopting the principles kindly show. Those against. The principles are adopted. Senator Ferguson, do you wish this matter referred to your panel?

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

No, thank you, Sir.

**The Bailiff:**

Chief Minister, do you wish to propose the Articles *en bloc*.

**Senator I.J. Gorst:**

If I may, thank you.

**The Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the individual Articles? All those in favour of adopting Articles 1 to 5 kindly show. Those against. They are adopted. Do you propose the Bill in Third Reading?

**Senator I.J. Gorst:**

If I may, Sir, thank you.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading please show. Those against. The Bill is adopted in Third Reading.

**12. States of Jersey Development Company Limited: re-appointment of Chairman and Non-Executive Directors (P.23/2014)**

**The Bailiff:**

Then we come to the States of Jersey Development Company Limited: re-appointment of Chairman and Non-Executive Directors - Projet 23 - lodged by the Minister for Treasury and Resources. 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 approve the following reappointments under Article 21(b) of the States of Jersey Development Company Limited’s Memorandum and Articles of Association – (a) to reappoint the following persons as Non-Executive Directors of the States of Jersey Development Company Limited for a period of 3 years, with effect from 20th June 2014, after the delivery to the company of the notice referred to in paragraph (b) below – Mr. Mark Boleat (Non-Executive Chairman), Mr. Roger Lewis (Non-Executive Director), Ms. Nicola Palios (Non-Executive Director); (b) to authorise the Greffier of the States for and on behalf of the States to deliver a notice to the States of Jersey Development Company Limited in accordance with Article 21(b) of the Memorandum and Articles to give effect to such reappointments from 20th June 2014.

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

When the States approved P.70 of 2010 it was a requirement that the States appoint Non-Executive Directors and should be appointed by the States on the recommendation of the Minister for Treasury and Resources. I believe that the Assembly is extremely fortunate to have secured on the original recruitment the calibre of such individuals such as the 3 non-executives that I am pleased to be reappointing. They have performed their remit extremely well during the last period of time of their office. The biographies of the 3 individuals, which I am sure are known to many Members, are set out in the proposition. I will just briefly say that of course Mr. Mark Boleat is known very much to Jersey people generally. The almost claim to fame was that in the 1990s he led the British Trade Association and became Director General of the Mortgage Council. He has performed a number of other roles, these are set out in the report, including being a member of the Gibraltar Financial Services Commission and he has been a member of the National Consumer Council. He is also of course Chairman of the Jersey Competition Regulatory Authority. He is also a member of the Court of Common Council of the City of London, where he is a regular contributor to the *Today* programme and *Media in the U.K.* in his position as Policy and Resources Committee and a holder of the City of London. Mr. Roger Lewis was born and raised in Jersey and has been involved in residential and commercial development for over 40 years. He had a distinguished career on the Executive Board of Berkeley Group, one of the U.K.’s leading urban regenerators where he has had an extremely successful career. He is now back in Jersey and retired and he retains a number of non-executive directorships in relation to the Berkeley Group, which is one of the almost foremost house builders and developers in the United Kingdom, notably the development that some Members may be aware of Gunwharf Quays in Portsmouth. We are extremely pleased to have him on the Board of S.o.J.D.C. (States of Jersey Development Company Limited). He has a wealth of experience and I know the Board and organisation values his contributions greatly. Ms. Nicola Palios is an advocate who lived in the Island for over 20 years who is well known to have led the law firm Mourant in becoming probably one of the biggest and most successful financial services entities. She now lives in the U.K. but develops and has maintained strong links with Jersey and has considerable knowledge of the world of international finance, Jersey, and I know that she has also provided a valuable service as a member of the Board. The directors’ fees, for the avoidance of any doubt, chairman £40,000 for 24 days work, a non-executive £15,000 for 15 days work. I should say that in reality the non-executives do a lot more than just the 15 days. They contribute regularly to the matters of the Board of the S.o.J.D.C. I think the S.o.J.D.C. has an excellent Board. I think we have seen a real transformation in terms of the old Waterfront Enterprise Board and S.o.J.D.C. and it gives me great pleasure to propose their reappointment.

#### **The Bailiff:**

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

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

It is the one issue which was raised before, quite frankly, when this was raised and when, as I recall, I have not been able to find the Hansard reference yet, it was noted that the Chairman was interim. I think it is totally wrong, despite the excellence of the Chairman, and I grew up on the same road as he did with the former Deputy of St. Martin, that the Chairman of the Jersey Competition Authority is Chairman of a body which itself, good and bad, we discussed this a couple of weeks ago, is in major competition with other developers on the Island, to take a classic example. This should not have been advanced as a proposition. It was an interim proposal when it was put forward, it is doing a disservice to the individual, and I would ask the Minister for Treasury and Resources to withdraw it.

**12.1.2 Deputy J.H. Young:**

I too have got major reservations about this. We have got no doubt we have very high quality and extremely well qualified people here. What I am going to say is absolutely nothing against those people. To treat them with respect, and I feel I have to stand up and say, I am going to abstain from this because I think what we are being asked to do here is ... there are concerns that I certainly have about the role of S.o.J.D.C. at the present time. It is not the occasion to go into them. There is this issue of conflict with the Competition Regulatory Authority and so on, and I think that debate needs to happen at another time and a place. I think this is really not the time and premature, so I am going to abstain. I want to put on the record nothing in what I have said is any way negative about these individuals. They are extremely high quality but I have to have my reservations recorded.

**12.1.3 Senator S.C. Ferguson:**

Yes, I concur with the 2 previous speakers. We were told ... super Board, fabulous people, highly intelligent and the Chairman is a particularly valuable member of the community. However, there is a perception for him to be Chairman of the Competition Authority and also the Chairman of a highly competitive company. We were promised originally that this appointment would be for 9 months only and it was just to cover things while we advertised for a new chairman.

[17:45]

Now it may be that, I do not know which he would prefer to keep on. Whether he would prefer to be one or the other, but it is the public perception and I think there is a problem there. I have the greatest admiration for everybody on this Board but I cannot vote for it.

**12.1.4 The Connétable of St. Brelade:**

Just very briefly, I wanted to give my 100 per cent total support for the professional Board and the people that are on this Board including the 3 that are getting re-elected today. I think this Assembly needs to get behind the work they do and support what they do. I just want to put one record straight because I know I am saying now I supported them but on record I voted ... I should say I voted for Senator Breckon's proposition, I had a ring-binder moment, and I have to apologise to the Board for that.

**12.1.5 Deputy M. Tadier:**

Given the concerns that have been raised by a wide variety of individual Members, notwithstanding the comments that none of the individuals on the panel are the ones who are being criticised, but simply that there are serious questions about a potential conflict of interest, I would like to ask if it might be appropriate or ask if it is possible to invoke Standing Order 85 to move on to the next item, unless of course the Minister is minded to take this away and listen to the comments. I would ask for Standing Order 85 to be invoked, which I hope is not an abuse of the minority given I think most Members who are going to speak have possibly spoken already.

**The Bailiff:**

Yes, I do not think it will be an abuse. Is it seconded? **[Seconded]** There is no debate upon that. So the matter before the Assembly now is to move on to the next item of business. The appel is called for. So if you wish to move on to the next item and bring this to an end you vote pour. If you do not you vote contre. The Greffier will open the voting.

<b>POUR: 13</b>	<b>CONTRE: 28</b>	<b>ABSTAIN: 0</b>
Senator A. Breckon	Senator P.F. Routier	
Senator S.C. Ferguson	Senator P.F.C. Ozouf	
Senator F. du H. Le Gresley	Senator A.J.H. Maclean	
Connétable of St. John	Senator B.I. Le Marquand	
Connétable of St. Martin	Senator I.J. Gorst	
Connétable of St. Saviour	Senator L.J. Farnham	
Deputy R.G. Le Hérisssier (S)	Senator P.M. Bailhache	
Deputy J.A. Martin (H)	Connétable of St. Helier	
Deputy M. Tadier (B)	Connétable of Trinity	
Deputy J.M. Maçon (S)	Connétable of St. Clement	
Deputy G.C.L. Baudains (C)	Connétable of St. Peter	
Deputy J.H. Young (B)	Connétable of St. Lawrence	
Deputy S.Y. Mézec (H)	Connétable of St. Brelade	
	Connétable of Grouville	
	Deputy J.A. Hilton (H)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy K.C. Lewis (S)	
	Deputy E.J. Noel (L)	
	Deputy T.A. Vallois (S)	
	Deputy A.K.F. Green (H)	
	Deputy of St. John	
	Deputy J.P.G. Baker (H)	
	Deputy S.J. Pinel (C)	
	Deputy of St. Mary	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy R.J. Rondel (H)	

**The Bailiff:**

Deputy Tadier, do you wish to speak on the proposition now or not?

**Deputy M. Tadier:**

Just simply to add that although this was not expected, I expected this like many Members to be a nod through, it is important that these kind of potential conflicts, or in fact it may be more than a potential conflict, and we did hear the words of Lord Carswell this week about objective and subjective conflict. I think it is something that the Assembly needs to be increasingly mindful of because it is unfortunate for the individuals who put themselves forward in good faith who are often doing many jobs and very busy individuals anyway and there will be Members now, if this is not withdrawn and rethought, who will have to vote against this or abstain, not because of the personalities that are involved but because the relevant safeguards are not deemed to be in place.

**The Bailiff:**

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

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

This issue has already been debated and brought to Members' attention and if I may remind Members: Mr. Boleat was originally appointed after a recruitment process, which I think many Members will know the sadness and regret whereby a recruitment process was made and effectively resulted in the preferred candidate withdrawing because of a number of comments that were made during that process. I will not revisit that. Mr. Boleat was identified as an interim candidate. He stepped in. He was approached by the then recruitment process, the recruitment process then went through. When I originally brought the proposition to the States it was for 3 years. I said to the Assembly at the time it was going to be for 6 months. I did not need to come back to the States to explain what had gone on in terms of his further appointment but I did so and I reported to the States that the advice was that the Mr. Boleat had discharged the function so well and things were going so well in the reorganisation of S.o.J.D.C. that it had been decided - and I think I made a statement that gave Members the opportunity - and there was, I think, a debate which was then by the then Senator Shenton in the overall issue, which a lot of these conflicts of interest were discussed. I know that S.o.J.D.C. thus far have some diverse views and I know that there are questions about this issue of whether or not S.o.J.D.C. is in fact competing against private developers. The reality is there have been no conflicts of interest that I can inform the Assembly that have been brought to the attention of the J.C.R.A. and if there would have been, and I forecast this, and of course are very alert to the issues of perception. There has been an arrangement which has been voluntarily put in place that should any question be raised about S.o.J.D.C.'s position which is it is not competing in terms of a monopoly position and anything to do with the Competition Law, then there is an arrangement in place that would deal with that issue. A Deputy Chairman would be appointed, Mr. Boleat would not be involved in any of the matters concerning the matters on either of the bodies and he would step aside and would have nothing to do, normal Chinese walls would apply. On that basis and because those arrangements are in place no issues have arisen. I know that there are views against S.o.J.D.C. and what they are trying to do, but there are not in my view any materiality of them. I think that because Mr. Boleat has continued to discharge the functions of chairman so well, and we have seen such a transformation, it is right to see him continue to be appointed and there would be no reason not to do so. I understand the comments that have been made. Safeguards are in place to deal with any issues. I look forward to the overwhelming majority of Members agreeing with the appointment of all these individuals, and especially Mr. Boleat as Chairman, to discharge the good work on behalf of taxpayers of ensuring that S.o.J.D.C. is well run and maximising value and that is not only financial value for important States assets, and I call for the appel.

### **Deputy R.G. Le Hérisier:**

Can I clarify a point from the Minister for Treasury and Resources? He seemed to be suggesting that there could be an issue by issue contesting of Mr. Boleat's role but surely the whole function of the development company is to be a development company so therefore, and I find myself in the unusual position of defending developers, by its whole remit it is in competition with other developers.

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

Competition is the market, and the competition law which the chairman of J.C.R.A. has discharged, and again it is a Non-Executive Chairman position, he is not the Executive Director. S.o.J.D.C. are not in a monopoly position or any issues of the competition law would be relevant. They are not a monopoly house builder. They are a monopoly office developer and should any of these remote issues be brought to the attention of the J.C.R.A. then Mr. Boleat will step aside and he will step aside from any of the handling of the issues to do with the J.C.R.A. The safeguards are there. Just because it is a competitive market it does not mean to say there is a competition issue. There is not.

**The Bailiff:**

Very well, the appel is called for then in relation to the proposition of the Minister for Treasury and Resources. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 26</b>	<b>CONTRE: 6</b>	<b>ABSTAIN: 9</b>
Senator P.F. Routier	Connétable of St. John	Senator A. Breckon
Senator P.F.C. Ozouf	Connétable of St. Saviour	Senator S.C. Ferguson
Senator A.J.H. Maclean	Deputy R.G. Le Hérisssier (S)	Senator F. du H. Le Gresley
Senator B.I. Le Marquand	Deputy T.A. Vallois (S)	Deputy J.A. Martin (H)
Senator I.J. Gorst	Deputy J.M. Maçon (S)	Deputy S.S.P.A. Power (B)
Senator L.J. Farnham	Deputy G.C.L. Baudains (C)	Deputy M. Tadier (B)
Senator P.M. Bailhache		Deputy J.H. Young (B)
Connétable of St. Helier		Deputy N.B. Le Cornu (H)
Connétable of Trinity		Deputy S.Y. Mézec (H)
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of Grouville		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy E.J. Noel (L)		
Deputy A.K.F. Green (H)		
Deputy of St. John		
Deputy J.P.G. Baker (H)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy R.J. Rondel (H)		

**STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY****13. The Minister for Treasury and Resources - statement clarifying an answer given to an oral question in respect of the States of Jersey Development Company****The Bailiff:**

Very well, so that completes the public business on the Order Paper but as I mentioned to Members the Minister for Treasury and Resources wishes to make a statement and therefore I invite him to make that statement.

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

Thank you. I have become aware that the accuracy of an answer that I had given to an oral question in the Assembly has been questioned. This question was asked whether there is any financial support to S.o.J.D.C. for the J.I.F.C. (Jersey International Finance Centre) development on the Esplanade site. I wish to set the record straight on this matter. On 21st January this year I was asked whether the States had been required to provide, and I quote: "Any security or guarantees or any other support in respect of any loans of S.o.J.D.C. or in relation to this project." I think that was a supplementary question. I replied: "No financial assistance had been given to the office part of the development." That is correct. On the States behalf I have agreed to make available a repayable investment from the Currency Fund to assist S.o.J.D.C. with cash flow and thereby

facilitate the early completion of the public car park. On 4th February this year I was further asked whether, and I quote: “In relation to the Esplanade Quarter masterplan by which I include the car parking, the office development, everything else down there, has the States been required or is it proposed to give any form of security guarantee, any other support, letter of comfort, whatever, in respect of any loans of S.o.J.D.C?” I replied: “We are not providing any loans, any letters of comfort or anything else in relation to the office development part of it.” I was then asked in respect of the office development which includes, in the Minister’s words: “the car park and the public car parking, the private car parking and the office spaces. There is no guarantee or as I say security, other support, letters of comfort or anything.” My answer was: “No.” In answering this my mind was focused on 2 factors, firstly that the purpose of the question was over the support for the commercial development which does include car parking rather than the public car parking element. Secondly that the questioner was concerned whether any financial support of any type was being currently provided. With the benefit of hindsight and after reviewing Hansard I can see why it may be construed that my answers were not fully correct. I think it is incumbent on me to be clear to the States that there may in future be a letter of comfort in support of borrowing by S.o.J.D.C. in order to secure the early completion of the public car park, not the office development. The possible future issuance of a letter of comfort is not lending, nor is it a guarantee. My comment had no direct or material bearing on the debate that took place in P.15/2014. In fact I made the position clear regarding the potential letter of comfort in my speech on Senator Breckon’s proposition of 18th March. I thought that I had dealt with any potential misunderstanding. I would never knowingly mislead the Assembly on any matter. If any Member genuinely feels that my answer was misleading then I regret that and apologise, and hope that this sets the official record straight.

**The Bailiff:**

It is time for questions. Deputy Martin?

**13.1.1 Deputy J.A. Martin:**

Can the Minister for Treasury and Resources then please clarify what is a letter of comfort and if one is issued exactly for what amount is he contemplating?

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

The Ministerial Decision that I signed - I have a full set of notes here - sometime in October has one line in a confidential attachment to the report of a letter of comfort which would be to the value of the borrowing that S.o.J.D.C. is doing for the public car park which is £10 million. The letter of comfort relates to the £10 million. The actual details of the letter of comfort have not been agreed and it would be subject to further signatures, and I need to take further advice from the Treasurer of the States in relation to it. It is a letter of comfort. It is acknowledgement almost that S.o.J.D.C. is borrowing this money in respect of the public car park which will be repaid.

**13.1.2 Deputy M. Tadier:**

I am wondering if it was originally the intention that this speech be given this morning rather than this afternoon given the date that we are on. Would the Minister for Treasury and Resources agree with me that it seems to be an untenable position to say that giving somebody a repayable investment to assist with cash flow cannot be called financial assistance? Does he agree that that is not a tenable definition?

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

No, I have been very clear. The issue on the follow up, on a whole series of follow up questions, was the letter of comfort. I was absolutely clear that we are providing £13 million from the Currency Fund for the public car park. S.o.J.D.C. themselves are borrowing £10 million and it is

the letter of comfort for the £10 million which is the issue which I am purposely clarifying today. That is not an investment. It is not a loan. It is a letter of comfort. It is an acknowledgement that S.o.J.D.C. is borrowing from the shareholder that money for that purpose.

[18:00]

**13.1.3 Deputy M. Tadier:**

A clarification, the second paragraph does say that he has made available a repayable investment. That is presumably repayable by whom. That is the question. It is repayable by whom to whom and does that therefore constitute a loan?

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

The £13 million is not the issue of the letter of comfort. I have been very clear with Members. I have been clear on numerous occasions. We are providing from the Currency Fund an investment of £13 million which is repayable by S.o.J.D.C. in the event that S.o.J.D.C.'s development goes ahead. The letter of comfort is in relation to the £10 million that S.o.J.D.C. is borrowing. There is the £13 million from the Currency Fund, and there is the £10 million that S.o.J.D.C. are borrowing from a bank, which 10 plus 13 is 23 which is the cost of the public car park.

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

Sorry, just to avoid confusion could the Minister for Treasury and Resources just clarify exactly where we are with this letter at the moment?

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

I have signed a Ministerial Decision which is potentially saying that in the event that the development goes ahead we would provide a letter of comfort to the bank. That is a matter for S.o.J.D.C. to deal with and all these decisions will come back to the Treasury to sign. It is not an indication that we would do it in the event of that but of course as I am saying the actual text of the letter of comfort has not been provided.

**13.1.5 Senator L.J. Farnham:**

The first line of the statement says that the Minister for Treasury and Resources has become aware. We know why he is making the statement. Can I just ask the catalyst for making this statement today? Why is he making the statement?

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

I thought that I had set the record straight in the debate for Senator Breckon's proposition. I thought I was very clear on that however it has been drawn to my attention that a complaint has been made by Deputy Le Fondré effectively that I have misled the States. I do not believe that I have but I want to settle the matter for the avoidance of any doubt so that it is clear to Members, and the right place to do that is here. Ministers will act once Members have drawn their attention if something is ambiguous. I apologise if my words have been ambiguous or were incorrect. I am setting the record straight.

**13.1.6 Deputy J.H. Young:**

I wonder if I can ask the Minister for Treasury and Resources to just clear up this issue of the details of this loan. Do I have this right? Can he confirm? The States of Jersey Development Company have taken an advance, if I can call it that, of £13 million from our Treasury Currency Fund, and have been given approval to borrow £10 million for which a letter of comfort will be issued, a total of £23 million. The statement says: "In order to secure the early completion of the public car park." If that is correct does it mean that if we do not get the pre-let on the office blocks

we will not get that money back? We will have a £23 million car park, full stop. Is that what it means?

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

Very quickly, briefly, I just correct one thing, Deputy, we would, not we will. The car park will only be started if the office development goes ahead. What we have done is if the office development goes ahead we are securing the early delivery of the car park but it is an “if” and a “would” and it is conditional. We have given S.o.J.D.C. the information of what we would require in certain circumstances and that is what this is about.

**13.1.7 Deputy S. Power:**

My problem is how to unravel the security of a basement underground car park from the building that sits above it. I wish Deputy Noel would not interrupt when I am trying to talk. My question is how do you secure Treasury lending and Treasury letters of comfort on a public car park which sits beneath a proposed structure?

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

I would have to plead the Third Amendment or something. Lawyers advise the Treasurer. I act upon advice. That is the detail of what is owned in a public car park. They are 2 separate completely different issues. I am not a lawyer. I act upon advice.

**13.1.8 Deputy J.M. Maçon:**

We have learned that this is the result of a complaint and I am concerned and may have to object to the fact that this has been made without that Member being able to respond to what has gone on here today. Obviously the Bailiff has allowed this to go forward so it is within Standing Orders therefore I wonder if the Minister for Treasury and Resources could just confirm that letters of comfort are not legally binding.

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

First of all my decision to request permission to make a statement is I am like many other Members of this Assembly; I deal with lots of issues and if I inadvertently and if my words can be construed as being inaccurate I have an obligation to correct them at once. When a Minister, which I have been, and I deeply regret this...when it is suggested that some dishonesty has potentially been made, which is effectively the email, that is an incredibly serious issue of which I take incredibly seriously. I thought this matter was clear. It clearly is not and I wanted to make a statement. We are not sitting again for another month. Matters of investigation will happen but my job is to make sure that the Assembly at once is clear about the issues that I am responsible for.

**The Bailiff:**

There was a question about whether the letters of comfort were legally binding.

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

It all depends on what the letter of comfort says, and of course I will take advice on the wording of a letter of comfort. As I said before in the previous debate, you can have a letter of comfort that just simply says: “We, the shareholder, acknowledge that”, or you can have letters of comfort that have much more detailed understanding like we have with Housing incorporated bodies with the Minister for Housing. We are at the very light end of that. We are not providing anything but of course I take legal advice in relation to anything.

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

I did not think I would get there. I am little confused with what has been going on. If I was a builder working on a States contract could I as a limited company with a £50 million contract for the States get a letter of comfort for £10 million to secure the money to do some of the States work?

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

The whole purpose, and what I have been trying to say, is that we are not providing any letters of comfort, anything to do with the issue that is the office development which, of course, in relation to Deputy Le Hérisier's earlier question on the proposition, is providing competition to the marketplace. We have agreed, which I think is what this Assembly wants us to agree, the early securing of the building of the public car park. If somebody is going to do something for a public car park then we might consider a letter of comfort or an investment in the Currency Fund and we are doing that all the time with departments. That is public infrastructure owned by infrastructure. What I will not do is give any non-level playing field to S.o.J.D.C. in relation to office development. The 2 are separate and I have been trying to explain that, but clearly have not done a very good job of it.

**The Bailiff:**

I am afraid that brings the questions to the Minister to an end. Can I just make an observation from the Chair in relation to the comment by the Chairman of P.P.C. (Privileges and Procedures Committee). I took the view that the Minister was entitled to come before the Assembly and make a statement where he believed that his words were misunderstood. I think it is important in those circumstances that a Minister comes back forthwith to clarify the position. **[Approbation]** The fact that Deputy Le Fondré is not here is unfortunate but, of course, Deputy Le Fondré has all his rights to ask any future questions that he may wish, but the more important thing is that Ministers must be held to account by this Assembly. Therefore, if there is a suggestion that they have misled it and they want to come and explain it, they should and indeed must do so.

## **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Bailiff:**

Then we move, finally, on to the arrangements for future business. Chairman, would you like to speak to that?

**14. Deputy J.M. Maçon (Chairman, Privileges and Procedures Committee):**

As Members will be aware, for the next States sitting, in addition to the Order Paper as amended is the addition of P.45 in the name of Deputy Mézec and also with the addition of P.24 that has been moved from today, which is the proposition in the name of the Constable of Grouville. I recommend that States Members book out the next 3 days from the beginning of the sitting as we do have a heavy Order Paper and I have not received any indication of any Members who do have items down on the Order Paper that they should wish to defer or move any items that already exist on that Order Paper. I believe that Deputy Mézec might make a request to the Assembly with regard to his proposition.

**14.1 Deputy S.Y. Mézec:**

I just wanted to ask the Assembly's permission if they would mind if my proposition P.45 were moved to be debated before P.33. It was a manifesto commitment that I made during the by-election. I had hoped that I would be able to amend P.33 before it was lodged and then, of course, when it was lodged I realised that amending it just was not possible. I think the principle of my proposition in P.45 is useful to get done and out of the way before moving on to P.33 as it might

determine how some people would seek to vote on P.33. If the States wanted to let me move it before that I would be pretty grateful.

**The Bailiff:**

You propose then that we take P.45 immediately before P.33?

**Deputy S.Y. Mézec:**

Yes, Sir.

**The Bailiff:**

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

**14.1.1 Deputy M. Tadier:**

I understand, because I was speaking to Deputy Mézec, that he would have ideally liked to have brought an amendment to the Chief Minister's proposition which he lodged, but that was not seen to be a proper way to do it. It was seen to be hand-in-hand with that proposition. It has been lodged as a separate proposition, but the 2 should be seen together.

**14.1.2 Senator I.J. Gorst:**

While I understand what the Deputy is asking for, I am not sure that it has been lodged for the requisite ... It has been lodged for the requisite period. Okay. There is another proposition which has been lodged today in a similar light that the Deputy Grouville is not here to speak to and that is about how the Chief Minister should be selected or from which body of Member. The issue, of course, is that more work will need to be undertaken to give effect to Deputy Mézec's proposal should the States agree to it. On a cursory glance of the proposition, I am unclear as to how that work can be completed between now and October, whereas P.33 can be. I am not sure they are directly connected, but it is obviously in the States' hands.

**The Bailiff:**

Certainly P.45 at the moment is listed for that day. It is just a question, Chief Minister, as to whether it is taken before your proposition or not. That is what has been proposed. Do you wish to say anything to the Assembly about that?

**Senator I.J. Gorst:**

I think the things that I have said, Sir. I do not see that the 2 are connected because what the Deputy is asking for is more akin, and I think he uses the term, to a semi-presidential system, which goes far beyond what is being proposed: simply collective responsibility around the Council of Ministers' table, but that is for the Assembly to decide.

**Deputy S.Y. Mézec:**

Can I just say ...

**The Bailiff:**

Deputy, you will be able to come back. I just want to make sure whether anybody else wants to say anything on this topic.

**14.1.3 Deputy R.G. Le Hérissier:**

I am a bit confused. I thought the lodging period was longer than ...

**The Bailiff:**

Confusion reigns, I am afraid, Deputy Le Hérissier. Deputy Mézec, do you wish to reply?

#### 14.1.4 Deputy S.Y. Mézec:

I think the Chief Minister is definitely right when he says, were my proposition to be won, the necessary legislative changes that would have to occur would almost certainly not be done by October. I presume that if the principle were won it most likely would not come into force until just after the 2018 election, which I think is completely fair enough. When he says they are not connected, I think the principle of what the public of Jersey expect our Government to work like in terms of what powers they want a particular States Member to have and how that States Member is chosen, they are not necessarily directly interlinked in the sense that P.33 can be passed and it will work. My proposition is not necessary to that. More the overriding principles of democracy is the point I am making with that.

#### The Bailiff:

The proposition for the Assembly is that P.45 be taken immediately before P.33. If you want that you vote pour; if you do not you vote contre. Do you ask for the appel?

#### Deputy S.Y. Mézec:

Yes, Sir.

#### The Bailiff:

The appel is asked for then, so the Greffier will now open the voting.

<b>POUR: 21</b>		<b>CONTRE: 19</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator B.I. Le Marquand		
Senator P.F.C. Ozouf		Senator P.M. Bailhache		
Senator A. Breckon		Connétable of Trinity		
Senator S.C. Ferguson		Connétable of St. Clement		
Senator F. du H. Le Gresley		Connétable of St. Peter		
Senator I.J. Gorst		Connétable of St. Lawrence		
Senator L.J. Farnham		Connétable of St. John		
Connétable of St. Helier		Connétable of St. Brelade		
Deputy R.G. Le Hérisier (S)		Connétable of St. Martin		
Deputy J.A. Martin (H)		Connétable of St. Saviour		
Deputy J.A. Hilton (H)		Connétable of Grouville		
Deputy of Trinity		Deputy S.S.P.A. Power (B)		
Deputy M. Tadier (B)		Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		Deputy G.C.L. Baudains (C)		
Deputy A.K.F. Green (H)		Deputy of St. John		
Deputy J.M. Maçon (S)		Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		Deputy of St. Mary		
Deputy S.J. Pinel (C)		Deputy of St. Martin		
Deputy R.J. Rondel (H)		Deputy R.G. Bryans (H)		
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

[18:15]

#### The Bailiff:

Is there any other matter any Member wishes to raise about matter in terms of the arrangements?

#### 14.2 Senator F. du H. Le Gresley:

Given the length of the agenda, has the Chairman of the P.P.C. considered taking questions on Monday, 28th April, in the afternoon?

**14.2.1 Deputy J.M. Maçon:**

No, the Committee has not considered that. I am in States Members' hands if that is how they wish to proceed, but I have not been approached by any States Member requesting me to put that towards the States Assembly.

**14.2.2 Senator I.J. Gorst:**

I have just been consulting with the Chairman of the Corporate Services Security Panel and they had asked me to consider it previously. I believe that we still have the appropriate amount of time, so I am proposing to move P.28, which is Draft Public Employees (Pensions) (Jersey) Law, to the sitting after 29th April.

**The Bailiff:**

Very well, that one will be taken out. Does any other Member wish to say anything?

**14.3 The Connétable of St. Clement:**

I would like to raise the matter of the Island Plan on 17th June. This is a massive, important and complex document to which I am sure some Members will want to bring amendments. The problem with this is Members may not have realised yet, and I only realised this morning when I had a very helpful note from the Greffier, that there is an 8-week lodging period for amendments. Bearing in mind we have a presentation on the Island Plan next Monday, 7th April, any of us who want to lodge amendments have 10 days to do our research, prepare the report, prepare the amendment, get them approved by the Planning Department because it is complex, and to get it approved by the Greffier. I am just wondering, with such an important matter, whether 10 days is really sufficient for Members to prepare those amendments or whether the debate on the Island Plan should be delayed until July or even September to give Members the opportunity to do meaningful amendments. **[Laughter]**

**The Bailiff:**

First of all, the Minister for Planning and Environment is not here but, secondly, the only matter we fix is for the next sitting. No doubt the powers that be can take note of what you have said and you can raise it with them. Do you want to propose anything?

**The Connétable of St. Clement:**

Sir, we cannot leave it until the next sitting because we have to assume ...

**The Bailiff:**

Yes, the amendments will need to be in.

**The Connétable of St. Clement:**

The amendments will need to be done within 10 days of the presentation. I will test the feeling of the States and suggest that it be deferred to a date to be agreed with the Minister for Planning and Environment.

**Deputy J.M. Maçon:**

Perhaps the Connétable could just suggest that it should be moved to the following sitting.

**The Connétable of St. Clement:**

I am content with that.

**The Bailiff:**

Chief Minister, did you wish to speak on that topic?

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

I wanted to interject prior to having to speak. I do not support that. The main thrust of the Connétable's issue seems to be that he is only going to have 10 days from some briefing next week. In reality, there is a briefing on Thursday of this week and, therefore, hopefully he has got another week to add to his 10, which should be sufficient time for him to bring his amendment. I suspect, with a good wind, I could write it for him. [Laughter]

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

My amendment is ready. I am just concerned about other Members. [Laughter]

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

I was just going to say that I think we know the Connétable of St. Clement's amendments. Does he not just need to get it in? Surely we should all be worried about the provision of homes and the matter of providing more supply. There has been a public inquiry. The Minister for Planning and Environment is not here, but Treasury is working with the Minister for Housing in supplying the finance in order to supply more homes: urgently needed, absolutely vital fiscal stimulus, absolutely vital for Islanders. Do we not need to get on with this debate? We have had a public inquiry. Members may vote against various different parts of it, but they need to get their amendments in. I think they already know what they are going to do.

#### **The Bailiff:**

Connétable, I think it is a matter for you. Do you wish to put it to a vote today? That is certainly your entitlement because I do understand that Members need to know when they need to get their amendments in by.

#### **14.4 The Connétable of St. Clement:**

I think Members of the States deserve the opportunity of voting on that proposition. Whether they accept it or not is totally up to the States.

#### **The Bailiff:**

Do you propose to put it off just until the following sitting?

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

To the following sitting, Sir.

#### **The Bailiff:**

Yes. Is that seconded? [Seconded]

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

May I ask a question? I am not totally familiar with the rules surrounding the Island Plan. Would it not be possible to reduce the lodging period by a couple of weeks?

#### **The Bailiff:**

No. [Laughter]

#### **14.4.1 Deputy J.H. Young:**

If we are debating that proposition, could I add support to that? I do not think it is a question of whether the sites in St. Clement are in or out. I think there are a lot more complex issues there; for example, the issues about sheltered and over-55 housing and also the other sites where the Parish have their own plans. There is a lot of confusion abroad. I certainly had meetings with the Minister for Planning and Environment and his officers to try and sort out something. I think it is

going to take more than a few days and I think giving us that breathing space is useful to get a decent set of amendments. What the Assembly will not benefit from is half-baked amendments thrown together without getting them properly clear to ease the debate. I think the Constable's proposal is a good one.

**14.4.2 Senator I.J. Gorst:**

I am afraid I cannot support the movement. If the Minister for Planning and Environment were here, he would acknowledge that bringing forward an amendment to the Island Plan is a rightly complex but also public consultative process and it has been going on for many months now for the Council of Ministers to deliver on providing homes for our community. The reason the proposition is timed in the way that it is, is to allow another further public inquiry on any amendments that it is the Members of this Assembly's democratic right to produce. The Planning Department will and I know already have, as will the Treasury Department, as will the Housing Department, provide officers to support any Member who wishes to bring an amendment to the Island Plan. Therefore, I believe that there is sufficient time. There will be a briefing, as I said, on Thursday. That will still then leave around 15 or 17 days (I do not know exactly the time that is required) for Members to do that and I know that departments will provide officers to support Members in bringing their amendment. We will then still have a long time to go before we get to the debate and even further until we get spades in the ground, delivering houses for those people who currently are living in accommodation which is not appropriate. I do not believe that we want to put it off any further.

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

I can accept the Minister not being present, but surely his Assistant Ministers must be able to shed some light on what we require.

**14.4.4 Deputy J.M. Maçon:**

With this particular amendment I do want to make it clear to Members, it is not just about the rezoning of sites, which seems to be what the Chief Minister concentrated on. It is the wording and interpretation of how the new policies will form. That requires a lot of reflection and consideration about how the policies will take shape outside of the rezoning of the sites. That is an incredibly important document and I think Members should be able and given the opportunity to be able to amend it if they feel that that is important for them to be able to do. I agree with the Constable of St. Clement that perhaps there is not enough time for Members to be able to do that.

**14.4.5 Senator L.J. Farnham:**

While I happen to agree with the Chief Minister, I just wanted to point out that it is not a good show, is it? It is technically possible for Members to put amendments in, but it is not long enough. It is disappointing to me. The Island Plan is a hugely important document. It covers a huge spectrum of this subject and to expect Members, especially Members who have busy schedules or new Members even, to get to grips with it quickly is not really the answer. I will support the Constable of St. Clement and just allow one extra sitting.

**14.4.6 Deputy M. Tadier:**

I just wanted to put this in context. I understand that the next opportunity, if things go according to plan, for any further amendments to the Island Plan for the next review will be in 2021. The issue there is we are dealing with long-term planning, something which the States historically has not always been good with, and the suggestion is that, for the sake of putting the debate back by 2 weeks, I believe it is ...

**The Bailiff:**

Two weeks, yes.

**Deputy M. Tadier:**

Two weeks. The idea that is going to have some kind of sinister effect on shovels going in the ground when it comes to housing, it may delay housing by 2 weeks but it is important that we get these things right. I mean the Minister has been speaking again this week in the newspaper about potential new ideas for energy, *et cetera*, about houses having solar panels and about people having wind turbines in their back yard and this is new stuff. This is something that potentially needs to be fed into the Island Plan along with perhaps the more boring elements, which are not boring to the individuals involved. I think it is quite wise that we have the Constable of St. Clement asking for an extra 2-week period if it means that we can get better quality amendments, perhaps more amendments being brought forward that would not otherwise be coming forward, and having a more holistic and nuanced approach to that Island Plan to make it ultimately a better document. That has to be a good thing for the sake of 2 weeks.

**14.4.7 Deputy A.K.F. Green**

**[Laughter]** I was getting the signal from the other side that I ought to be speaking on this. Lest we forget that we have got, just on the social housing waiting list, 760 families waiting to be housed; 760 families of high priority that are virtually homeless. Yes, they may not be sleeping under hedges. They are sleeping on friends' sofas. We are not just talking about individuals. We are talking about families. This Island Plan is no surprise. It is a draft Island Plan. Essentially the plan that we are going to be debating is the plan that was put forward by the Minister. If Members were to be entirely honest, they know if they wish to bring an amendment and they have known for some time. If they do bring an amendment, of course there is the inquiry in public that needs to take place, which is a further 8 weeks. I honestly urge Members to stop delaying things and let us get on there. Let us get our industry working and our families homed as quickly as possible.

**The Bailiff:**

We are merely discussing whether to put it off 2 weeks. Are there other Members who feel an overwhelming need to contribute to this debate? **[Laughter]**

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

I am extremely sorry to have to speak, but I would like to assure Members that I will be supporting the Constable. I have been making attempts to have a meeting with the Minister for Planning and Environment. I have not been successful. I need clarification on the publications that he has made recently. It is very important to my Parish and I do not want to miss the opportunity to build the houses in my Parish. If I miss this opportunity it may be decades before I get it again.

**14.4.9 Deputy J.A. Martin:**

It is not really to add to the debate. It is that, if people do want to move it back 2 weeks, I think that takes us into 1st July. I would like to amend the Constable's proposition so that, if we do that, we then put aside every week in July to sit because that is the absolute reality. I would like to amend his amendment.

**The Bailiff:**

That will be a consequence we can look at, at the time. At the moment it is simply a matter ... The Greffier has reminded me that the Chairman of the P.P.C. did say at the last Assembly that Members ought to keep large chunks of July free. Does any other Member wish to contribute to this?

**14.4.10 Senator F. du H. Le Gresley:**

I just wanted to remind Members what the planning inspector said - I have not got it with me but I do remember reading it - that only Members who had addressed the hearings should be contemplating bringing amendments to the Island Plan. I would suggest that only a very few Members have addressed the panel's hearings and, therefore, we should only have a few amendments.

**The Bailiff:**

Optimism springs eternal there. **[Laughter]** I invite the Connétable to reply.

**14.4.11 The Connétable of St. Clement:**

I was not going to say anything until I heard that most outrageous comment. How can Members be debarred or can it be suggested that Members be debarred from bringing amendments to a proposition which they had never seen until it was lodged less than 2 weeks ago. No, they must have the right to bring amendments. I ask for the appel, please, Sir.

[18:30]

**The Bailiff:**

The appel is called for then. The matter before the Assembly is whether to defer the debate of the Island Plan (P.37) for 2 weeks; that is to the next sitting of the States. If you want to do that you vote pour; if you do not you vote contre. The Greffier will open the voting.

<b>POUR: 23</b>		<b>CONTRE: 17</b>		<b>ABSTAIN: 0</b>
Senator A. Breckon		Senator P.F. Routier		
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Senator L.J. Farnham		Senator A.J.H. Maclean		
Connétable of St. Helier		Senator B.I. Le Marquand		
Connétable of St. Clement		Senator F. du H. Le Gresley		
Connétable of St. John		Senator I.J. Gorst		
Connétable of St. Brelade		Senator P.M. Bailhache		
Connétable of St. Martin		Connétable of Trinity		
Connétable of St. Saviour		Connétable of St. Lawrence		
Connétable of Grouville		Deputy R.G. Le Hérissier (S)		
Deputy J.A. Martin (H)		Deputy of Trinity		
Deputy M. Tadier (B)		Deputy S.S.P.A. Power (B)		
Deputy E.J. Noel (L)		Deputy K.C. Lewis (S)		
Deputy T.A. Vallois (S)		Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		Deputy of St. John		
Deputy G.C.L. Baudains (C)		Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		Deputy R.J. Rondel (H)		
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

**The Bailiff:**

That amends, therefore, the entry on 17th June. If we return to the rest, does any Member wish to say anything else? Are Members content then to take the public business as listed and as amended by the Chairman of the P.P.C.? Very well, that concludes the business of the Assembly. We shall reconvene at its next sitting on 29th April.

**ADJOURNMENT**

[18:31]